


S.T.

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By R.P.A.D.

F. No. V/15-38/Dem-ST/HQ/2010-11

Date of Order: 15/02/2012

Date of Issue: 22/02/2012

Passed by

IMAMUDDIN AHMED
Joint Commissioner
Central Excise
Bhavnagar

Order-in-Original No: 17/BVR/Jt.Commr/2012

This copy is granted free of charge for private use of the person(s) to whom it is sent.

Any person(s) deeming himself aggrieved by this Order may appeal against this order under Section 85 of Finance Act, 1994 to the Commissioner Central Excise (Appeals), Rajkot, Central Excise Bhavan, Race Course Ring Road, Rajkot-360001 within three months from the date of its communication. The appeal should bear a court fee stamp of Rs 2.50/- paise only.

The appeal should be filed in Form ST.4 in duplicate, as per the provisions of Rule 8 of the Service Tax Rules, 1994. It should be signed by the appellants

- It should be accompanied with the following:
- Copy of Appeal in duplicate

Copies of the order, Appealed against one of which shall be certified copy **OR** the other must bear a court fee stamp of Rs 2.50/- paise as per Schedule 1 to Article 6 of the Court Fee Stamp Act, 1870.

BY R.P.A.D.

To,
M/s. Chamunda Engineering,
C/o Shri Ashokbhai Panchabhai Panjari,
HIG-13, Opp. Gunatit Nagar, Last Bus Stop, Anadnagar,
Bhavnagar-364005

Subject: Show Cause Notice Number V/15-38/Dem-ST/HQ/2010-11 dated 28.07.2011 demanding Service Tax of Rs. 8,52,772/-

BRIEF FACTS OF THE CASE :

1 On the basis of intelligence that contractors carrying out the maintenance and repairs of tanks and pipes under contract engaged by M/s Nirma Limited, Village Kalatalav, Taluka, Dist-Bhavnagar (Hereinafter referred to as "Nirma") are not paying any Service Tax on the taxable service classifiable under "Management, Maintenance or Repairs Services", necessary documents were called from M/s Nirma Limited. It was observed therefrom that M/s Chamunda Engineering, 13 Anandnagar, Opp. Gunatit Nagar, Last Bus Stop, Bhavnagar (Hereinafter referred to as the "Noticee") has been engaged in providing services of maintenance and repairs of tanks and pipes to M/s Nirma Limited since 2007-08 without obtaining Service Tax registration and without paying Service Tax. An inquiry was initiated against the Noticee and Summons were issued to the Noticee on 20.06.2008, 11.11.2008, 08.12.2008, 02.02.2009 and 26.02.2009.

2 A statement of Shri Ashokbhai Panchabhai Panjari, Proprietor of the Noticee was recorded before the Superintendent (A.E.), Central Excise HQ, Bhavnagar under Section 14 of the Central Excise Act, 1944 read with Section 83 of the Finance Act, 1994 (Hereinafter referred to as the "Act") on 08.04.2009 wherein he, *inter alia*, stated that he was engaged in

maintenance and repair works since last one-two years in the name of the Noticee and for that he had obtained Service Tax Registratin No. AQGPP3452PST001 on 23.05.2008 for the category of "Maintenance or Repair Service"; that he was providing service of maintenance and repair of valve and pipes etc., since 2007-08 to M/s Nirma Limited. He had produced a copy of the Service Tax Registration Certificate and a copy of Income Tax Return filed by him for the Financial Year 2007-08; that he had earned Rs. 32,36,305/- during the Financial Year 2007-08 and on this receipt he had not paid any Service Tax; that he stated that he had never filed ST-3 returns and he had not paid any Service Tax with intent to evade the Service Tax; that he was not liable for Service Tax before Financial Year 2007-08 as he was doing labour work.

3 In further statement recorded before the Superintendent (A.E.), Central Excise, Bhavnagar under Section 14 of the Central Excise Act, 1944 read with Section 83 of the Act, on dated 10.05.2010, Shri Ashokbhai Panchabhai Panjar, Proprietor of the Noticee firm confirmed the facts stated in his statement dated 08.04.2009 and he also produced Bank Statement, Work Order and ST-3 Returns for the year 2008-09 and 2009-10.

4 During the course of investigation, on perusing the copy of Ledgers of the Noticee provided by M/s Nirma Limited, Income Tax Returns submitted during the course of investigation,

it appeared that the Noticee **had received** the amount towards services provided to M/s Nirma **Limited** as under :

N o	Financial Year	Amount paid to the Noticee in Rs.
1	2007-08	32,36,305/-
2	2008-09	36,63,135/-
	Total	68,99,440/-

5 From the above, it appeared that the services provided by the Noticee to M/s Nirma Limited which in terms of Section 65A of the Act are classified as "Management, Maintenance or Repair Service" as defined under Section 65(64), 65(105)(zzg) of the Finance Act, 1994 without applying for registration under the category of the said service and without payment of Service Tax leviable thereon under the Act and Rules made thereunder. As per Section 67 of the Act, Service Tax on these services is leviable on the gross amount charged. Therefore, it appeared that Service Tax at the appropriate rate on **Rs.68,99,440/-** for the period from 2007-08 to 2008-09 being the gross amount charged and received by the Noticee from M/s Nirma Ltd., as described in the Annexure-A to the Notice was liable to be recovered under Section 73 of the Act alongwith interest under Section 75 of the Act. It was also appeared that the Noticee have suppressed the facts that they were engaged in providing taxable services of "Management, Maintenance or Repair services" from the Department.

6 It appeared from the foregoing paras that the Noticee had contravened the following provisions of Chapter V of the Act and Service Tax Rules, 1994 (Hereinafter referred to as the "the Rules") related to service Tax matter :

- i) Section 69 of the Act read with Rule 4 of the Rules inasmuch as they failed to apply to the Service tax Department for Registration under the category of "Management, Maintenance or Repair service" for the period 2007-08 ;
- ii) Section 68 of the Act read with Rule 6 of the Service Tax Rules, 1994 inasmuch as they have failed to pay Service Tax at the appropriate rate on the taxable value recovered by them from M/s Nirma Ltd., for the taxable services provided by them during the period from 2007-08 to 2008-09 ;
- iii) Section 70 of the Act read with Rule 7 of the Service Tax Rules, 1994 inasmuch as they have failed to assess the

Service Tax and file returns in form ST-3 in respect of taxable services rendered for the period 2007-08 to 2008-09

- iv) Section 78 of the Act inasmuch as they have failed to discharge the Service Tax liability by reason of suppression of facts from the Department with intent to evade the payment of Service Tax for the period 2007-08 to 2008-09 they are liable for penal action under Section 78 of the Act.

7 From the above, it also appeared that the Noticee under Statement admitted the facts of non-payment of Service Tax on the "Management, Maintenance or Repairs Service" provided by them and thereby have rendered themselves liable to penalty under Section 76 of the Act for non-payment of Service Tax. Further, for the act of suppression of facts of providing taxable service under the category of "Management, Maintenance or Repairs Services" and contravention of provisions of the Act and Rules as discussed hereinabove with an intent to evade payment of Service Tax, the Noticee have rendered themselves liable to penalty under Section 78 of the Act. Similarly, for the act of non-payment and for the act of non-submission of required details of amount received for "Management, Maintenance or Repair Services" in the prescribed return under Section 70 of the Act read with Rule 7 of the Rules as discussed hereinabove, the Noticee have rendered themselves liable for penalty under Section 77 of the Act, *ibid*.

8 Therefore, a Show Cause Notice No.V/15-38/ST/DEM/HQ/2010-11 dated 28.07.2011 was issued to the Noticee asking them to show cause as to why :

- (i) The Service Tax amounting to Rs.8,27,933/-+Education Cess Rs.16,559/- +Secondary and Higher Education Cess Rs.8,280/- Total Rs. 8,52,772/- (Rupees eight lakhs fifty two thousand seven hundred seventy two only) as per **Annexure-B** to Show Cause Notice should not be demanded and recovered under proviso to Section 73(1) of the Act and interest at the appropriate rate as applicable till the date of payment of Service Tax should not be charged under Section 75 of the Act;
- (ii) Penalty should not be imposed upon them under Section 76 of the Act for failure to assess Service Tax as required under Section 70 of the Act and make the payment of Service Tax within the period and in the manner prescribed under Section 70 of the Act read with Rule 7 of the Rules ;
- (iii) Penalty should not be imposed upon them under Section 77 of the Act as they failed to file Service Tax Return as required under Section 70 of the Act read with Rule 7 of the Rules ;
- (iv) Penalty should not be imposed upon them under Section 78 of the Act for the Service Tax not paid by reason of

suppression of the facts **with intent** to evade payment of Service Tax.

DEFENCE REPLY :

9 The Noticee vide letter **dated 23.12.2011** sought extension for a period of minimum one **month for submission** of reply to the Notice, thereafter, the Noticee **filed** a written reply dated 10.12.2012 to the Notice mainly **submitting** as under :

9.1 The Noticee during the **year 2007-08** and 2008-09 provided the services to the clients. The **activities** carried out by the Noticee is fabrication of MS structures **and its erections** and fabrication and erection of Tank/Vessel etc, as **stated in para 6** of the Notice. From the nature of the activities carried **out by the Noticee** it can be said that it is amounting to manufacture. Therefore, as per Notification under Service Tax Act such **services are** exempted from payment of Service Tax under the Notification. The preventive officers conducted the enquiry from the **Noticee** and observed that the activities carried out by the Noticee **on job work basis** are covered under the Service Tax under the category of "Management, Maintenance and Repairing Services". Therefore, as per instructions and guidance by the officers, **the Noticee** got the Service Tax Registration on dt.23.05.2008. **Thereafter,** he filed the ST 3 returns for the period from April to Sept. **2008** and Oct to Mar 2009 with the jurisdictional Superintendent on dt.09.04.2010. After payment of Service Tax amount alongwith **interest** and details of payments shown in the returns. All these **facts are** available from then ST 3 returns which are already on the **records** with the Department. In spite of this, the subject Show Cause Notice has been issued demanding ST amount alongwith **interest** pertaining to the period 2007-08 and 2008-09.

Claim is not elaborated

(i) In the aforesaid background, it is submitted that :As regards to the Service Tax liability for the **year 2007-08** on the value of Rs. 32,26,305/- it is submitted that as **stated in para 6** of the Show Cause Notice the activities carried out on jobwork basis in the factory of M/s Nirma Limited is amounting to manufacture. Therefore, the goods **manufactured** and further used in manufacture of dutiable goods **within the factory** are exempted from payment of duty under Notification No.67/95. Therefore, the Service Tax demanded on the value of Rs. 32,36,305/- is incorrect and illegal and so required to be dropped.

9.2 It is further submitted that **if the aforesaid contention** is not accepted and if at all the Service Tax is to be paid the amount of Service Tax can be demanded **by treating** the amount of Rs.32,36,305/- as cum-tax price **on the grounds** that Noticee has not charged and recovered Service Tax amount separately from the customer. Accordingly, the duty liability for the year 2007-08 will be as below :

Cum-tax price	Rs.32,36,305/-
Assessable Value	Rs.28,80,300/-

Service Tax @ 12.36 %

Rs. 3,56,005/-

9.3 2008-09

As regards to Service Tax liability during 2008-09, it is submitted that your Honour will appreciate that it is undisputed fact that the Noticee after getting the Service Tax registration on 23.05.2008, the Noticee deposited the Service Tax amount alongwith interest and filed two ST 3 returns. The details of payment are as below, Copies of challan attached.

Quarter	Value	ST payable	ST paid with interest	Ch. No. & Date
April-Sept 2008	1042008+890	128792	146515	11.02.08
	834 =		130443	10.02.09
	1932842	103834	104066	06.04.09
Oct-Mar 2008			11396	06.04.10
	527395+666341= 1193736		6000	06.04.10
		232626	398420	

9.4 From the above, it will be appreciated by your goodself that the Noticee deposited Service Tax liability alongwith interest and penalty amount for late filing the returns. There is no valid reason nor any justification to demand the same again in the Show Cause Notice. In fact, when ST-3 returns have been filed if any short payment found by the officer, the Noticee should have been informed in writing the letter if there is any short payment by stating the reasons with documentary evidences. This has not been done. Therefore, demanding short payment of Service Tax by way of Show Cause Notice is not proper, correct and legal. Moreover, the differential value on which Service Tax is demanded has not been explained nor details are shown in the Notice. Mere difference between the value shown in ST-3 return and the value show in profit and loss account is not enough. Income shown in profit and loss account is not only for the amount received from the customer, but it also pertaining for other purpose which is outside the scope of Service Tax Act. Therefore, since the Noticee has discharged the Service Tax liability correctly for the year 2008-09, the Service Tax demanded in the amount of Rs. 73,613/- is incorrect and illegal and without authority and so required to be dropped.

9.5 In view of the above your goodself may be pleased to consider the above submissions and drop the demand if agree with the submission. However, if not agreed, the Service Tax may be demanded on the value considering the income as cum-tax price because Service Tax not charged nor recovered separately from the customers.

9.6 As regards to proposed penal action u/s 76, 77 and 78 of the Finance Act, it is submitted that penalty is proposed merely on the ground that the Noticee suppressed the value with intent to evade payment of Service Tax for the financial year 2007-08 as

well as short-payment on taxable **services** suppressed as shown in Annexure-B to the Show Cause **Notice**.

9.7 It is submitted that as **stated** earlier the activities carried out on job work basis during the **year** 2007-08 is amounting to manufacture and so under the **bonafide** act by the Noticee that there is no liability to pay the **Service Tax** and so not paid. Moreover, the issue is about the **interpretation** of the statute. Therefore, there is **malafide intention** on the part of the Noticee. Similarly for the year 2008-09, the **Noticee** has already filed the ST 3 returns showing the **taxable value** and the amount payable as **Service Tax** and also **payments** of **Service Tax** are made alongwith interest. From this fact it could be very well said that the Noticee has not suppressed the value or evaded the tax intentionally. Therefore, proposed penal action u/s 76 or 78 is unwarranted and required to be **dropped** in light of several judgements of the Appellate authorities and Supreme Courts. It is also further submitted that it is a **well settled law** that the penalty cannot be imposed merely because it is provided in the Act, but for imposition of penalty it is **mandatory** on the part of the Department to bring concrete and **positive** documentary evidence to establish the malafide act on the **part** of the Noticee. There is nothing of this sort in the **present case**. Therefore, the proposed penal actions are required to be **dropped** and benefit u/s 80 of the Finance Act may be given.

9.8 Finally, the Noticee submitted to drop the proceedings and to pass a speaking order and also **waived** the personal hearing fixed on 15.12.2012 with a **request** to take the decision after considering the above submissions. They also enclosed copies of 5 challans.

PERSONAL HEARING :

10 personal hearing was fixed on 23.12.2011, in response the Noticee in their letter dtd. 23.12.2011 and dtd. 01.02.2012 requested to extend the date of hearing after a week in January 2012 and in third week of February 2012 respectively. Thereafter dates for personal hearings were fixed on 16/17.01.2012, 01.02.2012 and on 15.02.2012, however, the Noticee in their written submission dtd.23.12.2011 **waived** the opportunity of personal hearing fixed on 15.12.2011.

DISCUSSION AND FINDINGS :

11 I have carefully gone through the **Notice**, records of the case and the submissions made by the **Noticee**.

12 The impugned Notice demands **Service Tax** on the activities of "Management, Maintenance or **Repair Service**" in M/s Nirma Limited undertaken by the Noticee during the period 2007-08 and 2008-09 and seeks to impose **penalty** for non-payment of **Service Tax**. The Noticee on the other **hand** have contested the classification of the services provided by them. It is contested that

the activities carried out by them is fabrication of MS structures and its erections and fabrication of Tanks/Vessel accordingly it amounted to manufacture and as such the Service Tax thereon is exempted as per Notification. This claim of the Noticee is not acceptable as the services provided by the Noticee is rightly classifiable under the category of Management, Maintenance or Repair Service" as defined under Section 65(64), 65 (105)(zzg) of the Finance Act, 1994. Further, the Noticee in his statement dated 08.04.2009 and 10.05.2010 has stated that he was engaged in maintenance and repair works for the last two years and was providing service of maintenance and repair of valves and pipes. The contention of the Noticee that the activity carried out by them amounted to manufacture is an afterthought. Therefore, I hold that the services provided by the Noticee is rightly classifiable under the category of "Management, Maintenance or Repair Service" as defined under Section 65(64), 65(105)(zzg) of the Finance Act, 1994.

13 The Noticee have also contested that for the period 2007-08, the Service Tax can be demanded by treating the amount received as cum-tax price as the Noticee had not charged and recovered Service Tax amount separately from their customer and for the period 2008-09 it is contested that after obtaining the Service Tax registration on 23.05.2008 they have deposited Service Tax along with interest and had filed two ST -3 returns and therefore there is no justification in demanding the same again in the Notice. The Noticee have also contested that they have not suppressed the value or evaded tax intentionally, therefore penal actions u/s 76, 77 and 78 of the Financial Act, 1994 are not warranted.

14 I find that the inquiry for non-payment of Service Tax was commenced by the issuance of summons dated 20.06.2009, 11.11.2009, 08.12.2008, 02.02.2009 and 26.02.2009 and in response thereof a statement of Shri Ashokbhai Panchabhai Panjari, proprietor of the Noticee firm was recorded on 08.04.2009 before Superintendent of Central Excise, Bhavnagar. In the statement recorded under Section 14 of Central Excise Act, 1944 Shri Ashokbhai Panchabhai Panjari, proprietor of the firm has deposed that they are engaged in maintenance and repair works since last one-two years and had obtained Service tax Registration No.AQGO03452PST001 on 23.05.2008 for the category of "Maintenance or Repair Service" and they were providing service of maintenance and repair of valve and pipes since 2007-08 to M/s Nirma Limited, at Kalatalav plant and has stated that during the Financial year 2007-08 they have received Rs. 32,36,305/- and had not paid Service Tax thereon and had not filed ST-3 returns with intent to evade the Service Tax. In his further statement dated 10.05.2010 he had confirmed the facts stated in his statement dated 08.04.2009 and had produced Bank Statement, Work Order and ST-3 Returns for the year 2008-09 under his dated signature. These Statements have never been retracted,

therefore, the deposition made **before** the Central Excise officer under Section 14 of the **Central Excise Act, 1944** is valid and substantial evidence. I also find **that** the Noticee had obtained Service Tax Registration on **23.05.2008** for the period 2008-09 and have deposited amount of **Service Tax** alongwith interest under 5 challans during **11.02.2008 to 06.04.2010** but for earlier period i.e. 2007-08, the Noticee **had neither** obtained Service Tax Registration nor paid any **Service Tax** for the taxable services provided by them to M/s Nirma Limited.

15 In view of the above discussion, it is clear that the Noticee have been providing taxable services classifiable under "Management, Maintenance or **Repairs Services**" as defined under sub-Section 64 of Section (65) of the **Finance Act, 1994** and have rendered taxable services as defined under Section 65 (105) (zzg) of the Act **ibid** without applying for registration and without payment of Service Tax leviable **thereon** during the period 2007-08 under the act and the Rules **made** thereunder.

16 The Noticee have provided taxable services to M/s Nirma Limited for the period from 2007-08 and 2008-09 during which Noticee have received amount of Rs.68,99,440/-. Therefore, in terms of Section 67 of the **Finance Act, 1994**, the gross amount received during the said period shall be the value for the purpose of levy of tax. Hence, the **Service Tax** at appropriate rate has been rightly demanded from the Noticee for the period 2007-08 and 2008-09 as per Annexure -B to the Notice. I find that during the course of investigation, the Noticee have deposited following amount as under :

	Service Tax Rs.	Edu. Cess	S.H.E. Cess Rs.	Total Rs.	Date of payment
1	62,734	1,255	627	64,616	11.12.2008
2	79,514	1,590	795	81,899	11.12.2008
3	1,25,041	2,501	1,250	1,28,792	10.02.2009
4	1,00,820	2,016	1,008	1,03,844	06.04.2009
	3,68,109	7,362	3,680	3,79,151	

The amount deposited as above requires to be adjusted against the amount of Service Tax demanded.

17 The Noticee have also claimed that for the period 2007-08, the amount of Rs.32,36,305/- received be treated as cum-tax value for the purpose of calculation and demand of Service Tax on the ground that they have not charged and recovered Service Tax separately from their customer. I find that Service Tax liability is the statutory liability of the Noticee and can be claimed as refund from their ultimate tax liability therefore it cannot be claimed as deduction from the consideration for the service provided. Further the benefit of cum-tax-price should not be allowed in Central Excise and Service Tax cases involving the elements of fraud, collusion, wilful mis-statement, suppression of facts or contravention of any of the provisions of the Act or Rules

made thereunder with intent to evade payment of duty. In this regard, I rely on the judgement of the Hon'ble Supreme Court in the case of M/s Amrit Agro Industries Ltd Vs. CCE, Ghaziabad {2207(210)ELT 183 (SC)] and the decision of Hon'ble CESTAT, Principal Bench, New Delhi in the case of Dhillon Kool Drinks and Beverages Ltd Vs. CCE Jalandhar [2011 (263) ELT 241 (Tri.Del)]. In terms of Section 67 of the Finance Act, 1994 value shall be the gross amount/consideration received from the service recipient. Since, the Noticee has evaded the payment of Service Tax by way of suppression of facts and with intent to evade payment of duty, is not entitled to benefit of cum-tax-value.

18 I find that the Noticee have evaded Service Tax for the period 2007-08 by wilfully suppressing their Tax liability for which they are liable for penal action under the provisions of Section 76, 77 and 78 of the Act. The Noticee have contravened the provisions of the Act and Rules inasmuch as they have not paid Service Tax during the period 2007-08 on the services of " Management, Maintenance or Repairs Services". Hence, penalty under Section 76 of the Finance Act, 1994 is imposable on the Noticee for failure to make timely payment of Service Tax. I find that the Noticee have contested that during the period 2007-08 their activities were carried out on job work basis which amounted the manufacture and under this bonafide belief they believed that there is no liability to pay Service Tax. The contention of the Noticee is not acceptable as they have provided the services during the period 2007-08 under the category of "Management, Maintenance or Repairs Services " as defined in Section (65)(64) of the Finance Act, 1994 which is a taxable service as defined under Section 65 (105) (zzg) of the Finance Act, 1994.

19 The Noticee have failed to make payment of Service Tax and subsequent filing of Service Tax Returns for the period 2007-08 within prescribed time limit. It is also a fact they have suppressed the facts of having received consideration /gross value for providing taxable services during the period 2007-08 with an intent to evade payment of Service Tax. As the Noticee have suppressed the vital facts with an intent to evade payment of Service Tax, they are liable for penal action under Section 78 of the Finance Act, 1994.

20 I find that the Noticee have contested according to Section 80 of Finance Act, 1994 no penalty under Section 76 and 78 can be imposed if the assessee proves that there was a reasonable cause for the failure. This contention of the Noticee is not acceptable as during the course of investigation and in his statements dated 08.04.2009 and 10.05.2010, Noticee have accepted that they have been engaged in providing maintenance and repair works for the last one-two years to M/s Nirma limited and during the Financial year 2007-08 they have received gross consideration of Rs.32,36,305/- and on this receipt they have not

paid any Service Tax nor they have filed any ST-3 returns with intent to evade payment of Service Tax which proves their malafide intention and suppression of facts unwarranting the provisions of Section 80 of the Finance Act, 1994.

21 In view of above discussion, I pass the following order.

ORDER

22.1 I hereby confirm amount of Service Tax of Rs.8,52,772/- (Rs.8,27,933/-+Rs.16,559/- Education Cess +Rs.8,280/- Secondary and Higher Education Cess) for the period from 2007-08 to 2008-09 under Section 73(2) of the Finance Act, 1994 upon **M/s Chamunda Engineering, Bhavnagar**. I also order to appropriate the amount of Rs.3,79,151/- (Rs.3,68,109/- + Rs.7,362/- Education Cess + Rs. 3,680/- Secondary and Higher Education Cess) deposited by them during the course of investigation.

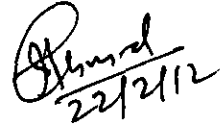
22.2 **M/s Chamunda Engineering, Bhavnagar** are also liable to pay interest under Section 75 of the Finance Act, 1994 at appropriate rate. I appropriate amount of Rs.19,269/-already deposited towards interest.

22.3 I impose penalty of Rs. 200/- for every day or at the rate of 2% per month of Service Tax whichever is higher upon **M/s Chamunda Engineering, Bhavnagar** under Section 76 for failure to assess Service Tax as required under Section 70 of the Act and make the payment of Service Tax within the period and in the manner prescribed under Section 68 of the Act read with Rule 6 of the Rules during the period 2007-08 to 10.05.2008 provided that the total amount of penalty payable in terms of this Section shall not exceed the Service Tax payable, during the 2007-08 to 10.05.2008.

22.4 I impose penalty of Rs.5000/- upon, **M/s Chamunda Engineering Bhavnagar** under Section 77(2) of the Finance Act, 1994 for failure to file prescribed returns for the period 2007-08 under Section 70 of the Act read with Rule 7 of the Rules.

22.5 I impose penalty of Rs.8,52,772/- upon **M/s Chamunda Engineering, Bhavnagar** under Section 78 of the Finance Act, 1994. If the amount as determined under para 22.1 above is paid within 30 days from the receipt of the order along with the interest payable then as per proviso to Section 78, the penalty will be only 25% of the Service Tax determined at para 22.1 above. The benefit of reduced penalty shall be available only if the

amount of penalty so determined has also been paid within the period of thirty days from the receipt of this order.


22/2/12

(Imamuddin Ahmed)
Joint Commissioner
Central Excise,
Bhavnagar

F.No.V/15-38/DEM-ST/HQ/2010-11

Date : 22.02.2012

To,

M/s Chamunda Engineering,

C/o Shri Ashokbhai Panchabhai Panjari,
HIG-13, Opp. Gunatit Nagar, Last Bus Stop, Anandnagar,
BHAVNAGAR-364 005

Copy to :

- (1) The Commissioner, Central Excise, HQ Bhavnagar (RRA)
- (2) The Assistant Commissioner (AE), Central Excise, HQ Bhavnagar
- (3) The Assistant Commissioner, Service Tax Division, Bhavnagar
- (4) The Superintendent, Service Tax, Rural Range, Bhavnagar
- (5) Guard File