

सेवा कर प्रधान आयुक्त का कार्यालय
OFFICE OF THE PRINCIPAL COMMISSIONER OF SERVICE TAX
सेवा कर आयुक्तालय, हैदराबाद-: **SERVICE TAX COMMISSIONERATE,**
HYDERABAD

11-5-423/1/A:: सीताराम प्रसाद टावर:: रेड हिलस:: हैदराबाद -4
11-5-423/1/A:: SITARAM PRASAD TOWER:: RED HILLS:: HYDERABAD-4

OR No.131/2015 - Adjn.(ST)(Commr)
C.No: IV/16/197/2011-ST.Gr.X

Dated:21.10.2015.

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- Issue of Show Cause Notice - Regarding.

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 assessee 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 assessee 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	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. 23-4-2011	Jan-Dec, 2010	48,00,391	Confirmed vide OIO No. 51/2012-Adjn (ST)(ADC), dated 31-8-2012. Ordered <i>de novo</i> by the Commissioner (Appeals) vide OIA No. 39/2013 (H-II) S.Tax for re-quantification of the Service Tax payable.
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 <i>de novo</i> by the Commissioner (Appeals) vide OIA No. 39/2013 (H-II) S.Tax for re-quantification of the Service Tax payable.
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 OIO 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 to 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 OIO No.HYD-SVTAX-000-COM-02-14-15 dated: 20.02.2015. The S.Tax amount of Rs.14,96,770/-for the period 01/2014 to 03/2014 is not covered in the demand of Rs.92,38,975/-hence a fresh SCN covering the period from 01/14 to 03/14 along with payable amounts for the period 04/14 to 03/15 is issued, as observed by the Adjudicating authority.

4. In the Show Cause Notice vide O.R.No.156/2014-Adjn (ST) (Commr) dated:25-09-2014, covering period July'2012 to March'2014, in the Annexure to the said Show Cause Notice, which gives detailed calculation of the service Tax liability for the

relevant period, there are 5 quarters period for which calculations are indicated separately. However, the service tax liability has been reckoned only for the period upto December'2013 and the service tax liability for the period January'2014 to March'2014 has not been added in the total while arriving at the tax liability which was demanded in the Show Cause Notice. Hence, the present Show Cause Notice covers period **January, 2014 to March, 2015**, which is inclusive of January'2014 to March'2015.

4.1 As per the information furnished by the assessee vide their letter dated 17.09.2014, 27.09.2014, 27.10.2014, 19.02.2015, 25.05.2015, 27.08.2015 and 18.09.2015 along with statements, it is seen that **"the assessee"** have rendered taxable services under the category of "Works Contract Services" during the period **January, 2014 to March, 2015**. The assessee had rendered services for a taxable value of **Rs. 14,42,58,886/- (Rupees Fourteen Crores, Forty two Lakhs Fifty eight Thousand Eight Hundred and eighty six only)**. After deduction of VAT of Rs.44,17,600/- the taxable value works out to **Rs.13,98,40,886/-** on which service tax (including Education and S & H.E cess) works out to **Rs.69,13,733/-**. An amount of **Rs.69,13,733/-**, unpaid paid for the services rendered during the said period, is detailed in the **Annexure enclosed**.

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 **January, 2014 to March, 2015**.

7. In view of the above, **M/s Greenwood Estates, 5-4-187/3 & 4, II floor, Soham Mansion, M.G.Road, Secunderabad-500 003**, are hereby required to show cause to the **Commissioner of Service Tax, Office of the Principal Commissioner of Service Tax, Hyderabad-Service Tax Commissionerate, 11-5-423/1/A, Sitaram Prasad Tower, Red Hills, Hyderabad- 500004** within **30 (thirty) days** of receipt of this Notice as to why:-

- (i) An amount of **Rs.69,13,733/- (Rupees Sixty nine Lakhs thirteen Thousand Seven Hundred and thirty three only)** including Education

and S & H.E cess, should not be demanded from them on the "**Works Contract Services**" rendered by them during the period **January, 2014 to March, 2015;**

- (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.**

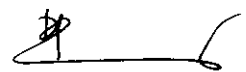
8. **M/s. Greenwood Estates, Hyderabad** at the time of showing cause as above are required to produce all the evidence upon which they intend to rely in their defence. They are also required to indicate in their written reply whether they wish to be heard in person before the case is adjudicated. If 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. The assessee filed the relevant ST-3 return on 25.05.2014 for the period October, 2013 - March, 2014 (due date being on 25.04.2014) hence, **the due date for issue of this SCN is 24.10.2015.**

10. 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.

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

1. Letter dated 17.09.2014, 27.09.2014, 27.10.2014, 19.02.2015, 25.05.2015, 27.08.2015 and 18.09.2015 along with statements, submitted by **M/s. Greenwood Estates, Hyderabad.**
2. ST-3 Returns submitted by the assessee for the period October'2013 to March'2015.



**(D. PURUSHOTHAM)
COMMISSIONER**

To

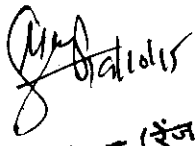
**M/s. Greenwood Estates,
5-4-187/3 & 4, 2nd Floor,
Soham Mansion,
MG Road, Secunderabad - 500 003. (By SPEED POST)**

Copy to:

1. The Assistant Commissioner of Service, Hyderabad Service Tax Division-II, Hyderabad.
2. The Superintendent (Adjudication), Hqrs.Office, Hyderabad Service Tax Commissionerate, Hyderabad.
3. The Superintendent, Range-II-A, Hyderabad Service Tax Commissionerate, Hyderabad.
4. Master / Spare copy.

ANNEXURE**M/s GREEN WOOD ESTATES****From 01.01.2014 to 31.03.2015**

Before OC			After OC		TOTAL Tax payable
Gross Receipts	21,212,565		Gross Receipts	123,045,921	144,258,486
Less VAT & Registration	374,517		Less VAT & Registration	4,043,083	4,417,600
Net Receipts	20,838,048		Net Receipts	119,002,838	139,840,886
Tax Rate	4.944%		Tax Rate	4.944%	
Total Tax Payable	1,030,233			5,883,500	6,913,733


अधीक्षक (रेंज - II क)
Superintendent (Range - II A)
सेवा कर प्रधान आयुक्त का कार्यालय
O/o. the Principal Commissioner of Service Tax
हैदराबाद/HYDERABAD.