

Client copy

Hiregange & Associates
Chartered Accountants



14.06.2018

To

**The Assistant Commissioner of Central Tax,
Secunderabad GST Division,
Secunderabad GST Commissionerate,
Salike Senate, D. No. 2-4-416 & 417,
Ramgopalpet, MG Road,
Secunderabad- 500 003.**

Dear Sir,

Sub: Proceedings under SCN C. No. V/24/15/01/2018-Adjn dated 16.04.2018 issued to M/s. Paramount Builders, #5-4-187/3 & 4, II Floor, Soham Mansion, M.G. Road, Secunderabad - 500003.

We have been authorized to reply and represent M/s. Paramount Builders. We are herewith to submit the Reply to SCN, Authorization letter and other annexure etc.

Kindly note that there is a change in our address of the office premises

From	To
"Basheer Villa", House No.8-2-268/1/16/B, II Floor, Sriniketan Colony, Road No.3, Banjara Hills, Hyderabad - 500034 Landline: 040-0062934/23606181	4th Floor, West Block, Anushka Pride, Opp. Ratnadeep Supermarket, Road Number 12, Banjara Hills, Hyderabad, Telangana 500034

Hence we request you to make future correspondence to the above mentioned new address

Kindly acknowledge the receipt of the above.

Thanking You,

Yours faithfully,

**For Hiregange & Associates
Chartered Accountants**

Venkata Prasad P

Partner



Head Office Bangalore
#1010, 2nd Floor (Above Corporation Bank) 26th Main, 4th "T" Block, Jayanagar, Bangalore-560 041 Tele. +91 80 4121 0703, Telefax. 080 2653 6404 / 05 E-mail: rajesh@hiregange.com

Branch Offices

Hyderabad "Basheer Villa", House No.8-2-268/1/16/B, II Floor, Sriniketan Colony, Road No.3, Banjara Hills, Hyderabad-500 034 Tele. +91 040 4006 2934, 2360 6181 E-mail: sudhir@hiregange.com

Visakhapatnam Flat No. 101, D.No. 9-19-18, Sai Sri Kesav Vihar, Behind Gothi Sons Show room, CBM Compound, Visakhapatnam-530 003 Tele. +91 891 600 9235 Email: anil@hiregange.com

NCR - Gurgaon 509, Vipul Trade Centre, Sector 48, Sohna Road, Gurgaon, Harayana-122 009 Tele:+91 85109 50400 Email: ashish@hiregange.com

Mumbai 409, Filix, Opp. Asian Paints, LBS Marg, Bhandup (West), Mumbai-400078. Tele. +91 22 2595 5544, 22 2595 5533 Mobile: +91 98673 07715 Email: vasant.bhat@hiregange.com,

Website : www.hiregange.com

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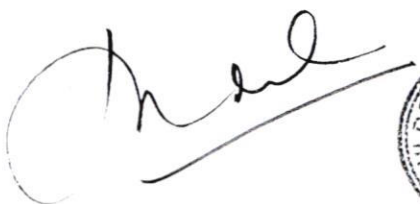
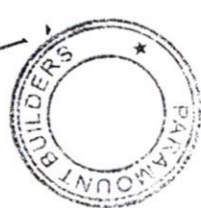
BEFORE THE ASSISTANT COMMISSIONER OF CENTRAL TAX
SECUNDERABAD GST DIVISION, SECUNDERABAD COMMISSIONERATE, D.
NO. 2-4-416 & 417, 1st FLOOR, SALIKE SENATE, RAMGOPALPET,
M.G. ROAD, SECUNDERABAD-500003

Sub: Proceedings under C. No. V/24/15/01/2018-Adjn dated 16.04.2018 issued to M/s Paramount Builders, #5-4-187/3 & 4, II Floor, Soham Mansion, M.G. Road, Secunderabad- 500003

FACTS OF THE CASE:

- A. M/s. Paramount Builders, Secunderabad (hereinafter referred to as "Noticee") is mainly engaged in the sale of residential flats to prospective buyers during and after construction.
- B. Occupancy certificate (OC) for the project was obtained in the year 2009 and during the subject period all flats were sold/booked after occupancy certificate date only and not before it. Sale deed is executed for the total sale value and 'sale deed' is registered and appropriate 'Stamp Duty' has been discharged on the same. Service tax was not paid on the amounts received towards these 'sale deed' since same is sale of 'immovable property'. Details of flats, Occupancy Certificate details and booking details are given in Annexure II, III
- C. The details of flats booked after OC and before OC are as follows

Particulars	No of Flats
No of flats booked before receipt of OC (Taxable as the flats are booked before OC)	0
No of flats booked after receipt of OC (Not-taxable as the flats are booked after OC)	13
Total	13

D. The detailed working of the receipts and the attribution of the said receipts was already provided to the Department authorities, identified receipt wise and flat wise. The summary of the same is provided hereunder:

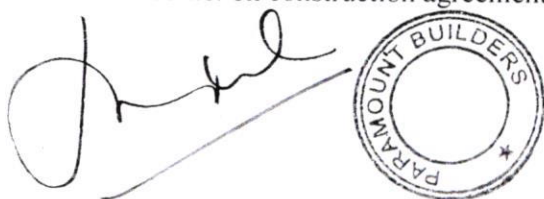
Description	Receipts	Non taxable	Taxable
Amount received towards sale deed (all were booked after OC date)	1,82,23,130	1,82,23,130	0
Amount received towards agreement of construction	0	0	0
Amount received towards other taxable receipts	0	0	0
Amount received towards other non- taxable receipts	22,46,809	22,46,809	0
Amount received towards VAT, Registration charges, etc	3,75,636	3,75,636	0
Total	2,08, 45,575	2,08, 45,575	0

E. The above facts of receiving OC and flats booked after OC was correctly taken by SCN vide Para 4 but proposed to demand service tax on the flats booked after OC date.

F. Previously several SCN's were issued covering the period upto March 2014 with sole allegation that "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 vide sale deed are taxable services under "works contract service".

- a. Vide Para 3 of SCN dated 24.06.2010 and Para 2 of the Order adjudicating the said SCN
- b. Vide Para 3 of Second SCN dated 23.04.2011
- c. Vide Para 2 of third SCN dated 24.04.2012
- d. Vide Para 2 of fourth SCN dated 02.12.2013
- e. Vide Para 2 of fifth SCN dated 19.09.2014
- f. Vide Para 2 of sixth SCN dated 18.04.2016

In all the above SCN's, there is error in as much including the value of sale deeds within the ambit taxable value while alleging service tax is liable only after execution of sale deed i.e. on construction agreements.



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G. The present status of SCN's as referred above is as follows:

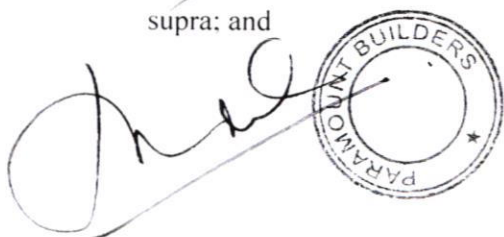
Period	SCN	Amount	Status
Sep 06 to Dec 09	HQPQR No. 87/2010 Adjn (ST)(ADC) dated 24.06.2010	Rs.11,80,439/-	Stay granted by CESTAT vide stay order dated 18.04.2012
Jan 10 to Dec 10	OR No.60/2011-Adjn (ST) (ADC), dated 23.04.2011	Rs.4,46,403/-	Pending before CESTAT, Bangalore
Jan 11 to Dec 11	OR No. 54/2012 Adjn (ADC) dated 24.04.2012	Rs.46,81,850/-	Pending before CESTAT, Bangalore
Jan 12 to Jun 12	C.No.IV/16/16/195/2011.S T-Gr.X dated 02.12.2013	Rs. 2,92,477/-	Pending Adjudication
July 2012 to March 2014	OR No.108/2014 Adjn (ST) (JC) dated 19.09.2014	Rs.5,20,892/-	
April 2014 to March 2015	OR No. 24/2016-Adjn (ST) (JC) dated 18.04.2016	Rs. 1,92,667/-	

H. The liability for the impugned period and the details of the payments is summarized in the below mentioned table for ready reference:

Particulars	Amount (Rs.)
Gross Receipts	2,08,45,575
Less: towards flats booked after OC date (16.04.2009)	1,82,23,130
Less: Deductions	
VAT, Registration charges, stamp duty and other non taxable receipts	26,22,445
Taxable amount	0
Abatement @ 40%	0
Service Tax @ 12.36%	0
Actually Paid	0
Excess Paid	0

I. Now the present SCN C.No. V/24/15/01/2018-Adjn dated 16.04.2018 was also issued with similar error of quantifying the proposed demand of service tax in as much treating the sale deed values & other taxes as taxable value of services (annexure to SCN) while alleging that service rendered after execution of sale deed alone liable for service tax (Para 2 of SCN) as to why

- i. An amount of Rs. 11,92,815/- should not be demanded as per Para-4 above towards "Works Contract Service" rendered by them during April, 2015 to June, 2017 in terms of Section 73(1) of the Finance Act, 1994; on the grounds discussed supra; and



- ii. Interest should not be demand at (i) above under Section 75 of the Finance Act, 1994; and
- iii. Penalty should not be imposed on them under Section 76 of the Finance Act, 1994 for the contravention of Rules and Provisions of the Finance Act, 1994 and
- iv. Penalty should not be imposed on them under Section 77 of the Finance Act, 1994



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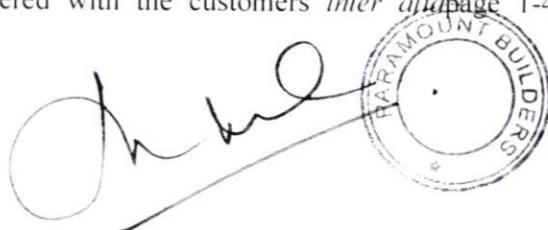
Submissions:

1. Noticee submits that as stated in background facts, during the subject period, all flats were booked after the date of occupancy certificate and sale deed is being executed for the entire sale value that is being a case no service tax is liable on the amounts received towards said flats since same is 'sale of immovable property' and it was specifically provided in Section 66E(b) of Finance Act, 1994 that service tax is not liable for the flats booked after OC date. Hence proposal of present SCN to demand service tax on the flats booked after OC date is not sustainable and required to be dropped. The details are as follows

Particulars	No of Flats	Amount Received
No of flats booked before receipt of OC (Taxable as the flats are booked before OC)	0	0
No of flats booked after receipt of OC (Not-taxable as the flats are booked after OC)	13	2,08,45,575
Total	13	2,08,45,575

Details of amounts received towards each flat is given as Annexure II

2. Noticee submits that impugned SCN alleges that the above referred OC addressed to Shri B. Anand Kumar & others and proceeded to deem that OC dated 16.04.2009 is not pertaining to the Noticee. In this regard, it submitted that Shri B. Anand Kumar & others is one of the landowners and initially applied for plan approval vide proceeding No. 6008/p4/plg/HUDA/2006 dated 14.09.2006. subsequently, the project was taken over by the Noticee wherein the aforesaid landowners has executed document 'Agreement of Sale cum General Power of Attorney (GPA)' dated 31.10.2006 in favour of the Noticee. Copy of the GPA is enclosed as annexure __. All these facts are evidence from the sale deeds entered with the customers *inter alia* page 1-4 of every sale deed entered with the



customers. Copies of the sale deeds executed are enclosed as annexure IV. Hence, the allegation of the impugned SCN that OC is not pertaining to the Noticee is not correct and the proposition of the impugned SCN to treat all the flats as sold before OC is also requires to be dropped.

3. As seen from the operative part of SCN, it is clear that it is only sole allegation of SCN (Para 2) that construction agreements are subject to service tax under the category of "works contract", no allegation has been raised to demand service tax on the sale deed value. However, going through the annexure to the SCN, it can be observed that though the allegation is to demand service tax on construction agreements, the quantification is based on gross amounts mentioned above for all the activities including amounts received towards the "sale deeds". No Agreement of Constructions was executed for the flats pertaining to the receipts during the SCN period.
4. It is therefore apparent that the SCN represents an error in quantification of the demand. It may be noted that the Noticee have regularly and diligently discharged Service Tax on the value of "construction agreements". The above is explained through a comparative chart provided below:

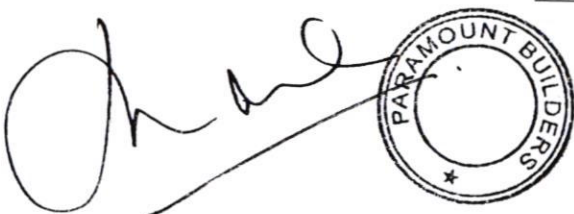
Particulars	As per Noticee	As per SCN
Gross Receipts	Rs.2,08,45,585	Rs.2,08,45,585
(-) Towards flats booked after OC date	Rs.2,08,45,585 (including the VAT, registration charges etc., as mentioned below)	0
VAT, Registration charges, stamp duty and other non-taxable receipts	Rs.26,22,445 (already included in the above receipts as the all flats are sold after OC)	Rs.3,75,636
Taxable amount	0	2,04,69,949
Abatement @ 40%	0	81,87,976
Service Tax @ 14.5/15%	0	11,92,815



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The Noticee submit that once the apparent error in calculation is taken to its logical conclusion, the entire demand fails and therefore there is no cause of any grievance by the department on this ground.

5. Since SCN read with earlier SCN's agree on the principle that service tax cannot be demanded on the value attributable to sale deeds, the Noticee is not making detailed grounds on the legal merits of the said claim and would like to submit the following broad lines of arguments:
 - a. In all cases, the "sale deed" is entered into after the completion of the building and therefore the demand cannot be justified under the said entries.
 - b. Till the stage of entering into a "sale deed", the transaction is essentially one of sale of immovable property and therefore excluded from the purview of Service Tax.
 - c. In any case, the deeming fiction for construction services prior to completion cannot be classified under works contract services since doing the same would render Section 66E(b) of Finance Act, 1994 & Notification 26/2012 ST dated 20.06.2012 redundant.
 - d. If at all a view is taken that the value of "sale deed" is liable to service tax, the benefit of the above notification should be granted after reclassification of the service.
6. The Appellants also reserve their right to make additional arguments as felt necessary on this aspect of service tax on value of "sale deeds" if it is ultimately held that this aspect could be taken up without an allegation in the SCN.
7. Similar to the claim for exclusion of sale deed value, the value attributable to stamp duty, electricity etc., need to be reduced. It is submitted that once the above deductions are allowed, the demand would be reduced to NIL



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8. Without prejudice to the above, Noticee further submits that the

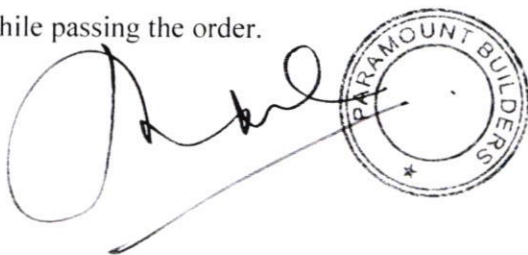
a. Commissioner of Central Excise (Appeals) and the Hon'ble CESTAT, Bangalore in the previous period has remanded the matter back to the adjudicating authority for re-quantification of the duty liability. However, the subject show cause notice has not considered this aspect and demanded service tax on the Noticee. On the basis of the same, Noticee submits that the proposition of the subject show cause notice demanding the duty is not sustainable and requires to be dropped.

b. the grounds of the old period is not at all applicable for the new period due to the substantial changes took place in the provisions of service tax.

c. Once SCN raises allegation/demand based on inapplicable provisions then such allegation/demand cannot sustain. Relied on Maharashtra Industrial Development Corporation Vs CCE, Nasik 2014 (36) S.T.R. 1291 (Tri. - Mumbai) wherein it was held that *"With regard to the show cause notice in Appeal No. ST/85267/14 we find that the period involved is 1-10-2011 to 30-9-2012. In the said case, the demand is for two periods - one from 1-10-2011 to 30-6-2012 and the second is from 1-7-2012 to 30-9-2012 when the negative list came into effect but the show cause notice has been issued on the basis of definition of Management, Maintenance and Repair service has stood prior to 1-7-2012. Therefore, as post-1-7-2012 the provisions are not existing therefore, the demands for the period post-1-7-2012 are not maintainable"*

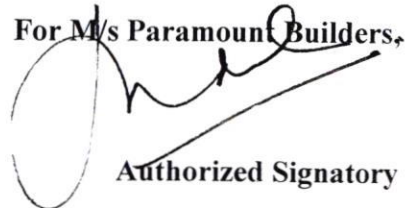
d. As the subject SCN is issued without any allegations, the same has not proved the burden of proof of taxability, which is essential under new service tax law. Relied on United Telecom Ltd. Vs CST 2008 (9) S.T.R 155 (Tri-Bang); Jetlite (India) Ltd. Vs CCE 2011 (21) S.T.R 119 (Tri-Del)

e. Noticee submits that as brought in background facts, an amount of Rs. 79,835/- has already paid towards service tax on the amounts received towards construction agreements. Noticee humbly request Ld. Adjudicating authority to consider the same while passing the order.

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- f. The value of the land involved in the project should be excluded from the determination of service tax liability and Noticee humbly request the adjudicating authority to exclude the value of land from determination of service tax liability.
- g. As the Noticee has not collected service tax from the buyer, the benefit of cum-tax u/s. 67(2) of Finance Act, 1994 requires to be given.
9. Without prejudice to the foregoing, noticee submits that when service tax itself is not payable, the question of interest does not arise. Noticee further submits that it is a natural corollary that when the principal is not payable there can be no question of paying any interest as held by the Supreme Court in Prathiba Processors Vs. UOI, 1996 (88) ELT 12 (SC). Similarly the penalty also cannot be imposed in absence of the any short payment as alleged in the SCN.
10. Without prejudice to the foregoing, Noticee submits that penalty is proposed under section 77. However, the subject show cause notice has not provided any reasons as to why how penalty is applicable under section 77 of the Finance Act, 1994. Further, the Noticee is already registered under service tax under works contract service and filing returns regularly to the department. Accordingly, penal provisions mentioned under section 77 is not applicable for the present case. As the subject show cause notice has not considered these essential aspects, the proposition of levying penalty under section 77 is not sustainable and requires to be dropped.
11. Noticee craves leave to alter, add to and/or amend the aforesaid grounds.
12. Noticee wishes to be heard in person before passing any order in this regard.



For M/s Paramount Builders,

Authorized Signatory

BEFORE THE ASSISTANT COMMISSIONER OF CENTRAL TAX, SECUNDERABAD
GST DIVISION, SECUNDERABAD GST COMMISSIONERATE, SALIKE SENATE, D.
NO. 2-4-416 & 417, RAMGOPALPET, MG ROAD, SECUNDERABAD-500 003

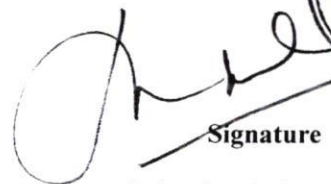
Sub: Proceedings under C. No. V/24/15/01/2018-Adjn dated 16.04.2018 issued to M/s Paramount Builders, #5-4-187/3 & 4, II Floor, Soham Mansion, M.G. Road, Secunderabad- 500003

I, Soham Modi, partner of M/s Paramount Builders, 5-4-187/3 & 4, II Floor, Soham Mansion, MG Road, Secunderabad-500003 hereby authorizes and appoint Hiregange & Associates, Chartered Accountants, Hyderabad or their partners and qualified staff who are authorised to act as authorised representative under the relevant provisions of the law, to do all or any of the following acts: -

- To act, appear and plead in the above noted proceedings before the above authorities or any other authorities before whom the same may be posted or heard and to file and take back documents.
- To sign, file verify and present pleadings, applications, appeals, cross-objections, revision, restoration, withdrawal and compromise applications, replies, objections and affidavits etc., as may be deemed necessary or proper in the above proceedings from time to time.
- To Sub-delegate all or any of the aforesaid powers to any other representative and I/We do hereby agree to ratify and confirm acts done by our above authorised representative or his substitute in the matter as my/our own acts, as if done by me/us for all intents and purposes

This authorization will remain in force till it is duly revoked by me/us.

Executed this on 14th day of June 2018 at Secunderabad


Signature

I the undersigned partner of M/s Hiregange & Associates, Chartered Accountants, do hereby declare that the said M/s Hiregange & Associates is a registered firm of Chartered Accountants and all its partners are Chartered Accountants holding certificate of practice and duly qualified to represent in above proceedings under Section 35Q of the Central Excises Act, 1944. I accept the above said appointment on behalf of M/s Hiregange & Associates. The firm will represent through any one or more of its partners or Staff members who are qualified to represent before the above authorities.

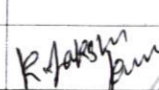
Dated: 14.06.2018

Address for service:
Hiregange & Associates,
Chartered Accountants,
4th Floor, West Block,
Srida Anushka Pride,
Opp. Ratnadeep Supermarket,
Road Number 12, Banjara Hills,
Hyderabad 500 034

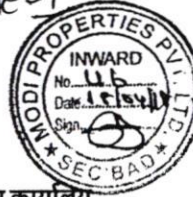
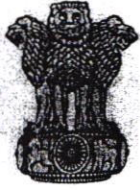
For Hiregange & Associates
Chartered Accountants


Venkata Prasad P
Partner (M. No. 236558)

I Partner/employee/associate of M/s Hiregange & Associates duly qualified to represent in above proceedings in terms of the relevant law, also accept the above said authorization and appointment.

Sl No.	Name	Qualification	Mem./Roll No.	Signature
01	Sudhir V S	CA	219109	
02	Lakshman Kumar K	CA	241726	





Annexure-1

New Rule

11

4p 15 to June 17

सैंदरल टैक्स एवम् कस्टम उप/सहायक आयुक्त का कार्यालय
 OFFICE OF THE DEPUTY/ASSISTANT COMMISSIONER OF CENTRAL TAX AND CUSTOMS
 सिकंदराबाद माल एवम् सेवा कर मंडल & सिकंदराबाद माल एवम् सेवा कर आयुक्तालय
 SECUNDERABAD GST DIVISION & SECUNDERABAD COMMISSIONERATE
 पता: "सलीक सीनेट", गेट. 2-4-416 & 417, रामगोपालपेट, एम.जी.रोड सिकंदराबाद 500003
 ADD: "SALIKE SENATE", D. No. 2-4-416 & 417, RAMGOPALPET, MG ROAD, SECUNDERABAD 500003
 Contact No. 7901243130 email- cgst.secdiv@gov.in

C. NO. V/24/15/01/2018-Adjn

Date:16.04.2018

SHOW CAUSE NOTICE**(Notice under Section 73(1A) of the Finance Act, 1994)**

Sub: Service Tax – M/s Paramount Builders, Hyderabad – Non-Payment of Service Tax during the period April 2015 to June 2017- Issue of Show Cause Notice – Regarding.

M/s Paramount Builders, 5-4-187/3& 4, 2nd Floor, Soham Mansion, M.G. Road, Secunderabad - 500 003 (hereinafter referred to as 'M/ s. Paramount' or "the Assessee" for short) have registered themselves with the service tax Department vide Registration No. AAHFP4040NST001, for payment of service Tax Under the categories of "Works contract service" and "construction of Residential complex service".

2. As seen from the records, the assess entered into 1) Sale deed for sale of undivided portion of land together with semi-finished portion of the flat and 2) 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 transfer of property in goods in execution of the said construction agreements is involved, 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 have been issued to the Assessee:

SL.NO.	SCN OR NO. & date	Period	Amount of Service Tax demanded (Rs.)	OIO NO. Date
1	HQPOR No.87/2010-Adjn(ST)(ADC) dated 26.06.2010	09/2006 to 12/2009	11,80,439/-	49/2010-ST Dt.29.11.2010 (Confirmed)
2	OR No. 60/2011-Adjn (ST) (ADC) Dt.23.04.2011	01/2010 to 12/2010	4,46,403/-	50/2011-Adjn(ST) ADC Dt.31.08.2012 (Confirmed)
3	OR No.54/2012-Adjn (ADC) Dt.24.04.2012	01/2011 to 12/2011	46,81,850/-	50/2012-Adj.(ST)(ADC) Dt.31.08.2012 (Confirmed)
4	C. No.IV/16/195/2011-ST-Gr.X Dt.02.12.2013 (Issued by A.C)	01/2012 to 06/2012	2,92,477/-	82/2016-Adjn(ST)ADC dated.09.06.2017 (Confirmed)
5	OR No.108/2014 Adjn (ST) (JC) Dt.19.09.2014	07/2012 to 03/2014	5,20,892/-	Pending Adjudication
6	OR No. 24/2016-Adjn (ST) (JC) Dt. 18.04.2016	04/2014 to 03/2015	1,92,667/-	45/2016 Dated 31.12.2016 (Confirmed)

4. As per the information furnished by the Assessee vide their letter dated 15.02.2018 received by the jurisdictional Range Superintendent on 16.02.2018, it is seen that **"the Assessee"** have rendered taxable services under the category of **"Works Contract Services"** during the period **April, 2015 to June, 2017**. The Assessee had rendered services for a taxable value of **Rs.2,08,45,585/- (Rupees Two Crore Eight Lakh Forty Five Thousand Five hundred and Eighty Five only)**. After deduction of VAT of **Rs.3,75,636/-** the taxable value works out to **Rs. 2,04,69,949/- (Rupees Two Crore Four Lakh Sixty-Nine Thousand Nine hundred and Forty Nine only)** on which service tax (including Cesses) works out to **Rs.11,92,815/-** for services rendered during the said period, as detailed in the Annexure enclosed to this notice. The assessee while submitting the data along with the statement mentioned Occupancy Certificate date as 16.04.2009 and enclosed sample copies of Occupancy certificate issued by the Panchayat Secretary, Gram Panchayat, Nagaram village, Keesara Mandalam, Ranga Reddy District. It is seen from the Occupancy Certificate there is no mention of M/S Paramount Builders and the certificates are addressed to Shri. B. Ananda Kumar and others. The Occupancy Certificates appears to be not pertaining to the assessee. Hence, the total value of receipts for the notice period has been considered as amounts received before Occupancy Certificate obtained.

5. Vide Finance Act, 2012, sub section (1A) was inserted in Section 73 which read as under:

SECTION 73(1A) – Notwithstanding anything contained in sub-section (1), 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 section **65B, 66B, 66D** as inserted in the Finance Act, 1994 by the Finance Act, 2012 w.e.f. 01.07.2012 are reproduced below:

6.1. SECTION 65B (44): "service" means any activity carried out by person for another for consideration, and includes a declared service, but shall not include – (a) an activity which constitutes merely, (i) a transfer of title in goods or immovable property, by way of Sale, gift or in any other manner; or (ii) a transaction in money or actionable claim; (b) a provision of service by an employee to the employer in the course of or in relation to his employment; (c) fees taken in any Court or tribunal established under any law for the time being in force.

6.2. SECTION 66B.- There shall be levied a tax (hereinafter referred to as the service tax) at the rate of twelve per cent on the value of all services, other than those services specified in the negative list, provided or agreed to be provided in the taxable territory by one person another and collected in such manner as may be prescribed.

6.3. SECTION 66D: Contains the negative list of services. It appears that services provided by the Assessee are not covered under any of the services listed therein.

6.4. SECTION 66E; Contains declared service and work contract is covered under 66E(h) of the Finance Act, 1994.

6.5. Further, Notification No.25/2012-ST, dated 20.06.2012, as amended specified services which were exempt from payment of Service Tax. It appears that services provided by the Assessee are not covered under any of the services listed therein.

7. The grounds as explained in the Saw Cause cum demand notices issued above are also applicable to the present case; the legal position in so far as **'Works Contract Service'** is concerned, the said service and its taxability as defined under Sub-clause (zzzza) of Clause 105 of Section 65 of the Finance Act, 1994 as existed before 01.07.2012 stands now covered by 65B (54) whereby the said Service being declared service under Section 66E(h) of Finance Act, 1994 and for not being in the Negative List prescribed under 66D, continues to be a taxable service. But for the said changes in legal provision, the status of Service and the corresponding tax liability remained same. Hence, this statement of demand / show because notice is issued in terms of **Section 73(1A)** of the **Finance Act, 1994** for the period **April, 2015 to June, 2017**.

8. In view of the above, **M/s. Paramount Builders, Hyderabad** are hereby required to show cause to the **Assistant Commissioner of Central Tax & Central Excise, Office of the Assistant**

Commissioner of Central Tax, Secunderabad GST Division, Secunderabad GST Commissionerate,
D. No. 2-4-416&417, 1st Floor, Salike Senate, Ramgopalpet, M. G. Road, Hyderabad, within
30(thirty) days of receipt of this notice as to why:

i). an amount of **Rs. 11,92,815/- (Rupees Elven Lakh Ninety Two Thousand Eight hundred and Fifteen only)** (including Cesses) should not be demanded as per Para-4 above towards "Works Contract Service" rendered by them during April, 2015 to June, 2017, in terms of Section 73 (1) of the Finance Act, 1994; on the grounds discussed supra; and

ii). **Interest** should not be demand at (i) above, under Section 75 of the finance Act, 1994; and

iii) **Penalty** should not be imposed on them under Section 76 of the Finance Act, 1994, for the contravention of Rules and Provisions of the Finance Act, 1994; and

iv). **Penalty** should not be imposed on them under Section 77 of the Finance Act, 1994.

9. M/s Paramount, are required to Produce all the evidence upon which they intend to rely in their defense while showing cause. They are also required to indicate in their written reply whether they wish to be heard in person before the case is adjudicated.

10. If no cause is shown against the action proposed to be taken within the stipulated time and if the noticee does not appear for the personal hearing on the appointed day, then it will be presumed that they do not have anything to state in their defense and the case will be decided on merits on the basis of evidence available on records.

11. This Notice is issued without prejudice to any other action that has been or may be taken against the noticee / others under this Act or under any other law for the time being in force in India.

12. The provisions of the Finance Act, 1994 as discussed above are validated under the provisions of Section 174 of the Central Goods and Services Tax Act, 2017.

13. Reliance for issue of this Notice is placed on the following:

- (i) Assessee's letter dated 15.02.2018 received by the Jurisdictional Range Superintendent on 16.02.2018, in which Service Tax consolidated statement is provided.
- (ii) ST3 Returns for the period 2015-16, 2016-17 and 2017-18 (up to June, 2017)
- (iii) Occupancy Certificates dated 16.04.2009

Place: Secunderabad

Date: 16.04.2018


(के गोपाल राव/K Gopala Rao)
सहायक आयुक्त/Assistant Commissioner
सिकंदराबाद मण्डल/Secunderabad Division

To
M/s. Paramount Builders,
Address; 5-4-187/3 & 4, 2nd Floor,
Soham Mansion, M.G. Road,
Secunderabad- 500 003.

Copy to:

1. The Superintendent of Central Tax, Central Excise and Service Tax, Ramgopalpet Range-II, Secunderabad GST Division, Secunderabad Commissionerate, with direction to serve the Notice on the assessee and submit dated Acknowledgment to this office.
2. The Commissioner of Central Tax, Central Excise and Service Tax, Secunderabad Commissionerate, Hyderabad. (By name to the Superintendent of Central Tax, Central Excise and Service Tax, (Adjudication) for information).

ANNEXURE TO THE SHOW CAUSE NOTICE C. No. V/24/15/01/2018-Adjn DATED: 16.04.2018 –
M/S PARAMOUNT BUILDERS: -

	Before Occupancy Certificate is obtained			Total (Rs)
	2015-16	2016-17	2017-18 (Up to June, 2017)	
Gross Receipts	8420754	12424831	0	20845585
Construction Agreement value	0	0	0	0
Gross Sale Deed Value	5870630	12352500	0	18223130
Less: VAT & Registration	375636	0	0	375636
Net Taxable Value (Net of VAT)	8045118	12424831	0	20469949
Tax Rate	1675510@4.944%	0	0	82837
	2474798@5.60%	12424831@6.00%	0	884079
	3894810@5.80%	0	0	225899
Service Tax Payable	447325	745490	0	1192815

[Signature]
16-04-2018