



Handwritten: A027

सेवाकर आयुक्त का कार्यालय
OFFICE OF THE PRINCIPAL COMMISSIONER OF SERVICE TAX
हैदराबाद- सेवाकर आयुक्तालय SERVICE TAX COMMISSIONERATE
11-5-423/1/A :: SITARAM PRASAD TOWER :: RED HILLS :: HYDERABAD-500 004.

O.R. No.24 /2016- Adjn.(ST)(JC)
C. No. IV/16/195/2011- ST.Gr-X

Dt. 18.04.2016.

SHOW CAUSE NOTICE

[Notice under Section 73(1A) of the Finance Act, 1994]

Sub: Service Tax – M/s.Paramount Builders, Hyderabad – Non-payment of Service Tax - Issue of Show Cause Notice – Regarding.

M/s. Paramount Builders., 5-4-187/3 & 4, 2nd Floor, Soham Mansion, M.G.Road, Secunderabad- 500 003 (hereinafter referred to as 'M/s.Paramount' or "the Assessee" for short) have registered themselves with the Service Tax Department vide Registration No.AAHFP4040NST001, for payment of Service Tax under the categories of "Works Contract service" and "Construction of Residential Complex service".

2. As seen from the records, the Assessee entered into 1).Sale deed for sale of undivided portion of land together with semi-finished portion of the flat and 2).Agreement for construction, with their customers. On execution of the sale deed the right in a property got transferred to the customer, hence the construction service rendered by the Assessee thereafter to their customers under agreement of construction are taxable under Service Tax as there exists service provider and receiver relationship between them. As transfer of property in goods in execution of the said construction agreements is involved, it appears that the services rendered by them after execution of sale deed against agreements of construction to each of their customers to whom the land was already sold are taxable services under "Works Contract Service".

5. Vide Finance Act, 2012 sub section (1A) was inserted in Section 73 which reads as under:

SECTION 73(1A) - Notwithstanding anything contained in sub-section (1), the Central Excise Officer may serve, subsequent to any notice or notices served under that sub-section, a statement, containing the details of service tax not levied or paid or short levied or short paid or erroneously refunded for the subsequent period, on the person chargeable to service tax, then, service of such statement shall be deemed to be service of notice on such person, subject to the condition that the grounds relied upon for the subsequent period are same as are mentioned in the earlier notices.

6. The section 65B, 66B, 66D as inserted in the Finance Act, 1994 by the Finance Act, 2012 w.e.f. 01.07.2012 are reproduced below:

6.1. **SECTION 65B(44):** "service" means any activity carried out by a person for another for consideration, and includes a declared service, but shall not include— (a) an activity which constitutes merely,— (i) a transfer of title in goods or immovable property, by way of sale, gift or in any other manner; or (ii) a transaction in money or actionable claim; (b) a provision of service by an employee to the employer in the course of or in relation to his employment; (c) fees taken in any Court or tribunal established under any law for the time being in force.

6.2. **SECTION 66B.-** There shall be levied a tax (hereinafter referred to as the service tax) at the rate of twelve per cent on the value of all services, other than those services specified in the negative list, provided or agreed to be provided in the taxable territory by one person to another and collected in such manner as may be prescribed.

6.3. **SECTION 66D:** Contains the negative list of services. It appears that services provided by the Assessee are not covered under any of the services listed therein.

6.4. **SECTION 66E:** Contains declared service and work contract is covered under 66E(h) of the Finance Act, 1994.

6.5. Further, Notification No.25/2012-ST, dated 20.06.2012, as amended specified services which were exempt from payment of Service Tax. It appears that services provided by the Assessee are not covered under any of the services listed therein.

7. The grounds as explained in the Show Cause cum demand notices issued above are also applicable to the present case; the legal position in so far as "Works Contract Service" is concerned, the said service and its taxability

4029

11. This Notice is issued without prejudice to any other action that has been or may be taken against the noticee / others under this Act or under any other law for the time being in force in India.

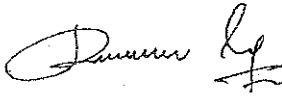
12. M/s. Paramount, has obtained Service Tax registration on 29.02.2008 and filed the ST-3 return for the period April' 2014 to September' 2014 on 22.10.2014 (Due date being on 14.11.2014) and hence, the last date for issuance of this Notice is 21.04.2016 under section 73(1) of the Finance Act,1994.

13. Reliance for issue of this Notice is placed on the following:

- (i) Assessee's letter dated 13.04.2016 received by the Jurisdictional Range Superintendent on 13.04.2016.

Place: Hyderabad

Date: 18.04.2016.


(PRABHU DAS PULI)
JOINT COMMISSIONER

To
M/s.Paramount Builders,
Address: 5-4-187/3 & 4, 2nd Floor,
Soham Mansion,
M.G.Road,
Secunderabad- 500 003.

//By SPEED POST//

Copy to:

1. The Assistant Commissioner of Central Excise (Service Tax), Division-II, Service Tax Commissionerate, Hyderabad for information and necessary action.
2. The Superintendent, Service Tax, Range-IIB, Service Tax Commissionerate, with direction to serve the Notice on the assessee and submit dated Acknowledgement to this office.
3. The Superintendent of Service Tax (Adjudication), Service Tax Commissionerate, along with copies of all relied documents.