

Summit Sales LLP

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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. Summit Sales LLP, GSTIN: 36ACQFS2044C1Z7- DRC 01 - for the Financial Period: 2018-19

We are in receipt of your notice dated 16-11-2021 issued for payment demand of SGST Rs.25,22,954/- and CGST Rs. 25,22,954/-

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

Reply to Para 1 A and 2

The tax on outward supplies under declared on reconciliation of data in GSTR-09 and Reconciliation of GSTR-01 with GSTR-09:

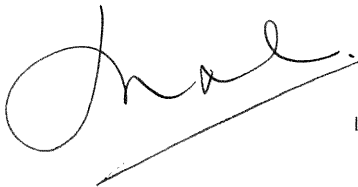
In the said para, reconciliation is made between tax liability paid vs. liability declared in GSTR 9, and tax declared in GSTR 1 Vs. GSTR 9

GSTR -09, contains details of annual sales for the year. The sales that have been excess reported in GSTR-1 are rectified and reported correctly in GSTR-09. It is also to be noted that taxes are paid through form GSTR -3B and DRC-03. The table below provides the details of outward tax liability for F.Y. 17-18 and F.Y. 18-19 paid vs. payable as per books of accounts.

Output GST liability is excess paid in GSTR-3B when compared to actual liability as per books, for F.Y. 2017-18 to the tune of CGST Rs 18,165 and SGST Rs 18,165, and taxes short paid in GSTR-3B of F.Y. 18-19 is CGST Rs 19,865 and SGST Rs 19,865. i.e. technically, taxes excess paid in 17-18 is set off in 18-19

	F.Y. 17-18		F.Y. 18-19		Total	
	CGST	SGST	CGST	SGST	CGST	SGST
As per Books	10,13,853	10,13,853	87,61,336	87,61,336	97,75,189	97,75,189
As per GSTR 1	10,28,676	10,28,676	87,66,251	87,66,251	97,94,927	97,94,927
As per GSTR 3B	10,32,018	10,32,018	87,41,471	87,41,471	97,73,489	97,73,489

Difference is outward tax liability as per books of account and taxes paid in GSTR 3B is CGST Rs 1,700 and SGST Rs 1,700, when calculated cumulatively for two year i.e. F.Y. 17-



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Incorporated under Limited Liability Partnership Act, 2008 with LLP

18 and F.Y. 18-19. (It is to be noted that taxes excess paid in F.Y. 17-18 is adjusted in F.Y. 18-19)

Further, differential tax of CGST Rs. 1,700 and SGST Rs 1,700 is paid through DRC-03 dated 0412-2020. DRC-03 attached for reference.

Reply to Para 1B**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 3,29,319 and SGST Rs 3,29,319 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 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.

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

Reply to Para 3:**Excess claim of ITC:****Excess ITC claimed in GSTR-3B compared to GSTR-09**

In the said para it is provided that CGST of Rs 4,71,993 and SGST of Rs 4,71,993 is excess claimed.

S.No	Description	Table No. in GSTR-09	SGST	CGST	Total
1	2	3	4	5	6
1	Eligible ITC in GSTR-3B	6A	6925673.01	6925673.01	13851346.02
2	ITC pertaining to previous year but availed in the current year	{13 (-) 12} of previous GSTR-09	-471993.00	-471993.00	-943986.00
3	Net ITC available in the current year	S.No.1 (-) S. No.2	7397666.01	7397666.01	14795332.02
4	Total ITC availed in GSTR-09	6O	6925673.01	6925673.01	13851346.02
5	ITC availed in GSTR-3B in excess of GSTR-09	S No.3 (-) 6O	471993.00	471993.00	943986.00

It can be observed that the GST amount so claimed pertains to F.Y.2017-18, claimed in F.Y. 2018-19.

ITC to be reversed on non-business transactions & exempt supplies

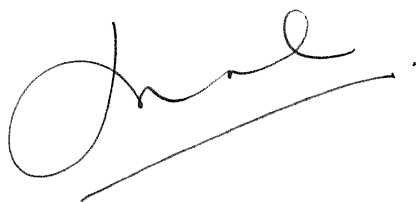
“Under Sec 17(1) & (2) where the goods or services or both are used by the registered person partly for the purpose of business, partly for other purposes or partly used for effecting exempt supply and partly for taxable supply then the amount of credit shall be restricted to so much of the input tax as is attributable to the taxable supplies in the course of business.

Therefore the taxable person needs to make an apportionment of available input tax credit under Rule 42 & 43 to arrive at the eligible ITC”.

It is to be noted that ITC availed in GSTR 3B pertains to ITC on inward supplies used to affect outward taxable supplies. Goods and services on which ITC is availed is used completely to effect taxable supply.

Following is the break – up of exempt income as reported in GSTR – 9.

Particulars	Amount
Sales @Nil Rated	6,49,115
Sales Exempted	1,21,299
Sales-IGST Nil Rated	777
Interest on FD	1,45,104
Share of Profit from Partnership Firms	2,76,15,630
Sundry Balance Written Off	8,590
Profit on Sale of Land	25,695
Miscellaneous Income	7,518
Discount	(1,309)
Total	2,85,72,420



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Under declaration of Ineligible ITC:

Under Sec 17(5) of the SGST Act, 2017 input tax credit shall not be available in respect of the list of commodities & services mentioned therein subject to certain conditions.

In the said para, specific clause under which input tax credit shall not be available is not mentioned.

However, without prejudice to above we would like to provide that we have not claimed insurance from Royal Sundaram General insurance company as provided in the annexure to the notice.

In lieu of above submissions we request from you re-assess the tax liability and drop any further proceedings

Thanking you,

Yours Sincerely,

For SUMMIT SALES LLP



(SODHM SATISH MODI)
Authorised Signatory