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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: 82/2013 - Adjn.(ST)(ADC)
C.No: IV/16/62/2012-ST.Gr.X

Dt.02.12.2013

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, "**M/s Alpine Estates**" 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 AANFA5250FST001**.

2. 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 deed the right in a property got transferred to the customer, hence the construction service rendered by the assessee thereafter to their customers under agreement of construction are taxable under Service tax as there exists service provider and receiver relationship between them. As there involved the 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 Notice had been issued to the assessee, by the Additional Commissioner of Customs, Central Excise, and Service Tax, Hyderabad-II Commissionerate.

Sl. No.	SCN O.R. No. Date	Period	Amount of Service Tax demanded Rs.	Status
1	HQPOR No. 82/2010-Adjn(ST) dt. 16.6.2010	Jan-Dec, 2009	31,10,377/-	Confirmed vide OIO No. 44/2010-ST dt. 15.10.2010. Party's appeal was dismissed vide OIA No. 08/2011(H-II) dt. 31.1.2011.
2	OR No. 62/201-Adjn (ST) dt. 23.4.2011	Jan-Dec, 2010	35,03,113/-	Confirmed vide OIO No. 49/2012-Adjn (ST)(ADC), dated 31-8-2012. Ordered de novo by the Commissioner (Appeals) vide OIA No. 38/2013 (H-II) S.Tax dt. 27.02.1013 for re-quantification of the Service Tax payable.
3	OR No. 51/2012-Adjn (Addl.Commr.), dt. 24-4-2012	Jan-Dec, 2011	48,33,495/-	Confirmed vide OIO No. 49/2012-Adjn (ST)(ADC), dated 31-8-2012. Ordered de novo by the Commissioner (Appeals) vide OIA No. 38/2013 (H-II) S.Tax dt. 27.02.1013for re-quantification of the Service Tax payable..

4. As per information furnished by the assessee vide their letters dated 22-07-2012 and 08-04-2013 and also the statement received on 22-11-2013, it is seen that **"assessee"** have rendered taxable services under the category of "Works Contract Services" during the period **January, 2012 to June, 2012**. The "assessee" had rendered services for a taxable value of **Rs. 67,103,665/-** on which service tax (including cesses) works out to **Rs.30,39,597/-**. As seen from the challans submitted by the assessee along with the letters mentioned above, an amount of **Rs. 14,43,841/-** was paid leaving an amount of **Rs.15,95,756/-** unpaid for the services rendered during the said period, as 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 and legal position as explained in the show cause-cum-demand notices issued except the Point of Taxation Rules, 2011 are equally 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 from **January, 2012 to June, 2012**.

7. In view of the above, **M/s Alpine Estates, Hyderabad**, are hereby required to show cause to the **Additional Commissioner of Customs, Central Excise & Service Tax, Hyderabad-II Commissionerate, Hyderabad**, within **30 (thirty) days** of receipt of this Notice as to why:-

- (i) an amount of **Rs. 30,39,597/- (Rupees Thirty Lakhs Thirty Nine Thousand Five Hundred and Ninety Seven only)** including Cesses should not be demanded on the **"works contract"** services rendered by them during the period from **January, 2012 to June, 2012** and an amount paid vide vide Challans listed in the assessee's letters dated 22-07-2012 and 08-04-2013 of **Rs.14,43,841/-** should not be adjusted against the above demand;
- (ii) Interest 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. Alpine 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 their ST-3 return for the period October, 2011 to March, 2012 on 4-6-2012 and hence, **the due date for issue of this SCN is 3-12-2013.**

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.

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

- (i) Letters dated 22-07-2012 and 29-04-2013 submitted by **M/s. Alpine Estates** and also the statement received from them on 22-11-2013.

N. Padmasri
2-12-13
(N. PADMASRI)
ADDITIONAL COMMISSIONER

To
M/s Alpine Estates,
5-4-187/3 & 4, IInd Floor, Soham Mansion,
MG Road, Secunderabad - 500 003. (Through Supdt. Gr-X)

Copy to:
The Superintendent (Adjudication), Hqrs.Office, Hyd-II Commr'ate, Hyd.
The Superintendent, Group - X, Hyd-II Commr'ate, Hyd.
Spare copy.