OFFICE OF THE COMMISSIONEROF CENTRAL EXCISE & SERVICE TAX
केन्द्रीय उत्पाद शुल्क एवं सेवाकर आयुक्त का कार्यालय, हैदराबाद लेखा परीक्षा आयुक्तलय
AUDIT COMMISSIONERATE :KENDRIYA SHULK BHAVAN : L.B.STADIUM ROAD
केन्द्रीयशुल्कभवन : एलबीस्टेडियमरोड : बशीरबाग : हैदराबाद – 500004
BASHEERBAGH : HYDERABAD-500004

SCN.Sl.No: 28/2016-17 (Asstt.Commr.) **Date:17.02.2017.**

C.No. V/ST/54/28/2015-16/STA-Gr.54

SHOW CAUSE NOTICE

Sub:-Service Tax– Non-payment of "Interest on delayed payment of service tax for the period from October 2012 to March 2015 and "Short payment of Service Tax for the period from January 2015 to March 2015" - by M/s Vista Homes - Show Cause Notice- Reg.

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M/s Vista Homes, # No.5-4-187/3, Soham Mansion, M.G.Road, 2nd Floor, Raniganj, Hyderabad-500 003. (here-in-after referred to as "M/s VH" or "the assessee") are service providers and they have obtained Service Tax Registration vide No.*AAGFV2068PSD001* for rendering the following services "Construction of Residential Complex Service", and "Works Contract Service".

2. On verification of records submitted by the assessee it appears that **M/s VH** engaged in the service activities mentioned above and regularly filing their periodical ST-3 Returns, wherein it is noticed that the assessees have paid the due service tax belatedly. In terms of the Section 75 of the Finance Act, 1994 interest has to be charged on the belated payments during the period from **October 2012 to December 2014,** detailed in the **Annexure-A** enclosed to this show cause notice, which works out to **Rs.1,14,351/-** towards interest, is recoverable from the assessees.

3. In addition to the above, on verification of ST-3 Returns filed by the assessee online, for the period from **January 2015 to March 2015,** short payment of Service Tax is noticed. The short payment of Service Tax works out to **Rs.5,86,216/-, Education Cess Rs.11,725/-, and Secondary Higher Education Cess Rs.5,862/- total amounting to Rs.6,03,803/-** as detailed in **Annexure-B** was noticed on the ST-3 Return filed by them for the period from **October 2014 to March 2015**.

4. From the above discussions non payment of interest for belated payment of Service Tax in terms of Section 75 of the Finance Act, 1994 as detailed in **Annexure-A** amounting to **Rs.1,14,351/-** is suppressed by the assessee in their ST-3 Returns and contravened the proviso to sub Section (1) of Section 73 of the Finance Act, 1994. Whereas, from the discussions made in the preceding paras, it appears that, **M/s VH**, had willfully not paid the interest on the belated payment of service tax in contravention of the provisions of Finance Act, 1994, mentioned above. The assessees had never informed the department about the fact of not paying of interest on the belated payment of service tax and the same were not declared in the periodical ST-3 returns filed by the assessees for the relevant periods. This issue would have gone un-noticed but for the verification conducted by the officers of the department. Thus, it appears that, there is willful non-payment of interest on the belated payment of service tax, in contravention of the provisions of Finance Act, 1994 mentioned above with an intent to evade the same. Therefore, it appears that, in the subject case, the proviso to sub-section (1) of Section 73 of the Finance Act, 1994 is rightly invokable for the recovery of unpaid interest amounts on the belated payment of Service Tax, for the extended period of five years.

5. In respect of short payment of Service Tax of **Rs.5,86,216/- Education Cess Rs.11,725/- and Secondary Higher Education Cess Rs.5,862/- total amounting to Rs.6,03,803/-** was noticed on the ST-3 Returns during the period from **January 2015 to March 2015** filed for the period from **October 2014 to March 2015** the said short payment is to be recoverable along with interest and penalty. As discussed above, the assessees have declared in their ST-3 Returns but not paid service tax on taxable services as mentioned above. Hence, it appears that, the assessees are also liable for penalty under the provisions of Section 76 of the Finance Act, 1994. The assessee also liable for payment of interest under Section 75 of the Finance Act, 1994 for belated payment of such service tax.

6. From the foregoing, it appears that;

(i) The interest amount as quantified in **Annexure-A** and the short payment of service tax amount as quantified in **Annexure-B** enclosed to this show cause notice is liable to be recovered along with applicable interest from **M/s VH.**, under **Section 73 of the Finance Act, 1994**, read with the proviso to **sub-section (1)** therein along with interest under **Section 75 of the Finance Act, 1994**;

(ii) They are liable for penalty under Section 76 of the Finance Act, 1994 for the short payment of Service Tax of **Rs.6,03,803/-.**

7. Therefore, **M/s Vista Homes, # No.5-4-187/3, Soham Mansion, M.G.Road, 2nd Floor, Raniganj, Hyderabad-500 003, are hereby required to show cause to the Assistant/Deputy Commissioner of Service Tax Commissionerate, Division-III, D.No.11-5-423/1/A, Sitaram Prasad Towers, Redhills, Hyderabad-500 004**, within 30 days of receipt of this notice, as to why;

(i) an amount **Rs.1,14,351/-**, (Rupees One Lakh Fourteen Thousand Three Hundred and Fifty One only), towards interest on belated payment of Service Tax as quantified in Annexure-A payable by them, **during the period from October 2012 to December 2014** should not be demanded from them under the provisions of Section 73 of the Finance Act, 1994, read with provision to sub-section (1) therein and read with Section 75 of the Finance Act, 1994;

(ii) an amount **Rs.6,03,803/-**, (Rupees Six Lakhs Three Thousand Eight Hundred and Three only), (consisting of Service Tax of **Rs. Rs.5,86,216**/-, Education Cess of **Rs.11,724**/- and Secondary & Higher Education Cess of **Rs.5,862/-**), being the service tax payable by them, **during the period from 01-01-2015 to 31-03-2015** towards short payment of service tax should not be demanded from them under Section 73 of the Finance Act, 1994;

(iii) interest should not be demanded, at the applicable rates, on the amount demanded at (ii) above, under Section 75 of the Finance Act, 1994; and

(iv) penalty should not be imposed on them on the amount demanded at (ii) above, under Section 76 of the Finance Act, 1994.

8. **M/[illegible]**, are further required to produce all the evidence upon which they intend [illegible]ely in support of their defense at the time of showing cause. They are further [illegible]uired to mention in their written reply whether they wish to be heard in person [illegible]fore the case is adjudicated. If no cause is shown within 30 days of receipt of th[illegible] notice or if they do not appear before the adjudicating authority when the case [illegible] posted for hearing, the case will be decided on the basis of the evidence availa[illegible]e on record.

9. This notice is issued without prejudice to any other action that may be initiated under the provisions of the Finance Act, 1994 and the rules made there under or any other law for the time being in force in India.

10. The reliance for the issue of this notice is based on the following documents:

(i) ST-3 Returns filed by the assesse for the period from 01.04.2013 to 31.03.2015.

17/02/2017

(K.PUNDARIKA PRASAD)
ASSISTANT COMMISSIONER
CIRCLE-V

To
M/s Vista Homes, # No.5-4-187/3, Soham Mansion, M.G.Road, 2nd Floor, Raniganj, Hyderabad-500 003

Copy to
The Assistant / Deputy Commissioner of Service Tax Commissionerate, Division III, Lakidikapool, Hyderabad.

The Superintendent of Service Tax, Group III-B, Service Tax Commissionerate.

The Superintendent of Service Tax, **SAG 54**, Audit Commissionerate, Hyderabad – with a direction to service the notice on the assessees under a dated acknowledgement and forward the same to the adjudication branch of Service Tax Commissionerate retaining a copy in Audit Commissionerate file.

The Superintendent, MIS, Circle V, Audit Commissionerate.

ANNEXURE-A

STATEMENT SHOWING THE DETAILS OF DIFFERENTIAL INTEREST PAYABLE ON DELAYED PAYMENT OF SERVICE TAX FOR THE PERIOD

Oct, 2012 to Dec, 2012

Month	Tax payable in cash	Challan No.	Challan amount	Date of payment	No. of days delayed	Interest payable	Interest already paid	Balance interest payable	Diff. Int payable	Excess paid
Oct to Dec	41715	11	41715	24.08.2013	230	4732	0	4732	4732	0
			41715							

Jan, 2013 to March, 2013

Month	Tax payable in cash	Challan No.	Challan amount	Date of payment	No. of days delayed	Interest payable	Interest already paid	Balance interest payable	Diff. Int payable	Excess paid
Jan to Mar	1299072	00012	100000	22.04.2013	22	1085	0	1085		
Jan to Mar		00011	100000	27.04.2013	27	1332	0	1332		
Jan to Mar		00013	100000	04.05.2013	34	1677	0	1677		
Jan to Mar		00010	200000	12.08.2013	134	13216	0	13216		
Jan to Mar		00012	168761	24.08.2013	146	12151	0	12151		
Jan to Mar		00013	200000	01.09.2013	154	15189	0	15189		
Jan to Mar		00011	200000	06.09.2013	159	15682	0	15682		
Jan to Mar		00012	200000	13.09.2013	166	16373	0	16373		
Jan to Mar		00008	41898	27.09.2013	210	4339	0	4339		
			1310659				**0**	**81043**	**81043**	**0**

April, 2013 to June, 2013

Month	Tax payable in cash	Challan No.	Challan amount	Date of payment	No. of days delayed	Interest payable	Interest already paid	Balance interest payable	Diff. Int payable	Excess paid
Apr-June	302025	00005	200000	20.09.2013	76	7496	0	7496	0	
Apr-June		00007	102025	27.09.2013	83	4176	0	4176	0	
			302025				**0**	**11672**	**11672**	**0**

July, 2013 to Sept, 2013

Month	Tax payable in cash	Challan No.	Challan amount	Date of payment	No. of days delayed	Interest payable	Interest already paid	Balance interest payable	Diff. Int payable	Excess paid
July-Sep	748161	00007	250000	11.11.2013	29	3575	0	3575		
July-Sep		00001	250000	14.11.2013	36	4438	0	4438		
July-Sep		00001	248161	26.11.2013	40	4895	1839	3056		
			748161				**1839**	**11070**	**9231**	**0**

Oct, 2013 to Dec, 2013

Month	Tax payable in cash	Challan No.	Challan amount	Date of payment	No. of days delayed	Interest payable	Interest already paid	Balance interest payable	Diff. Int payable	Excess paid
Oct-Dec	876812	00017	200000	07.02.2014	32	3156	0	0		
Oct-Dec		00005	183520	14.02.2014	39	3530	16480	0		
Oct-Dec		00006	200000	03.02.2014	29	2860	0	0		
Oct-Dec		00002	199137	18.02.2014	43	4223	863	0		
Oct-Dec		00004	94154	12.03.2014	65	3018	0	0		
			876811			**16787**	**17343**	**0**	**Nil**	**0**

Jan, 2014 to Mar, 2014

Month	Tax payable in cash	Challan No.	Challan amount	Date of payment	No. of days delayed	Interest payable	Interest already paid	Balance interest payable	Diff. Int payable	Excess paid
Jan-Mar	1088325	00004	183181	07.05.2014	37	3342	16819	-13477		
Jan-Mar		00004	197178	14.05.2014	44	4278	2822	1456		
Jan-Mar		00008	197762	22.05.2014	52	5071	2238	2833		
Jan-Mar		00012	299449	22.05.2014	52	7679	551	7128		
Jan-Mar		00001	210480	24.05.2014	54	5605	1208	4397		
			1088050			**25976**	**23638**	**2338**	**2338**	**0**

B. Syed Ahammad
Supdt STAG-54
17.02.2017
(B.SYED AHAMMAD)

Apr, 2014 to June, 2014

Month	Tax payable in cash	Challan No.	Challan amount	Date of payment	No. of days delayed	Interest payable	Interest already paid	Balance interest payable	Diff. Int payable	Excess paid
Apr-June	634506	00001	200000	13.09.2014	69	6805	0	0		
Apr-June		00002	200000	19.09.2014	75	7397	0	0		
Apr-June		00006	200000	25.08.2014	50	4932	0	0		
Apr-June		00015	34506	06.09.2014	62	1055	20790	0		
			634506			**20189**	**20790**	**0**	**0**	**0**

July, 2014 to Sept, 2014

Month	Tax payable in cash	Challan No.	Challan amount	Date of payment	No. of days delayed	Interest payable	Interest already paid	Balance interest payable	Diff. Int payable	Excess paid
July to Sept	579937	00006	200000	24.10.2014	18	1775	0	1775		
July to Sept		00001	379937	25.10.2014	19	3560	0	3560		
			579937					**5335**	**5335**	0

Oct, 2014 to Dec, 2014

Month	Tax payable in cash	Challan No.	Challan amount	Date of payment	No. of days delayed	Interest payable	Interest already paid	Balance interest payable	Diff. Int payable	Excess paid
Oct-Dec	600269	30423	231042	28.02.2015	53	6039	18958	0		
Oct-Dec		34322	49658	05.03.2015	58	1420	342	0		
Oct-Dec		30508	49062	13.3.2015	66	1597	938	0		
Oct-Dec		32057	49031	27.03.2015	80	1934	969	0		
Oct-Dec		31130	49069	25.03.2015	78	1887	931	0		
Oct-Dec		30231	49707	18.4.2015	102	2500	293	0		
Oct-Dec		30374	49034	13.04.2015	97	2346	966	0		
Oct-Dec		30493	49041	04.04.2015	88	2128	959	0		
Oct-Dec		30860	24597	23.04.2015	107	1298	72	0		
			600241			**21150**	**24428**	**0**	**0**	0

Total differential interest payable **114351**

B. Syed Ahammad
17.02.2017
Supdt SAG-54
(B. SYED AHAMMAD)

ANNEXURE-B			
ST-3 RETURN FILED FOR THE PERIOD OCTOBER 2014 TO MARCH 2015			
January-2015 to Martch 2015 , short payment of service tax	586216		
2% Education Cess	11725		
1% SHE Cess	5862		
	603803		

B. Syed Ahamed 17.02.2017
Supdt. SAG-54
(B.SYED AHAMMAD)