सेंट्रल टैक्स एवम् कस्टम उप/सहायक आयुक्त का कार्यालय
OFFICE OF THE DEPUTY/ASSISTANT COMMISSIONER OF CENTRAL TAX AND CUSTOMS
सिकंदराबाद माल एवम् सेवा कर मंडल & सिकंदराबाद माल एवम् सेवा कर आयुक्तालय
SECUNDERABAD GST DIVISION & SECUNDERABAD COMMISSIONERATE
पता" :सलीक सीणेट", गेट. 2 -4- 416 & 417, रामगोपालपेट, एम.जी.रोड़ सिकंदराबाद 500003
ADD: "SALIKE SENATE", D. No. 2-4-416 & 417, RAMGOPALPET, MG ROAD, SECUNDERABAD 500003
Contact No. 7901243130 email- cgst.secdiv@gov.in

C. NO. V/24/15/07/2018-Adjn Date: 17.04.2018

SHOW CAUSE NOTICE

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

Sub:: **Service Tax - Non-Payment of Service Tax on Taxable Services rendered by M/s. Greenwood Estates, Hyderabad for the period April 2015 to June 2017- Issue of Show Cause Notice - Regarding.**

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M/s. Greenwood Estates, #5-4-187/3 & 4, II Floor, Soham Mansion, MG Road, Secunderabad-500 003 (here-in-after referred as "**M/s Greenwood**" or "**the assessee(s)**") are engaged in providing "**Works Contract Service**". The asssessee is a registered partnership firm and got themselves registered with the department vide **Service Tax Registration Number AAHFG0711BST001.**

2. As seen from the records, the assessee entered into i) sale deed for sale of undivided portion of land together with semi-finished portion of the flat and ii) 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 assessees to their customers under agreement of construction is classifiable under "**Works Contract Service" under Section 65 (105) (zzzza)** under Service tax as there exists service provider and receiver relationship between them. As there is transfer of property in goods in execution of the said construction agreements, 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"**.

3. Accordingly, the following Show Cause Notices had been issued to the assessee:

Sl No.	SCN O.R. No. Date	Period covered	Amount of Service Tax demanded in Rs.	Status
1	HQPOR No. 77/2010-Adjn (ST), dated 21-5-2010	Jan - Dec, 2009	9,47,737/-	Confirmed vide OIO No. 47/2010-ST, dt. 24-11-2010. Party's appeal was dismissed vide OIA No. 11/2011 (H-II) S.Tax, dated 31-1-2011. CESTAT Granted Stay on 25.04.2012 vide stay Order No.666 & 667/2012 without pre deposit condition. Vide Misc Order No.21860-21877/2014 dt.31.07.2014 extended stay for six months from 31.07.2014.
2	OR No. 61/2011, dt. 23-04-2011	Jan – Dec, 2010	48,00,391/-	Confirmed vide OIO No. 51/2012-Adjn (ST)(ADC), dated 31-8-2012. Ordered de novo by the Commissioner (Appeals) vide OIA

				No. 39/2013 (H-II) S.Tax for re-quantification of the Service Tax payable. Denovo OIO No.83/2016-ADC dated 09.06.2017 served on the assesses on 02.10.2017.
3	OR No. 52/2012-Adjn (Addl.Commr.) , dt. 24-4-2012	Jan – Dec, 2011	46,81,850/-	Confirmed vide OIO No. 51/2012- Adjn (ST)(ADC), dated 31-8-2012. Ordered de novo by the Commissioner (Appeals) vide OIA No. 39/2013 (H-II) S.Tax for re-quantification of the Service Tax payable. . Denovo OIO No.83/2016-ADC dated 09.06.2017 served on the assesses on 02.10.2017.
4	O.R.No.83/2013 Adjn. (ST) ADC dated 02.12.2013	Jan – June, 2012	16,53,856/-	An amount of Rs.15,64,777/- towards ST has been confirmed vide 0I0 No.HYD-SVTAX-000-COM-02-14-15 dated: 20.02.2015.
5	O.R.No.156/2014-Adjn (ST) (Commr) dated:25-09-2014.	July, 2012 – March, 2014	92,38,975/-	An amount of Rs.89,57,783/- only towards ST has been confirmed for the period July, 2012 to December, 2013 vide 010 No.HYD-SVTAX-000-COM-02 - 14- 15 dated: 20.02.2015
6	O.R.No. 131/2015-Adjn.(ST)(Commr) dt. 21.10.2015	Jan, 2014 – March, 2015	69,13,733/-	Confirmed vide OIO No.HYD-SVTAX-000-COM-144-16-17 dated 15.12.2016 by the Commissioner of Service Tax.

4. As per the information furnished by the assessee vide letter dated 15.02.2018 along with statements, it is seen that "the assessee" have rendered taxable services under the category of "Works Contract Services" during the period April, 2015 to June, 2017. The assessee had rendered services for a taxable value of Rs.7,81,36,512/- (Rupees Seven Crores Eighty One Lakhs Thirty Six Thousand Five Hundred twelve only). After deduction of VAT of Rs.38,59,385/- the taxable value works out to Rs.7,42,77,127/- on which service tax (including Education and S & H.E cess) works out to be Rs.42,01,762/-. The service tax liability work sheet is enclosed to this notice as Annexure.

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) (except the period of eighteen months of serving the notice for recovery of service tax), 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 grounds as explained in the show cause cum demand notices issued above are also applicable to the present case. Hence, this statement of demand/show cause notice is issued in terms of Section 73 (1A) of the Finance Act, 1994 for the period April, 2015 to June 2017.

7. In view of the above, M/s Greenwood Estates, 5-4-187/3 8s 4, II floor, Soham Mansion, M.G.Road, Secunderabad-500 003, are hereby required to show cause to the **Assistant Commissioner of Central Tax & Central Excise, Office of the Assistant Commissioner of Central Tax, Secunderabad GST Division, Secunderabad GST Commissionerate, D. No. 2-4-416&417, 1st Floor, Salike Senate, Ramgopalpet, M. G. Road, Hyderabad** within 30 (thirty) days of receipt of this Notice as to why:-

(i) An amount of Rs.42,01,762/- (Rupees Forty two Lakhs one Thousand seven hundred and sixty two only) including Education Cess and SHE Cess, should not be demanded from them under the "Works Contract Services" rendered by them during the period April, 2015 to June, 2017, in terms of Section 73 (1) of the Finance Act, 1994; on the grounds discussed supra; and

(ii) Interest on the amount at Sl.No. (i) above at appropriate rates should not be demanded under Section 75 of the Finance Act 1994;

(iii) Penalty should not be imposed on them under Section 76 of the Finance Act 1994; and

(iv) Penalty should not be imposed on them under Section 77 of the Finance Act, 1994.

8. M/s. Greenwood Estates, Hyderabad at the time of showing cause as above are required to produce all the evidence upon which they intend to rely in their defence. They are also required to indicate in their written reply whether they wish to be heard in person before the case is adjudicated. If no cause is shown against the action proposed to be taken within the stipulated time or having desired a hearing if they do not appear for the personal hearing on the appointed day & time, the case will be decided on merits, basing on the material/evidence available on record.

9. This notice is issued without prejudice to any other action that may be taken against the noticees / others under the Finance Act, 1994 or under any other law for the time being in force in India.

10. The provisions of the Finance Act, 1994 as discussed above are validated under the provisions of Section 174 of the Central Goods and Services Tax Act, 2017.

11. Reliance for issue of this notice is placed on the following:

1. Letter dated 15.02.2018 along with statements, submitted by M/s. Greenwood Estates, Hyderabad.

2. ST-3 Returns submitted by the assessee for the period April, 2015 to June, 2017.

Place: Secunderabad

Date: 17 .04.2018

K Gopala Rao

(के गोपाल राव/K Gopala Rao)
सहायक आयुक्त/Assistant Commissioner
सिकंदराबाद मण्डल/Secunderabad Division

To,
M/s Greenwood Estates,
5-4-187/3 & 4, 2nd Floor,
Soham Manrion, M. G Road,
Secunderabad – 500 003.

Copy to:

1. The Superintendent of Central Tax, Central Excise and Service Tax, Ramgopalpet Range-I, Secunderabad GST Division, Secunderabad Commissionerate, with direction to serve the Notice on the assessee and submit dated Acknowledgment to this office.
2. The Commissioner of Central Tax, Central Excise and Service Tax, Secunderabad Commissionerate, Hyderabad. (By name to the Superintendent of Central Tax(Adjudication) for information.