सेंट्रलटैक्सएवम् कस्टमअधीक्षक काकार्यालय
OFFICE OF THE SUPERINTENDENT OF CENTRAL TAX AND CUSTOMS
RAMGOPALPET III RANGE, SECUNDERABAD GST DIVISION & SECUNDERABAD COMMISSIONERATE
ADD: "SALIKE SENATE", D. No. 2-4-416 & 417, RAMGOPALPET, MG ROAD, SECUNDERABAD 500003
Contact No. 040-27718213 email- cgst.rgpetrg3@gov.in

C.No.IV/16/18/2017-III-B Dated:28.05.2018

ORDER IN ORGINAL NO.01 /2018 –Adjn(Supdt)

(Passed by Shri.K.SanthiSekhar, Superintendent)

PREAMBLE

1.निजी प्रयोग के लिए इसे जिस व्यक्ति को जारी किया गया है, यह प्रति बिना मूल्य के दी जाती है।

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2. जोभी व्यक्ति वित्त अधिनियम, 1994 के अंतर्गत धारा 85 (3A) संशोधित से दुष्प्रभावित हो। इस प्रकार प्राप्त आदेश निर्णय के खिलाफ आदेश की प्राप्ति के 60 दिन के भीतर आयुक्त (अपील), मुख्य कार्यालय। 7वा तल, एल बी स्टेडियम रोड, बशीरबाग, हैदराबाद 500004 को अपनी अपील प्रस्तुत कर सकती है।

Under Section 85(3A) of the Finance Act, 1994 as amended, any person aggrieved by this order can prefer an appeal within two months from the date of communication of such order/decision to the Commissioner(Appeals), Hqrs. Office, 7th floor, L.B.Stadium Road, Basheerbagh, Hyderabad – 500 004.

3.धारा 85 के उप खंड (1) के अंतर्गत आयुक्त (अपील) को की जाने वाली अपील फार्म ई. ए° 4 मेंहों और उसके साथ जिस निर्धारित पद्धति के अनुसार की जानी चाहिए।

An appeal under Sec.85 to the Commissioner (Appeals) shall be made in the form ST-4 and shall be verified in the prescribed manner.

4. ई° ए° 1 फार्म मे की गयी अपील अनुलिपि मे प्रस्तुत की जानी चाहिए और उसके साथ जिस निर्णय या आदेश के विरुद्ध अपील की जा रही हो उसकी प्रति भी संलग्न की जानी चाहिए।

The form of appeal in Form No. ST-4 shall be filed in duplicate and shall be accompanied by a copy of the decision or the order appealed against.

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**

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		

4. In view of the foregoing, a show cause notice vide SCN No.28/2016-17/Asst.Commissioner. Circle-V in C.No.V/ST/54/28/2015-16 Gr.54 dated 17.02.2017 was issued to M/s Vista Homes, Door No.5-4-187/3, Soham Mansion, M.G.Road, 2nd Floor, Raniganj, Hyderabad-500 003, making the noticee to show cause to the Assistant Commissioner of Service Tax Commissionerate, Division-III, Redhills, Hyderabad 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 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.

5. Subsequent to the issuance of the above notice, a Corrigendum to the said notice was issued to the assesses by the Assistant Commissioner of Service Tax Commissionerate, Division-III, Redhills, Hyderabad vide C.No.IV/16/25/2017-ST (Division-III Tech) dated 10.03.2017 asking the assesse to show cause to the Superintendent of Service Tax, Range-IIIB of Division-III on monetary grounds for adjudication of the case. After re-organisation of the field formations in the GST regime, since the Show Cause Notice found pending adjudication has been received as a legacy file to the Ramgopalpet-III Range of Secunderabad GST Division, another corrigendum to the notice was given by the Superintendent of Central Tax, Ramgopalpet III Range, vide C.No.IV/16/25/2017-ST(Division-III Tech) dated 18.12.2017.

issue is demand of interest on belated payment of tax and second one is default payment of tax. Action for recovery of the quantified amounts should have been initiated under Section 87 of the Finance Act, 1994 instead of issuance of notice to the assesses. Now I take up the case for adjudication in terms of the provisions of Section 174 of Central Tax Act, 2017. The assesse vide their reply dated 08.05.2017 contesting that i) short payment of interest on delayed payment is Rs.28,576/- only instead of Rs.1,14,351/- as the audit conducted for the period is from 2013-14 and 2014-15. This contention of the assesse is not acceptable as interest liability flows from the tax liability automatically and there is no time limit fixed for such demands and hence the interest liability demanded by the audit is confirmed and the assesses are required to pay the said amount.

9 (i). Coming to the second issue in the Show Cause Notice, the assesses have stated that though they have paid the tax dues assessed for the period Jan'15 to March'15 they could not reflect the same in their ST-3 return filed for the period Oct'14 to March'15 and submitted 10 copies of the challans for a tax amount of Rs.4,38,937/-, Education Cess of Rs.8,780/- and SHE Cess of Rs.4,388/- along with interest amount of Rs.16,755/- totaling to Rs.4,68,860/-. The above contention is also not correct as the assesses have filed their ST-3 return for the period Oct'14 to March'15 on 09.06.2015 and 4 challans mentioned in their reply are dated after 09.06.2015, the details of which cannot be mentioned in their ST-3 return. However, taking into consideration of their payment of tax to the tune of Rs.4,52,105/- along with applicable interest of Rs.16,755/- the assesses still not produced the proof of payment of tax to the tune of Rs.1,51,698/-, which they have defaulted during the period Jan'15 to March'15. Surprisingly, the assesses have not furnished any reasons for non-payment of the balance dues for the defaulted payment of tax for the period Jan'15 to March'15 in their reply. But they have simply mentioned in their challan payments work sheet in Annexure-I that an amount of Rs.1,30,859/- was paid in their Cenvat Account but no proof to this extent was submitted to consider the said amount as payment towards tax dues. Since, the assesses have not contested the issue on merits, the issue is to be considered as admitted.

(ii). With respect to invocation of penal provisions on the assesse under Section 76 of the Finance Act, 1994, no reply on this count has been submitted by the assesses. In terms of Section 76(1), I impose a penalty of Rs.15,170/- on the short paid amount of tax Rs.1,51,698/- (Rs.6,03,803/- - Rs.4,52,105/-) for the period Jan'15 to March'15.