

SCN-51/2012

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सीमाशुल्क, केंद्रीय उत्पाद शुल्क व सेवा कर आयुक्त का कार्यालय
OFFICE OF THE COMMISSIONER OF CUSTOMS, CENTRAL EXCISE & SERVICE TAX
हैदराबाद II आयुक्तालय HYDERABAAD II COMMISSIONERATE
11-5-423/1/A:: सीताराम प्रसाद टावर:: रेड हिलस:: हैदराबाद - 4
SITARAM PRASAD TOWERS:: RED HILLS:: HYDERABAD- 4

OR No: 51/2012 - Adjn (Addl. Commr.)
C.No: IV/16/ 35 /2012-S.Tax.Gr.X

Dt. 24.04.2012

SHOW CAUSE NOTICE

Sub:: Service Tax - Non payment of Service tax on taxable services rendered by M/s Alpine Estates - Issue of Show Cause Notice - Regarding.

M/s. Alpine Estates, #5-4-187/3&4, II Floor, Soham Mansion, MG Road, Secunderabad-500 003 (here-in-after referred as "Alpine" or the assessee(s)), The said assessee is registered partnership firm and got themselves registered with the department vide **Service Tax Registration Number AANFA5250FST001.**

2. Show Cause Notice vide **HQPOR No. 82/2010-Adjn(ST) dt. 16.6.2010** was issued for the period **from January 2009 to December 2009** for an amount of **Rs 31,10,377/-** including cesses and the same has been adjudicated and confirmed vide **Order-In-Original No:44/2010-ST dt. 15.10.2010.** Further, the assessee has gone an appeal and the same has been dismissed vide **OIA No.08/2011(H-II) dt. 31.1.2011** by the Commissioner (Appeal), Hyderabad. Another show cause was issued vide **OR No.62/201-Adjn (ST) dt. 23.4.2011** for the period **from January 2010 to December 2010.** The present notice is issued in sequel to the same for the period **from January 2011 to December 2011.**

3. As seen from the records, the assessee entered into 1) a sale deed for sale of undivided portion of land together with semi finished portion of the flat and 2) an agreement for construction, with their customers. On execution of the sale

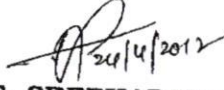
(VAT) or Sales Tax paid on transfer of property of goods involved in the execution of Works Contract. W.e.f. 1-3-2008 onwards, the said rate of 2 % is changed to 4% vide Notification No.7/2008-S.T. dated 1-3-2008.

5. M/s Alpine, Hyderabad vide their statement received in this office on 07.02.2012 has informed that they have received an amount of Rs. 11,73,17,845/- for the period from January 2011 to December 2011. The total amount received for the period is Rs.11,73,17,845/- against agreements of construction during the period service tax liability including cesses works out to Rs. 48,33,495/-. The assessee further submitted that they have paid service tax of Rs.21,95,524/- (Rs.745524 Dt. 7.6.2011 and Rs.14,50,000/ Dt. 09.02.2012) under protest.
6. M/s Alpine registered with the service tax department and not discharging the service tax liability properly and also not filing the ST-3 returns, which are mandatory as per Service Tax Rules made there under. On verification of the records, it is found that M/s Alpine Estate have undertaken a single venture by name M/s Flower Heights located at Plot No:3-3-27/1, Mallapur Old Village, Uppal Mandal, RR District and received amount from customers towards sale of land and agreement of construction of 102 houses.
7. M/s Alpine, are well aware of the provisions and of liability of service tax on receipts as result of these agreements for construction and have not assessed and paid service tax properly. They have not filed the ST-3 returns for the period upto 03/2011. Hence, the service tax payable by M/s Alpine, appears to be recovered under Sub-Section (1) of Section 73 of the Finance Act 1994.
8. From the foregoing, it appears that M/s Alpine Estates, 5-4-187/3 & 4, II Floor, MG Road, Secunderabad-3 have contravened the provisions of Section 68 of the Finance Act 1994 read with Rule 6 of the Service Tax Rules, 1994 in as much as they have not paid the appropriate amount of service tax on the value of the taxable services and Section 70 of the Finance Act 1994 read with Rule 7 of the Service Tax Rules 1994 in as much as they have not filed statutory returns for the taxable services rendered and also did not truly and correctly assess the tax due on the services provided by them and also did not disclose the relevant details/information. Hence, the service is liable for recovery under provisions of Section 73(1) of the Finance Act 1994 and they have rendered themselves liable for penal action under Section 76 of the

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

- (i) Statement submitted by **M/s Alpine Estates** and received on **07.02.2012 and 22.4.2011.**


(**G. SREEHARSHA**)
ADDITIONAL COMMISSIONER

Place: Hyderabad
Date: 24.04.2012

To:
M/s Alpine Estates
5-4-187/3 & 4, IInd Floor, MG Road, Secunderabad - 500 003
Copy to the Superintendent, Group - X, Hyd-II Commr'ate, Hyd.
Spare copy.