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Serene Constructions LLP

5-4-187/3&4, II floor, MG Road,
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Phone: +91-40-66335551

Date: 26th November 2021

To,
Assistant Commissioner (ST)
Ramgopalpet-Ranigunj
Begumpet

Sir,

Sub: Reply to Notice dated 12th November 2021 u/s. 73-GST Act, 2017 – M/s. Serene Constructions LLP, GSTIN: 36ACVFS7909P1ZV - DRC 01 - for the Financial Period: 2019-20

We are in receipt of your notice dated 12-11-2021 issued for payment demand of SGST Rs.4,64,727/- and CGST Rs. 4,64,727/-

As per the said notice the details of the tax liability are as provided below.

Reply to Para 1A:

The tax on outward supplies under declared on reconciliation of data in GSTR-09:

In the said para it is provided that on comparison of GST liability payable in GSTR-09 versus GST liability paid, there is a difference of CGST Rs 31,500 and SGST Rs 31,500.

In this context we would like to provide that, CGST of Rs 31,500 and SGST of Rs 31,500 is excess paid in the GSTR-3B of March-2019 and thus the same has been reduced from GST liability of July-2019.

Extract of GSTR-3B and GSTR 1 for F.Y. 2018-19 and F.Y. 2019-20 is provided below:

Tax Period	Tax liability declared in GSTR-3B during the month [as per table 3.1(a)]				Tax liability declared in GSTR-1 (other than reverse charge supply) during the month [as per table 4A, 4C, 5, 6C, 7, 9A, 9B, 9C, 10, 11]				Shortfall (-) / Excess (+) in liability (GSTR-3B - GSTR-1)		
	IGST	CGST	SGST/UTGST	CESS	IGST	CGST	SGST/UTGST	CESS	IGST	CGST	SGST/UTGST
1	2	3	4	5	6	7	8	9	10	11	12
Apr-18	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
May-18	0.00	0.00	0.00	0.00	0.00	31,500.00	31,500.00	0.00	0.00	-31,500.00	-31,500.00
Jun-18	0.00	54,900.00	54,900.00	0.00	0.00	54,900.00	54,900.00	0.00	0.00	0.00	0.00
Jul-18	0.00	3,63,600.00	3,63,600.00	0.00	0.00	3,63,600.00	3,63,600.00	0.00	0.00	0.00	0.00
Aug-18	0.00	1,33,200.00	1,33,200.00	0.00	0.00	1,33,200.00	1,33,200.00	0.00	0.00	0.00	0.00
Sep-18	0.00	3,37,500.00	3,37,500.00	0.00	0.00	2,20,500.00	2,20,500.00	0.00	0.00	1,17,000.00	1,17,000.00
Oct-18	0.00	1,98,000.00	1,98,000.00	0.00	0.00	1,98,000.00	1,98,000.00	0.00	0.00	0.00	0.00
Nov-18	0.00	76,500.00	76,500.00	0.00	0.00	76,500.00	76,500.00	0.00	0.00	0.00	0.00
Dec-18	0.00	90,000.00	90,000.00	0.00	0.00	90,000.00	90,000.00	0.00	0.00	0.00	0.00
Jan-19	0.00	4,44,425.31	4,44,425.31	0.00	0.00	4,44,425.31	4,44,425.31	0.00	0.00	-0.31	-0.31
Feb-19	0.00	4,38,300.00	4,38,300.00	0.00	0.00	4,38,300.00	4,38,300.00	0.00	0.00	0.00	0.00
Mar-19	0.00	4,72,500.00	4,72,500.00	0.00	0.00	4,02,075.00	4,02,075.00	0.00	0.00	70,425.00	70,425.00
Total	0.00	26,08,925.00	26,08,925.00	0.00	0.00	24,53,000.31	24,53,000.31	0.00	0.00	1,55,924.69	1,55,924.69

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Difference in GSTR 1 and GSTR 3B of 18-19	1,55,924	1,55,924
Less: Taxes of 17-18 paid in 18-19	1,17,000	1,17,000
Taxes excess paid in 18-19	38,924	38,924

Taxes of CGST Rs 38,924 and SGST Rs 38,924 excess paid in F.Y. 18-19 is adjusted in F.Y. 19-20 as provided in the table below:

Tax Period	Tax liability declared in GSTR-3B during the month [as per table 3.1(a)]				Tax liability declared in GSTR-1 (other than reverse charge supply) during the month [as per table 4A, 4C, 5, 6C, 7, 9A, 9B, 9C, 10, 11]				Shortfall (-)/ Excess (+) in liabil (GSTR-3B - GSTR-1)		
	IGST	CGST	SGST/UTGST	CESS	IGST	CGST	SGST/UTGST	CESS	IGST	CGST	SGST/UTGST
1	2	3	4	5	6	7	8	9	10	11	12
Apr-19	0.00	2,16,000.00	2,16,000.00	0.00	0.00	2,16,000.00	2,16,000.00	0.00	0.00	0.00	0.00
May-19	0.00	1,35,000.00	1,35,000.00	0.00	0.00	1,35,000.00	1,35,000.00	0.00	0.00	0.00	0.00
Jun-19	0.00	1,35,000.00	1,35,000.00	0.00	0.00	1,35,000.00	1,35,000.00	0.00	0.00	0.00	0.00
Jul-19	0.00	2,56,500.00	2,56,500.00	0.00	0.00	2,88,000.00	2,88,000.00	0.00	0.00	-31,500.00	-31,500.00
Aug-19	0.00	3,10,500.00	3,10,500.00	0.00	0.00	3,10,500.00	3,10,500.00	0.00	0.00	0.00	0.00
Sep-19	0.00	2,65,500.00	2,65,500.00	0.00	0.00	2,72,925.00	2,72,925.00	0.00	0.00	-7,425.00	-7,425.00
Oct-19	0.00	1,80,000.00	1,80,000.00	0.00	0.00	1,80,000.00	1,80,000.00	0.00	0.00	0.00	0.00
Nov-19	0.00	3,60,000.00	3,60,000.00	0.00	0.00	3,60,000.00	3,60,000.00	0.00	0.00	0.00	0.00
Dec-19	0.00	1,57,500.00	1,57,500.00	0.00	0.00	1,57,500.00	1,57,500.00	0.00	0.00	0.00	0.00
Jan-20	0.00	1,12,500.00	1,12,500.00	0.00	0.00	1,12,500.00	1,12,500.00	0.00	0.00	0.00	0.00
Feb-20	0.00	4,95,000.00	4,95,000.00	0.00	0.00	4,95,000.00	4,95,000.00	0.00	0.00	0.00	0.00
Mar-20	0.00	52,916.00	52,916.00	0.00	0.00	52,915.68	52,915.68	0.00	0.00	0.32	0.32
Total	0.00	26,76,416.00	26,76,416.00	0.00	0.00	27,15,340.68	27,15,340.68	0.00	0.00	-38,924.68	-38,924.68

Therefore, it is evident that there has been no short payment of tax.

The excess input tax credit (ITC) claimed on account of non-reconciliation of information declared in GSTR-09:

In the said para, it is provided that ITC is not availed correctly when compared to GSTR 2A and hence a demand of CGST Rs 4,21,849 and SGST Rs 4,21,849 is raised.

It is to be noted that, Under Section 16(2)(c) of CGST Act payment of tax to Government, is subject to the provisions of Section 41 read with Rules 69 and 71. However, the ITC matching, reversal mechanism laid down under Section 41 read with rules is kept in abeyance. Therefore, till the provisions in this respect are given effect, the recipients are entitled to claim the ITC on the basis of tax invoice issued by the vendor without any consideration that such tax invoice is being reflected in GSTR-2A or not.

As held by Hon'ble Supreme Court in Tata Chemicals Limited v Commissioner, 2015 (320) ELT 45 (SC) when the law requires a particular thing to be done in a particular manner, it must be done in that manner only or not done at all. Therefore, ideally, the recipient cannot

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be asked to comply with this condition and reverse ITC when he has no mechanism to ensure whether the supplier has paid tax to the government or not.

Further, we would like to provide that, the difference is due to certain invoices pertaining to F.Y. 19-20, on which ITC has been availed in 19-20, but the supplier has reported the invoices in their returns in F.Y. 20-21 and hence it is not reflecting in GSTR-2A of 19-20.

Screenshot from portal of on such instance is provided below:

GSTIN- 36ACVFS7909P1ZV
Financial Year - 2020-21

Legal Name - SERENE CONSTRUCTIONS LLP
Return Period - September

Trade Name - SERENE CONSTRUCTIONS LLP
Generation date - 08/11/2020

SUMMARY

ALL TABLES

View Advisory

Select table to view details ▼

Taxable inward supplies received from registered person - B2B

HELP ⓘ

Supplier wise Details

Document Details

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Trade/legal name ^	Invoice number ^	Invoice Date ^	Total Taxable Value (₹) ^	Integrated Tax (₹) ^	Central Tax (₹) ^	State/UT Tax (₹) ^	GSTR-1/5 Period ^	GSTR-1 Da
ES LLP	SSLLP/LOG/10368 ▼	10/08/2020	8,092.00	0.00	728.28	728.28	Aug'20	25/08
ES LLP	SSLLP/LOG/10385 ▼	10/08/2020	8,530.62	0.00	767.76	767.76	Aug'20	25/08
ES LLP	SSLLP/LOG/10464 ▼	31/08/2020	5,877.28	0.00	528.96	528.96	Aug'20	25/08
JESHWARI TRADERS	0214 ▼	17/08/2020	1,620.00	0.00	145.80	145.80	Aug'20	20/08
SOCIATES	POINTEC/19-20/23 ▼	22/11/2019	32,78,124.80	0.00	2,95,031.23	2,95,031.23	Jan'20	15/08
ETY SOLUTIONS	1250 ▼	17/08/2020	1,520.00	0.00	136.80	136.80	Aug'20	15/08
TERPRISES	EE2021-0090 ▼	08/07/2020	820.00	0.00	73.80	73.80	Jul'20	05/10
TERPRISES	EE2021-0105 ▼	22/07/2020	8,400.00	0.00	756.00	756.00	Jul'20	05/10

Therefore, it is unjust to demand payment of tax under the relevant section.

Reply to Para 2:

Excess ITC claimed in GSTR-3B compared to GSTR-09:

ITC to the extent of CGST Rs 11,377 and SGST Rs 11,377 provided in the said para is payable.

Thanking you,

Yours Sincerely,

For SERENE CONSTRUCTIONS LLP


(SODHM SATISH MODI)
Authorised Signatory