



**OFFICE OF THE COMMISSIONER OF CENTRAL TAXES & CUSTOMS
AUDIT - II COMMISSIONERATE**

केंद्रीय कर और सीमा शुल्क आयुक्त का कार्यालय, लेखापरीक्षा -द्वितीय आयुक्तालय
1-98/B 20,21-Sanvi Yamuna Pride, Krithika Lay Out, Madhapur, Hyderabad-500081
१-९८/बी,२०,२१ -सान्वी यमुना प्राइड, कृतीका ले आउट, माधापुर, हैदराबाद - ५०००८१

C.No. V/Audit II/C-I/68/2021-22/Gr.14
DIN- 20221156YS000000C18A

Date: 18.11.2022

To
M/s Kadakia and Modi Housing
5-4-187/3 & 4, Soham Mansion,
MG Road, Secunderabad, Rangareddy, Telangana, 500003.
GST Registration No: 36AAHFK8714A1ZJ

Gentlemen,

Subject: - GST Audit on the accounts of M/s. Kadakia and Modi Housing for the
Period July,2017 -March 2018, 2018 -2019 & 2019-20 -Certain
objections – Issue of Spot Memo – Regarding.

During the course of audit, on verification of your books of accounts, records and returns relating to GST for the period from July 2017 to March, 2020, the following irregularities have been noticed. You are liable to discharge tax along with applicable interest and penalty on the same.

Para-I: Short payment of GST due to adopting wrong method of valuation:

During the course of audit, on verifying the payment of tax towards the amount received for sale of constructed buildings to customers, it is found that the value of land is applied voluntarily and the same is reduced from the total sale value for arriving the taxable value instead of the same to be taken as one third of the total amount charged for supply.

As per the para 2 of Notification No.11/2017-Central Tax (Rate) dated 28.06.2017
"the value of supply of service and goods portion in such supply shall be equivalent to the total amount charged for such supply less the value of land or undivided share of land, as the case may be, and the value of land or undivided share of land, as the case may be, in such supply shall be deemed to be one third of the total amount charged for such supply.

Explanation .- For the purposes of paragraph 2, "total amount" means the sum total of,
(a) consideration charged for aforesaid service; and
(b) amount charged for transfer of land or undivided share of land, as the case may be"

By not following the method for valuation provided in the said notification as one third of the total value as the value of land, the taxpayer wilfully declared approximately half of the total value as the value of land and short paid the tax on the differential value. The sale deed and Flat History documents for each construction also confirm that the sale of land is not separate from the whole composite supply and the value of land is inclusive of various instalments demanded from customers.

In view of the above, there is short payment of total tax of **Rs.40,64,300/- (CGST- Rs.20,32,150/- and SGST Rs.20,32,150/-)** during the period of F.Y.2017-18 (from July,2017 to March,2018) to F.Y.2019-20. The details are given in the Annexure attached herewith.

Hence, you are liable to pay the above tax of **Rs.40,64,300/- (CGST- Rs.20,32,150/- and SGST Rs.20,32,150/-)** during the period of F.Y.2017-18 (from July,2017 to March,2018) to F.Y.2019-20 along with applicable Interest in terms of Section 50 (1) of the CGST Act, 2017 and Penalty in terms of Section 74 of the CGST Act, 2017.

Para-II- Short payment of GST on amount forfeited from the customers-

During the course of audit, it is observed that there are certain amount forfeited from the customers for not following the conditions laid down in the agreements made between the taxpayer and their customers during the period of F.Y.2017-18 (from July,2017 to March,2018), F.Y.2018-19 and F.Y. 2019-20 on which taxes are not paid for. The details are given hereunder.

Period	Amount forfeited in Rs.	CGST	SGST	Total
2017-18	25000	2250	2250	4500
2018-19	73938	6654	6654	13308
2019-20	471000	42390	42390	84780
TOTAL	569938	51294	51294	102588

Hence, you are liable to pay the above tax of **Rs.102,588/-, (CGST- Rs.51,294/- and SGST Rs.51,294/-)** for the period of F.Y.2017-18 (from July,2017 to March,2018), F.Y.2018-19 and 2019-20 along with applicable Interest in terms of Section 50 (1) of the CGST Act, 2017 and Penalty in terms of Section 74 of the CGST Act, 2017.

Para-III- Short payment of tax due to difference in tax rate-

During the course of audit, on verifying the returns it is observed that during the period F.Y. 2017-18 (From July,2017 to March,2018) the taxpayer has paid tax at the rate of 12% instead of 18% specified in Notification No.11/2017 CT (Rate) dt.28.06.2017 including CGST and SGST which caused a short payment of **Rs.54,844/- including CGST of Rs.27,422/- and SGST of Rs.27,422/-** for the period F.Y. 2017-18 (From July,2017 to March,2018). The details are given in the Annexure attached herewith.

Hence, you are liable to pay the above tax of **Rs.54,844/- including CGST of Rs.27,422/- and SGST of Rs.27,422/-** for the period F.Y. 2017-18 (From July,2017 to March,2018). along with applicable Interest in terms of Section 50 (1) of the CGST Act, 2017 and Penalty in terms of Section 74 of the CGST Act, 2017.

Para-IV: Short payment of GST on comparison of Tax liabilities declared in GSTR-1 and GSTR-3B :

During the course of audit, on comparison of tax liability declared in GSTR-1 with GSTR-3B it is observed that there is short payment of total tax of **Rs.20,11,576/- (CGST- Rs.10,05,788/- and SGST Rs.10,05,788/-)** during the period of F.Y.2017-18 (from July,2017 to March,2018), 2018-19 and 2019-20. The details are given hereunder.

Period	IGST	CGST	SGST	Total
Nov,2017	0	880	880	1760
2017-18	0	880	880	1760
June,18	0	281497	281497	562994
July,18	0	531810	531810	1063620
Nov,18	0	117000	117000	234000
2018-19	0	930307	930307	1860614

July,19	0	10971	10971	21942
Sept,19	0	63630	63630	127260
2019-20	0	74601	74601	149202
Grand Total	0	1005788	1005788	2011576

Since the tax paid in the monthly GSTR 3B returns filed under Section 39 of the CGST Act,2017 is comparatively less than the same declared in the monthly details of outward supplies furnished under Section 37 of CGST Act,2017 for the same periods.

Hence, you are liable to pay the above tax of **Rs.20,11,576/- (CGST- Rs.10,05,788/- and SGST Rs.10,05,788/-)** for the period of F.Y.2017-18 (from July,2017 to March,2018), 2018-19 and 2019-20 along with applicable Interest in terms of Section 50 (1) of the CGST Act, 2017 and Penalty in terms of Section 73 of the CGST Act, 2017.

Para-V: Excess availment of ITC in GSTR 3B on comparison with GSTR 2A :-

During the course of audit, on verification of records, it is observed that you have availed excess input tax credit to the tune of **Rs.16,40,374/- (IGST- Rs.4,34,196/-, CGST- Rs.6,03,089/- & SGST - Rs.6,03,089/-)** during the period of FY 2017-18, 2018-19 and 2019-20. The details are given in the table hereunder;

Month	As per table 4A of GSTR 3B (Other than RCM)				As per GSTR 2A returns downloaded (Tax amount involved in the Invoices issued by suppliers during the month)				Amount in Rs.			
	IGST	CGST	SGST	CESS	IGST	CGST	SGST	CESS	IGST	CGST	SGST	CESS
Aug,17	22137	99619	99619	0	22138	56519	56519	0	Nil	43100	43100	0
Oct,17	22619	177251	177251	0	32938	144539	144539	0	Nil	32712	32712	0
Nov,17	122684	178913	178913	0	110921	171813	171813	0	11763	7100	7100	0
Feb,18	21175	288855	288855	0	1741	142165	142165	0	19434	146690	146690	0
Mar,18	0	130858	130858	0	21175	128729	128729	0	Nil	2129	2129	0
2017-18									31197	231730	231730	0
July,18	264840	131420	131420	0	22138	149088	149088	0	242703	Nil	Nil	0
Aug,18	42831	335840	335840	0	20694	295895	295895	0	22137	39945	39945	0
Sept,18	22917	205379	205379	0	48913	183469	183469	0	Nil	21910	21910	0
Oct,18	48912	225349	225349	0	23546	249245	249245	0	25366	Nil	Nil	0
Nov,18	0	293846	293846	0	23546	242912	242912	0	Nil	50934	50934	0
Dec,18	23546	278460	278460	0	47307	265279	265279	0	Nil	13181	13181	0
Jan,19	59541	222669	222669	0	35103	170046	170046	0	24438	52623	52623	0
Mar,19	76500	246906	246906	0	11691	275770	275770	0	64809	Nil	Nil	0
2018-19									379453	178593	178593	0
May,19	0	80643	80643	0	0	77954	77954	0	Nil	2689	2689	0
July,19	23546	384688	384688	0	0	284399	284399	0	23546	100289	100289	0
Aug,19	0	60532	60532	0	0	54453	54453	0	Nil	6079	6079	0
Oct,19	0	135202	135202	0	0	133360	133360	0	Nil	1842	1842	0
Nov,19	0	116554	116554	0	0	113260	113260	0	Nil	3294	3294	0
Jan,20	0	174884	174884	0	0	107250	107250	0	Nil	67634	67634	0
Feb,20	0	87771	87771	0	0	84995	84995	0	Nil	2776	2776	0
Mar,20	0	45819	45819	0	0	37655	37655	0	Nil	8164	8164	0
2019-20									23546	192766	192766	0
Grand Total = 16,40,374/-									434196	603089	603089	0

Hence, the credit availed is inadmissible as per Section 16 of the CGST Act, 2017. You are therefore liable to pay the above amount of **Rs.16,40,374/- (IGST- Rs.4,34,196/-, CGST- Rs.6,03,089/- & SGST - Rs.6,03,089/-)** along with interest in

terms of Section 50(1) of the CGST Act, 2017 and penalty in terms of Section 73 of the CGST Act, 2017 for the period of F.Y. 2017-18, 2018-19 and 2019-20.

Para - VI: Non-reversal of ITC on receipt of Credit Notes:-

During the course of audit, on verification of records, it is observed that you have received Credit Notes amounting of **Rs.33,788/- (IGST Rs.1,444/-, CGST-Rs.16,172/- and SGST -Rs.16,172/-)** in the period F.Y.2018-19 and F.Y.2019-20 as detailed in the annexure attached herewith and table given hereunder, where the input tax credit availed has to be reversed as per the provisions of the Section 34 of the CGST Act,2017.

Period	Value	IGST	CGST	SGST	Total
2018-19	146432	1444	12715	12715	26874
2019-20	38414	0	3457	3457	6914
TOTAL	184846	1444	16172	16172	33788

Hence, you are liable to reverse the above amount of **Rs.33,788/- (IGST Rs.1,444/-, CGST- Rs.16,172/- and SGST -Rs.16,172/-)** along with interest in terms of Section 50(1) of the CGST Act, 2017 and penalty in terms of Section 73 of the CGST Act, 2017 for the period F.Y.2018-19 and F.Y.2019-20.

Para-VIII: Non-payment of GST under RCM as per Section 9(4) of CGST Act,2017 on Rent paid to Unregistered person:-

During the course of audit, on verification of Profit and Loss Account, it is observed that, you have not paid GST under RCM on Rent paid during July, 2017 to October,2017 in respect of the business place as detailed below.

(i) GST on Rent under RCM-

Period	Value	CGST	SGST	Total
July,2017	12223	1100	1100	2200
August,2017	12223	1100	1100	2200
Sept.2017	12223	1100	1100	2200
Oct,2017	6111	550	550	1100
TOTAL	42780	3850	3850	7700

(ii) GST on supplies received from Unregistered dealers-

Period	Comodity	Value	Rate of GST (Sum total of CGST & SGST)	CGST	SGST	Total
Aug,2017	Building Material	129768	18%	11679	11679	23358
	Building Material	130980	18%	11788	11788	23576
	Labour Charges	51742	18%	4657	4657	9314
	Misc. Expenses to URD	11264 1782 1980 1411 3332 Total=19769	18%	1779	1779	3558
	Total	332259		29903	29903	59806
Grand Total		375039		33753	33753	67506

In terms of Section 9(4) of the CGST Act, 2017, GST is payable under Reverse Charge Mechanism (RCM) by the recipient of service in respect of the rent paid towards the service of renting of property from an unregistered person. This service is classified under SAC 997212 as per the scheme of classification of services under GST and attracts GST @ 18% vide Notification No.11/2017- Central Tax (Rate), dated 28.06.2017. Further, in terms of Section 9(4) of the CGST Act, 2017 read with Notification No. 8/2017-Central Tax (Rate), dated 28.06.2017 as amended, GST is payable under Reverse Charge Mechanism (RCM) by the registered person in respect of supply of goods or services or both received from an unregistered person (where the aggregate value of such supplies of Goods or Service or both received by a registered person from any or all the suppliers who is or are not registered exceeds Rs. 5,000/- in a day). Further other miscellaneous supplies received from unregistered dealers also attract 18% rate of tax as per respective nature declared in the purchase ledger. Therefore, the services received against the payment made to unregistered persons are taxable at the rate of 18%.

Hence, you are liable to pay total GST amount to **Rs.67,506/- (CGST Rs.33,753/- + SGST Rs.33,753/-)** along with interest under section 50 (1) of the CGST Act, 2017 and penalty in terms of Section 73 of the CGST Act, 2017.

Para-IX :- Irregular availment of Input Tax Credit [Section 17(5)]:-

During the course of audit, on verification of records, it is observed that you have availed ineligible input tax credit for a total amount of **Rs.88,320/- including CGST - Rs.44,160/- and SGST- Rs.44,160/-** towards certain invoices where availment of input tax credit is inadmissible as per the Section 17 (5) of the CGST Act, 2017 for the period of F.Y. 2017-18, 2018-19 and 2019-20.

Service Category	Period	Value	IGST	CGST	SGST	Total
Car Rent Charges	2017-18	30,884	0	2,780	2,780	5,560
	2018-19	2,45,502	0	22,095	22,095	44,190
	2019-20	2,22,667	0	20,040	20,040	40,080
Medical Reimbursement	2019-20	24,021	0	2,162	2,162	4,324
Total		5,23,074	0	47,077	47,077	94,154

You are therefore liable to pay the amount of **Rs.94,154/- including CGST - Rs.47,077/- and SGST- Rs.47,077/-** along with interest in terms of Section 50(1) of the CGST Act, 2017 and penalty in terms of Section 74 of the CGST Act, 2017 for the period of F.Y. 2017-18, 2018-19 and 2019-20.

Para -X: Short payment of tax against the tax liability declared in Table 9P of GSTR 9C:-

During the course of audit, on verification of records, it is observed that you have paid less tax amount than the liability declared in GSTR 9 and GSTR 9C returns during the period F.Y.2019-20. The details are given in the table hereunder;

Amount in Rs.

2019-20					
Table	IGST	CGST	SGST	Cess	Total
Liability as per Part V of GSTR 9	0	1606648	1606648	0	3213296
Liability as per Table 9P of GSTR 9C	0	1621219	1621219	0	3242438
Highest tax liability declared	0	1621219	1621219	0	3242438

Tax paid as per table 9 of GSTR 9	20587	1384257	1384257	0	2789101
Tax short paid	Nil	236962	236962	0	473924

Hence, you are liable to pay **Rs.4,73,924/- including CGST Rs.2,36,962/- and SGST Rs.2,36,962/-** along with applicable interest under Section 50(1) and Penalty under Section 73 of CGST Act,2017 for the period F.Y. 2019-20.

Para-XI: Non-payment of Interest on delayed payment of Tax:-

During the course of audit, on verification of records, it is observed that there is delay in filing of GSTR-3B returns in some of the tax periods of F.Y. 2017-18 which resulted in delayed payment of tax causing liability of Interest payable thereon. The details are given in the table given hereunder;

Amount in Rs.

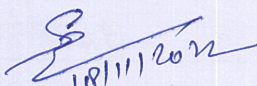
Period	No of Days	Interest on IGST	Interest on CGST	Interest on SGST	Interest on Cess	Total
Aug, 17	24	0	980	980	0	1960

Hence, in terms of Section 50 (1) of the CGST Act, 2017 you are liable to pay total interest @18% (on cash portion) which works out to **Rs.1,960/- (CGST- Rs.980/- and SGST- Rs.980/-)** for the F.Y. 2017-18.

It is informed that the reply to this memo may please submitted to this office within a week time, failing which it shall be assumed that the irregularities noticed and communicated hereabove are accepted by you and necessary action shall be initiated as per the provisions of the CGST Act,2017.

Yours faithfully,

Yours faithfully,


(SACHINDRA SINGH)/(सचीन्द्र सिंह)
SUPERINTENDENT/ अधीक्षक
Group -12, Circle-1/ ग्रुप-१२, सर्किल- १


(G.P.SUKUMAR) जी. पी. सुकुमार
SUPERINTENDENT/ अधीक्षक
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