



H N A & Co LLP
Chartered Accountants
(Formerly known as Hiregange & Associates LLP)

Date: 19.02.2024

To,
The Assistant Commissioner of Central Tax,
Secunderabad GST Division,
Salike Senate, D.No. 2-4-416 & 417,
Ramgopalpet, M.G. Road,
Secunderabad-500003.

Dear Sir,

Sub: Filing of Reply to Show Cause Notice in Form GST DRC – 06.

Ref: SCN No. 39/2023-24 vide DIN :20231256YO0000116641 dated 28.12.2023
pertaining to **M/s. Silver Oak Villas LLP.**

1. We have been authorized by M/s. Silver Oak Villas LLP to submit the SCN reply to the above referred SCN No. 39/2023-24 vide DIN :20231256YO0000116641 dated 28.12.2023 and represent before your good office and to do necessary correspondence in the above referred matter. A copy of authorization is attached to the reply.
2. In this regard, we are herewith submitting the SCN reply along with authorization letter and other annexures referred in the reply.

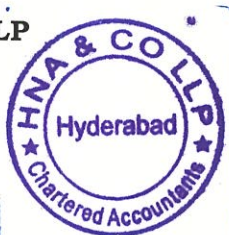
We shall be glad to provide any other information in this regard. Kindly acknowledge the receipt of the reply and post the hearing at the earliest.

Thanking You,

Yours faithfully,

For M/s. H N A & Co. LLP
Chartered Accountants

R. Lakshman Kumar
CA Lakshman Kumar K
Partner



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FORM GST DRC – 06*[See rule 142(4)]***Reply to the Show Cause Notice**

1.GSTIN	36ADBFS3288A2Z7	
2.Name	Silver Oak Villas LLP	
3.Details of Show Cause Notice	Ref. No. 39/2023-24 vide DIN 20231256YO0000116641	Date of issue: 28.12.2023
4.Financial Year	Apr 2018-March 2019	
5.Reply		
Given as Annexure A		
6.Documents uploaded		
7.Option for personal hearing	Yes- Required	☐ No

8.Verification –

I hereby solemnly affirm and declare that the information given hereinabove is true and correct to the best of my knowledge and belief and nothing has been concealed therefrom.



Signature of Authorised Signatory

ANNEXURE A:

FACTS OF THE CASE:

- A. M/s. Silver Oak Villas LLP (hereinafter referred as "Noticee") located at 2nd Floor, U-22, 5-4-187/3 and 4, Soham Mansion, M.G. Road, Secunderabad, Hyderabad, Telangana – 500003 is inter alia engaged in the provision of taxable services viz. Works Contract services, construction services in respect of residential villas and are registered with Goods and Services Tax department vide GSTIN No: 36ADBFS3288A2Z7.
- B. Noticee is availing Input Tax Credit (ITC) of taxes paid on inputs and input services and discharging taxes on output liability on timely basis by filing the monthly returns. Noticee has also filed the GSTR-09 for the period 2018-19.
- C. Subsequently, the department has conducted audit for the period July 2017 to March 2019 and on verification of the records the following points were observed and the same was communicated to the Noticee vide Final Audit Report No. 707/2020-21-GST dated 11.06.2021
- (Copy of Final Audit Report is enclosed as Annexure IV)
- Short payment of GST during the period 2017-18 and 2018-19 (Rs. 22,11,128/-)*
 - Non-payment of GST under RCM on Brokerage/Commission paid to unregistered persons (Rs. 2,22,792/-)*
 - Interest for Rs. 911/- on delayed filing of GSTR-3B returns for the month August 2017*
 - Short payment of GST in F.Y. 2017-18 and 2018-19*
 - Irregular credit availed and reversed*
 - Irregular credit taken in the month of September, 2018*
- D. In response to the above final audit report, Noticee has filed the detailed reply along with appropriate annexures stating the reasons as to why there is no short payment of GST on the part of the Noticee (Copy of reply dated 21.03.2021 & 07.09.2021 is enclosed as Annexure V).



E. Subsequently, Noticee was is in receipt of the Show Cause Notice vide Ref No. C.No.V/01/GST/81/2020-GR.12/CIR-I dated 12.01.2022 and proposed the demands (Copy of SCN is enclosed as Annexure III):

F. In response to the SCN dated 12.01.2022, the Noticee furnished its reply vide submissions dated 28.02.2023 filed on 01.03.2023 & and also filed additional submissions dated 08.09.2023 thereby stating that the demands proposed vide the SCN has already been discharged and thus the demands proposed are not maintainable per se in law.

G. To the utter surprise of the Noticee, Noticee is in receipt of the impugned SCN No. 39/2023-24 dated 28.12.2023 proposing the following demands which were the very same demands that were already proposed in the show cause notice dated 12.01.2022. Copy of SCN No. 39/2023-24 dated 28.12.2023 enclosed as Annexure I.

- a. *an amount of Rs.1,00,08,610/- (CGST: Rs.50,04,305/- & SGST: Rs.50,04,305/- (Rupees One Crore Eight Thousand Six Hundred and Ten only), as discussed supra in Para 2.1 should not be demanded from them under section 73(1) of the CGST Act, 2017/TSGST Act, 2017.*
- b. *interest at the applicable rate should not be demanded from them on tax demanded at (i) above under section 50 of CGST Act, 2017/TSGST Act, 2017.*
- c. *Penalty should not be imposed on them demands at (i) above under Section 73 of CGST Act, 2017 read with Section 122 (2)(a) of CGST Act, 2017/TSGST Act, 2017.*

H. Noticee herein below makes the submissions in response to the allegations and propositions made in the impugned SCN which are independent and without prejudice to one another.



Submissions

1. Notice submits that they deny all the allegations made in Show Cause Notice (SCN) as they are not factually/legally correct.
2. Noticee submits that the provisions (including Rules, Notifications & Circulars issued thereunder) of both the CGST Act, 2017 and the Telangana GST Act, 2017 are the same except for certain provisions. Therefore, unless a mention is specifically made to any dissimilar provisions, a reference to the CGST Act, 2017 would also mean a reference to the same provision under the TGST Act, 2017. Similarly, the provisions of CGST Act, 2017 are adopted by IGST Act, 2017 thereby the reference to CGST provisions be considered for IGST purpose also, wherever arises.

In Re: Impugned notice is not valid

Notice issued on assumptions and presumptions

3. Noticee submits that impugned SCN was issued with prejudged and premeditated conclusions on various issues raised in the notice. That being a case, issuance of SCN in that fashion is bad in law and requires to be dropped. In this regard, reliance is placed on **Oryx Fisheries Pvt. Ltd. v. Union of India — 2011 (266) E.L.T. 422 (S.C.)** wherein it was held that *"It is obvious that at that stage the authority issuing the charge-sheet, cannot, instead of telling him the charges, confront him with definite conclusions of his alleged guilt. If that is done, as has been done in this instant case, the entire proceeding initiated by the show cause notice gets vitiated by unfairness and bias and the subsequent proceeding become an idle ceremony."*
4. Noticee submits that the subject SCN is issued based on mere assumption and unwarranted inference, interpretation of the law without considering the intention of the law, documents on record, the scope of activities undertaken, and the nature of activity involved, the incorrect basis of computation, creating its own assumptions, presumptions. Further, they have arrived at the conclusion without actual examination of facts, provisions of the CGST Act, 2017. In this regard, Noticee relies on the decision of the Hon'ble Supreme Court in case **Oudh Sugar Mills Limited v. UOI, 1978 (2) ELT 172 (SC)**

Notice is vague and lack of details

5. Noticee submits that the impugned notice has not given clear reasons as to how the Noticee has availed the credit in excess and how the Noticee has availed ineligible ITC u/s 17(5) of the CGST Act, 2017, therefore, the same is lack of details and hence, becomes invalid. In this regard, reliance is placed on
- a. CCE v. Brindavan Beverages (2007) 213 ELT 487(SC) the Hon'ble Supreme Court held that *"The show cause notice is the foundation on which the department has to build up its case. If the allegations in the show cause notice are not specific and are on the contrary vague, lack details and/or unintelligible that is sufficient to hold that the noticee was not given proper opportunity to meet the allegations indicated in the show cause notice."*
 - b. Dayamay Enterprise Vs State of Tripura and 3 OR's. 2021 (4) TMI 1203 - Tripura High Court
 - c. Mahavir Traders Vs Union of India (2020 (10) TMI 257 - Gujarat High Court)
 - d. Teneron Limited Versus Sale Tax Officer Class II/Avato Goods and Service Tax & Anr. (2020 (1) TMI 1165 - Delhi High Court)
 - e. Nissan Motor India Private Limited, Vs the State of Andhra Pradesh, The Assistant Commissioner (CT) (2021 (6) TMI 592 - Andhra Pradesh High Court)

From the invariable decisions of various High Courts, it is clear that the notice without details is not valid and the same needs to be dropped.

Separate SCN to be issued for CGST & SGST

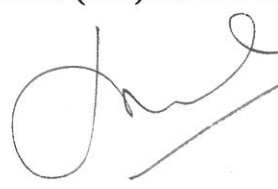
6. Noticee further submits that three types of ITC and outward supplies are proposed to be denied and demanded in the present SCN i.e. ITC of IGST, CGST and SGST availed under the corresponding enactments which are separately enacted. The section 6(2) of CGST Act, 2017 also specifies that separate notice and orders are required to be issued. That being a case, the separate notice is required to be issued raising the demands under that corresponding law. For instance, the demand raised under IGST law requires separate notice and CGST demand requires separate notice whereas the present case, all three demands are raised in a single notice and no bifurcation for the same has provided for. Hence, the notice is issued in violation of Section 6(2), *ibid*.



The present demand is already raised in previous SCN dated 12.01.2022

7. Without prejudice to the above submissions, Noticee submits that the the department has already conducted audit for the period July 2017 to March 2019 audit *inter alia* verified the returns, ie., GSTR-3B & GSTR-2A & and made certain observations which were finally culminated into issuance of earlier SCN dated 12.01.2022 *inter alia* vide Paras 71-113 under the head “No irregular availment of ITC” of such SCN has raised the demand alleged ITC on comparison of GSTR-3B & GSTR-2A for FY 2018-19.
8. Thus, previous SCN dated 12.01.2022 has raised very same demands that were raised in the impugned SCN. Thereby, the present demand is clearly duplicated, unwarranted and requires to be dropped outrightly.
9. Furthermore, the returns verification is one of the basis features of GST audit by the department as evident from the Para 5.5.4 & 5.8.3 of GST Audit Manual, 2019 issued by CBIC (Relevant extracts are enclosed as annexure VII). Therefore, the demand proposed vide the impugned SCN is completely duplicated, fallacious and devoid of any merit.
10. Noticee further submits that in response to the previous SCN dated 12.01.2022, the Noticee has filed the submissions dated 28.02.2023 & additional submissions dated 08.09.2023. (Copy of the submissions are enclosed as Annexure-II). Thus, when the demands on the same issue has already been scrutinized and proposed then there was no necessity to raise the very same demands covering same period and same issue again in the present SCN.
11. Noticee submits that reopening of the already adjudicated assessment is not permitted in law. In this regard, Noticee places reliance on **UOI v. Vicco Laboratories 2007 (218) E.L.T. 647 (SC)**.
12. Further, it is submitted that two assessments are not permissible in law for the same period, especially on the same issue and same period. In this regard, Noticee places reliance on the following judicial pronouncements:

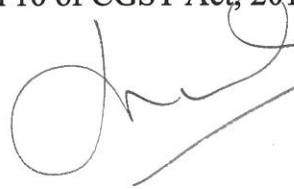
- a. **Duncans Industries Ltd. v. CCE 2006 (201) E.L.T. 517 (SC)**.



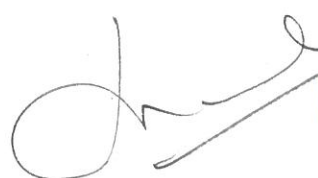

- b. **Ambey Mining Pvt. Ltd. vs. Commissioner of State Tax, Dhurwa 2023 (76) G.S.T.L. 191 (Jhar.)** wherein the Hon'ble HC quashed the two show cause notices by two different authorities for the same period on the same issue.
- c. **V.S. Enterprises vs. State of UP 2022 (56) G.S.T.L. 287 (All.)** wherein Hon'ble HC held that multiple adjudication orders passed for overlapping tax periods involving same dispute by different adjudicating authorities would not be sustainable.
- d. **Core Health Ltd. Vs. Union of India 2006 (198) E.L.T. 21 (Guj.)** wherein the Hon'ble HC held that *"13. In the circumstances, the respondent authority, especially respondent No. 4, has failed to place any material on record to show, even prima facie, that it is entitled to assume jurisdiction for the purpose of issuance of impugned show cause notice for the same period and relating to the same issue which has already been adjudicated upon in past. Once the respondent authority fails to establish jurisdictional facts for assumption of jurisdiction as a natural corollary the impugned show cause notice cannot be allowed to stand and the same is accordingly quashed and set aside."*

In Re: There was no excess ITC availment as misconstrued in SCN:

13. The impugned SCN has proposed demand of Rs.98,42,090/- (first table in Para 2.1.2) towards alleged excess ITC availed in GSTR-3B on comparison to GSTR-2A. It is submitted that this demand was raised in the previous SCN and in any case, such alleged differences between ITC in GSTR-3B Vs GSTR-2A is factually wrong as impugned SCN was based on the old GSTR-2A as on the date of filing annual returns. Once the updated GSTR-2A was considered, the actual difference was quite less than the amount arrived by impugned SCN. In any case, the mismatches were not due to the faults of Noticee but faults, if any of the suppliers of Noticee whom to be investigated first instead of direct recovery from Noticee.
14. Noticee further submits that Noticee is rightly eligible for ITC for the following reasons even though such alleged ITC is not reflected in GSTR-2A:
 - a. ITC cannot be denied merely due to non-reflection of invoices in GSTR-2A as all the conditions specified under Section 16 of CGST Act, 2017 have been satisfied.

- b. GSTR-2A cannot be taken as a basis to deny the ITC in accordance with Section 41, Section 42 of CGST Act, 2017, Rule 69 of CGST Rules, 2017.
- c. Finance Act, 2022 has omitted Section 42, 43 and 43A of the CGST Act, 2017 which deals ITC matching concept. The substituted Section 38 of the CGST Act, 2017 now states that only the eligible ITC which is available in the GSTR-2B (Auto generated statement) can be availed by the recipient. Now, GSTR-2B has become the main document relied upon by the tax authorities for verification of the accurate ITC claims. Hence, omission of sections 42, 43 and 43A has eliminated the concept of the provisional ITC claim process, matching and reversals.
- d. Once the mechanism prescribed under Section 42 to match the provisionally allowed ITC under Section 41 is not in operation and has been omitted by the Finance Act, 2022 the effect of such omission without any saving clause means the above provisions was not in existence or never existed in the statute.
- e. The Section 38 read with Rule 60 had prescribed the FORM GSTR 2 which is not made available till 30.09.2022. Further, Form GSTR 2 has been omitted vide Notification No. 19/2022 Central Tax dated 28.09.2022 w.e.f. 01.10.2022.
- f. Section 42 clearly mentions the details and procedure of matching, reversal, and reclaim of input tax credit with regard to the inward supply. However, Section 42 and Rule 69 to 71 have been omitted w.e.f. 01.10.2022.
- g. Rule 70 of CGST Rules 2017 which prescribed the final acceptance of input tax credit and communication thereof in Form GST MIS-1 and Rule 71 prescribes the communication and rectification of discrepancy in the claim of input tax credit in form GST MIS-02 and reversal of claim of input tax credit. Further, Rule 70 has been omitted vide Notification No. 19/2022 Central Tax dated 28.09.2022 w.e.f. 01.10.2022.
- h. It is submitted that neither the form has been prescribed by the law nor the same has been communicated to the Noticee therefore it is not possible to comply with the condition given in Section 42 read with Rule 69, Rule 70 and 71. Hence, the allegation of the impugned order is not correct.
- i. Fact that there is no requirement to reconcile the invoices reflected in GSTR-2A vs GSTR-3B is also evident from the amendment in Section 16 of CGST Act, 2017




vide Section 100 of Finance Act, 2021. Hence, there is no requirement to reverse any credit in the absence of the legal requirement during the subject period.

- j. Similarly, it is only Rule 36(4) of CGST Rules, 2017 as inserted w.e.f. 09.10.2019 has mandated the condition of reflection of vendor invoices in GSTR-2A with adhoc addition of the 20% (which was later changed to 10% & further to 5%). At that time, the CBIC vide Circular 123/42/2019 dated 11.11.2019 categorically clarified that the matching u/r. 36(4) is required only for the ITC availed after 09.10.2019 and not prior to that. Hence, the denial of the ITC for non-reflection in GSTR-2A is incorrect during the subject period.
- k. The fact of payment or otherwise of the tax by the supplier is neither known to Noticee nor is verifiable by Noticee. Thereby, it can be said that such condition is impossible to perform and it is a known principle that the law does not compel a person to do something which he cannot possibly perform as the legal maxim '*lex non-cogit ad impossibilia*'. Thereby it can be said that the condition which is not possible to satisfy, need not be satisfied and shall be considered as deemed satisfied.
- l. In the same context, Appellant also wish to place reliance on the decision in case of Arise India Limited vs. Commissioner of Trade and Taxes, Delhi - 2018-TIOL-11-SC-VAT and M/s Tarapore and Company Jamshedpur v. State of Jharkhand - 2020-TIOL-93-HC-JHARKHAND-VAT.
- m. Section 41 allows the provisional availment and utilization of ITC, there is no violation of section 16(2)(c) of CGST Act 2017
- n. The above view is also fortified from press release dated 18.10.2018
- o. Even if there is differential ITC availed, if the same is accompanied by a valid tax invoice containing all the particulars specified in Rule 36 of CGST Rules and the payment was also made to the suppliers, the Appellant is rightly eligible for ITC.
- p. Under the earlier VAT laws there were provisions similar to Section 16(2) *ibid* which have been held by the Courts as unconstitutional.

15. In this regard, Noticee relies on following decisions:

- **Suncraft Energy Pvt. Ltd. vs. Assistant Commissioner 2023 (77) G.S.T.L. 55 (Cal.) affirmed by Supreme Court as reported in 2024 (80) G.S.T.L. 225 (S.C.)**
- **Diya Agencies v. State Tax Officer 2023 (9) TMI 955 - Kerala High Court**



- Gargo Traders v. Joint Commissioner 2023 (6) TMI 533 - Calcutta High Court
- Henna Medicals v. State Tax Officers 2023 (10) TMI 98 - Kerala High Court
- D.Y. Beathel Enterprises Vs State Tax officer (Data Cell), (Investigation Wing), Tirunelveli 2021(3) TMI 1020-Madras High Court
- LGW Industries limited Vs UOI 2021 (12) TMI 834 -Calcutta High Court
- Bharat Aluminium Company Limited Vs UOI & Others 2021 (6) TMI 1052 – Chhattisgarh High Court
- Sanchita Kundu & Anr. Vs Assistant Commissioner of State Tax 2022 (5) TMI 786 - Calcutta High Court

In Re: There is no under declaration of ineligible ITC and hence, there is no requirement to reverse the ITC:

16. Impugned SCN has proposed Rs.1,66,520/- alleging that Noticee is required to reverse the ITC. In this regard, it is submitted that Noticee has not availed any ITC on the motor vehicles as alleged in the impugned notice. The ITC availed by the Noticee has been verified during the course of audit and have not pointed the same. Since the audit is already completed, Noticee requests to drop further proceedings in this regard.

In Re: Impugned SCN is time barred and Notification No. 09/2023-C.T dated 31.03.2023 & Notification No. 56/2023-C.T dated 28.12.2023 are bad in law:

17. Noticee submits that the impugned SCN was issued under section 73 of CGST Act, 2017 which provides for adjudication of demand within 3 years from the due date of annual return of corresponding FY. For FY 2018-19, the annual return due date falls on 31.10.2020 and the 3 years time limit expires on 31.10.2023. Therefore, the last date for issuance of the show cause notice u/s. 73(2) of CGST Act, 2017 is 31.07.2023 only.
18. Citing the difficulties caused due to Covid-19, the Government has extended the time limit to 31.03.2024 exercising the powers u/s. 168A of CGST Act, 2017 as amended vide Notification No. 09/2023-C.T dated 31.03.2023. However, again exercising the powers u/s. 168A, ibid the time was further extended to 30.04.2024 by the Notification No. 56/2023-C.T dated 28.12.2023.
19. In this regard, it is submitted that extension of the time period prescribed for issuance of show cause notice under Section 73 (10) of the Goods and Service Tax Act, 2017 is not sustainable in law, in as much as COVID restrictions were uplifted long back in the year 2022 and the revenue had sufficient time to complete the scrutiny and audit

process. Further, the 'force majeure' as defined u/s. 168A, ibid was never occurred from 2022 till the expiry of extended due date of 31.10.2023. Hence, the extension of time from 31.10.2023 to 31.03.2023 & again to 30.04.2024 runs beyond the mandate of Section 168A and is not sustained in the law. Similarly, the extending of the time limits prescribed under section 73, ibid by exercising the notification issued u/s. 168A, ibid runs contrary to the provisions of section 73(10) of CGST Act, 2017 as amended. Therefore, both the Notifications No. 09/2023 dated 31.03.2023 & 56/2023-C.T dated 28.03.2023 are illegal, arbitrary, unjust, improper, unfair and contrary to provisions of the CGST Act, 2017.

20. Noticee submits that it is settled law that any delegated legislation travelling beyond the Statutory provisions be 'ultra vires' and do not sustain in law. It is also manifestly arbitrary and violative of Article 14 of the Constitution of India.
21. The Noticee submits that it is a settled position of law that in indirect Taxes, demands proposed after the expiry of the time limit prescribed under the statute is time-barred and not enforceable in law. In this regard wish to place reliance on the judgment in the case of CCE vs Classic Strips Pvt Ltd 2015 (318) E.L.T. 20 (S.C.).
22. Therefore, the impugned demand raised for FY 2018-19 deserves to be dropped as the proceedings are deemed to be concluded in terms of Section 75(10) of CGST Act, 2017 in absence of passing the order before 31.10.2023 and also non-issuance of SCN in 3 months prior to 31.10.2023.

Interest and penalties are not payable/imposable:

23. The Noticee respectfully submits that issue involved in the present case is critical analysis of various provisions of GST provisions and Notifications issued thereunder. Therefore, it is settled position of the law that when the issue involved is interpretation of statutory provisions, the imposition of penalties not warranted.
24. The Noticee respectfully submits that no penalty should be imposed where the breach flows from the bona-fide belief that the offender is not liable to act in the manner prescribed by the statute. Reliance is placed on **Hindustan Steel Ltd. Vs State of Orissa 1978 (2) E.L.T. (J159) (S.C.)**.
25. The Noticee respectfully submits that various High Courts in plethora of cases held that that GST is still in a "trial and error" phase.



26. Noticee submits that GST is new law, which is developing day by day. Every day there will be notification or Circular clarifying the GST issues from the Government. It is undisputed fact the Government horridly implemented the GST Law without being much preparatory work and trade was not fully ready for GST implementation. Due dates & deadlines were extended many times for the first 3 years of implementation of the GST Law. The alleged violations are purely unintentional and without any malafide intentions as explained supra. When the issue involved is interpretation of Law, therefore failure/non-payment of tax with intent to evade cannot be attributed accordingly penalty under the provisions of the law cannot be imposed.
27. Noticee craves leave to alter, add to and/or amend the above reply.
28. Noticee would also like to be heard in personal, before any order being passed in this regard.

For M/s. Silver Oak Villas LLP


Authorised Signatory



**BEFORE THE ASSISTANT/DEPUTY COMMISSIONER OF CENTRAL TAX,
SECUNDERABAD DIVISION, SALIKE SENATE, 1st FLOOR, D.NO. 2-4-416 & 417,
RAMGOPALPET, MG ROAD, SECUNDERABAD, 500003.**

Sub: Proceedings under Show Cause Notice SCN No. 39/2023-24 vide DIN:20231256YO0000116641 dated 28.12.2023 issued to M/s. Silver Oak Villas LLP.

I, SOHAM MOOI, PARTNER of M/s Silver Oak Villas LLP hereby authorizes and appoint M/s. H N A & Co. LLP (formerly known as M/s. Hiregange & Associates LLP), Chartered Accountants, Bangalore or their partners and qualified staff who are authorized to act as an authorized representative under the relevant provisions of the law, to do all or any of the following acts: -

- a. 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.
- b. 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.
- c. 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-authorized 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 February, 2024 at Hyderabad

Signature

I the undersigned partner of M/s. H N A & Co. LLP (formerly known as M/s. Hiregange & Associates LLP), Chartered Accountants, do hereby declare that the said M/s. H N A & Co. LLP 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 116 of the SGST Act, 2017. I accept the above-said appointment on behalf of M/s. H N A & Co. LLP. 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: .02.2024

Address for service:

**H N A & Co. LLP,
Chartered Accountants,
4th Floor, West Block, Anushka Pride,
Above Himalaya Book World,
Road Number 12, Banjara Hills,
Hyderabad, Telangana 500034**

**For H N A & Co. LLP
Chartered Accountant**

**CA Lakshman Kumar K
Partner (M.No. 241726)**

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

S.No.	Name	Qualification	Membership No.	Signature
1	Sudhir V S	CA	219109	
2	Venkat Prasad P	CA, LLB	AP/3511/2023	
3	Srimannarayana S	CA	261612	
4	Revanth Krishna K	CA	262586	
5	Akash Heda	CA	269711	
6	Mohammed Shabaz	Advocate	TS/2223/2016	
7	Ankita Mehta	BBA LLB	TS/1578/2021	



केन्द्रीय कर सहायक कार्यालय, सिकंदराबाद माल एवम सेवाकर मण्डल, सिकंदराबाद ।

OFFICE OF THE ASSISTANT COMMISSIONER OF CENTRAL TAX,
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C.No GEXCOM/Adjn/GST/2889/2023-CGST-DIV-SNBD-COMMRTE-SECUNDERABAD Date: 28.12.2023

DIN: 20231256YO0000116641



SHOW CAUSE NOTICE 39/2023-24

Sub: -GST-On account of discrepancies observed during verification of Returns filed by **M/s. SILVER OAK VILLAS LLP** (GSTIN: **36ADBF3288A2Z7**) for the FY 2018-19- Issue of Show Cause Notice under Section 73 of the CGST Act, 2017 - Regarding.

M/s. SILVER OAK VILLAS LLP (here-in-after referred to as "Taxpayer"), situated at 2ND FLOOR, 5-4-187/3 AND 4, SOHAM MANSION, M.G ROAD, SECUNDERABAD, Rangareddy, Telangana, 500003, are engaged in WORKS CONTRACT SERVICES falling under the HSN 00440334 & 00440410. The taxpayer is registered with the Central GST Department with GSTIN: **36ADBF3288A2Z7** for the purpose of payment of GST, and falls under the jurisdiction of Ramgopalpet-III CGST Range, Secunderabad GST Division, Secunderabad GST Commissionerate.

2. On verification of the records, by the Telangana State GST authority, the following discrepancies were observed.

2.1. ISSUE 1: Excess claim of ITC:

The excess input tax credit (ITC) claimed on account of non-reconciliation of information:

2.1.1. Under Section 16(2)(c) of CGST Act, 2017, every registered person shall be entitled to take credit of ITC on supply of goods or services to him subject to the condition that the tax charged in respect of such supply has been actually paid to the Government either in cash or through utilization of ITC admissible in respect of such supply.

2.1.2. It is observed that the taxpayer has not correctly availed input tax on his inward supplies on reconciliation of turnovers in GSTR-09.

Scrutiny of ITC availed:

S.No	Description	SGST	CGST	Total
1	2	3	4	5
1	ITC in the year as per Table 8A of GSTR-09	5582555.00	5582555.00	11165110.00
2	ITC from ISD table 4A (4)	0.00	0.00	0.00
3	ITC from imports table 4A (1) +4A (2)	0.00	0.00	0.00

4	Inward Supplies liability to reverse charge 4A (3) (other than 4A(1) & 4A(2))	0.00	0.00	0.00
5	ITC brought forward from previous FY to current FY, Table 8C of previous FY GSTR-09	0.00	0.00	0.00
6	ITC carried forward from present FY to subsequent FY, Table 8C of GSTR-09	0.00	0.00	0.00
7	Reversals in Table 4B of GSTR-3B	2627940.00	2627940.00	5255880.00
8	ITC Available for use in the same year (S.No 1+2+3+4+5-6-7)	2954615.00	2954615.00	5909230.00
9	ITC used in same year as per 4C of GSTR-3B	7875660.00	7875660.00	15751320.00
10	Net excess used (S.No 9-8)	4921045.00	4921045.00	9842090.00

Under declaration of Ineligible ITC:

2.1.3. Under Section 17(5) of the CGST Act, 2017 input tax credit shall not be available in respect of the list of commodities & services mentioned therein subject to certain conditions.

2.1.4. It is seen from GSTR-09 and other information that they have claimed ITC on these commodities and therefore the ITC claimed on these commodities or services is proposed to be recovered.

S.No	Commodity/Service	HSN/SAC code	SGST	CGST	Total
1	2	3	4	5	6
1	Motor Vehicles	8702; 8703; 8711	83260.00	83260.00	166520.00

S.No	Issue	Table no. in GSTR-09	SGST	CGST	Total
1	2	3	4	5	6
A	Total ineligible ITC u/s 17(5)		83260.00	83260.00	166520.00
B	Ineligible ITC declared	7E or {Sum of 4D(1) of GSTR 3B of all months in FY} whichever is higher	0.00	0.00	0.00
C	Difference/excess ITC claimed	"If (SL.No A – SL.NO B > 0) then Lower of {SL.No A – SL.NO B} or {(Sum of 4C of GSTR 3B of all months in current FY) – (13-12 of Previous FY GSTR-09) + (13-12 of current FY GSTR-09)}"	83260.00	83260.00	166520.00

2.1.5. From the above, the taxpayer is required to reverse the excess ITC claimed under Section 73 of the CGST Act, 2017 along with applicable interest under section 50 of the CGST Act, 2017 and penalty under section 73 of the CGST Act, 2017 read with Section 122(2)(a) of the CGST Act, 2017.

TOTAL TAX PAYABLE SUMMARY				
Sl. No.	Issue	SGST	CGST	Total
1	2	3	4	5
1	Total Tax due	5004305.00	5004305.00	10008610.00
2	Interest	In terms of Section 50 of the CGST Act, 2017		
3	Penalty	In terms of Section 73 of the CGST Act, 2017		

3. The DRC 01A vide DIN-20231256YO0000406287 dated 20.12.2023 issued to the taxpayer requesting to pay tax along with interest and applicable penalty. However the taxpayer neither paid dues nor submitted any reply till now.

4. Now therefore, **M/s. SILVER OAK VILLAS LLP** (here-in-after referred to as "Taxpayer"), situated at 2ND FLOOR, 5-4-187/3 AND 4, SOHAM MANSION, M.G ROAD, SECUNDERABAD, Rangareddy, Telangana, 500003, are required to Show Cause to the Assistant Commissioner of Central Tax (Adjudicating Authority), Secunderabad GST Division, Secunderabad GST Commissionerate, Salike Senate, D.No.2-4-416&417, Ramgopalpet, MG Road, Secunderbad - 500003 within thirty days (30) from the date of issue of this notice as to why: -

- (i) an amount of **Rs.1,00,08,610/- (CGST: Rs.50,04,305/- & SGST: Rs.50,04,305/- (Rupees One Crore Eight Thousand Six Hundred and Ten only)**, as discussed supra in Para 2.1 should not be demanded from them under section 73(1) of the CGST Act, 2017/TSGST Act, 2017.
- (ii) interest at the applicable rate should not be demanded from them on tax demanded at (i) above under section 50 of CGST Act, 2017/TSGST Act, 2017.
- (iii) Penalty should not be imposed on them demands at (i) above under Section 73 of CGST Act, 2017 read with Section 122 (2)(a) of CGST Act, 2017/TSGST Act, 2017.

5. **M/s. SILVER OAK VILLAS LLP** (here-in-after referred to as "Taxpayer"), situated at 2ND FLOOR, 5-4-187/3 AND 4, SOHAM MANSION, M.G ROAD, SECUNDERABAD, Rangareddy, Telangana, 500003 having GSTIN No. **36ADBFS3288A2Z7** are hereby directed to produce all the evidence upon which they intend to rely in support of their defence. They should also indicate in their written reply, whether they wish to be heard in person, before the case is adjudicated. If no mention is made in their written explanation, it would be presumed that they do not desire a personal hearing.

6. If no reply is received to this notice within the stipulated period of time as above or if they do not indicate their wish for a personal hearing or having indicated so, if they do not appear before the adjudicating authority when the case is posted for personal hearing, then it shall be construed that they do not have anything to state in their defence and the case shall be decided on merits ex-parte based on the material available on record, without any further notice/intimation to them.

7. **M/s. SILVER OAK VILLAS LLP** are also informed that in terms of Section 73(8) of the CGST Act, 2017 and TSGST, Act, 2017, "where any person

chargeable with tax under Sub-Section (1) or Sub-Section (3) pays the said tax along with interest applicable under Section 50 within thirty days (30) of issue of the notice, no penalty shall be payable and all proceedings in respect of the said notice shall be deemed to be concluded".

8. This notice is issued without prejudice to any other action that may be initiated against them in terms of the provisions of Central Goods and Services Tax Act, 2017 and Telangana Goods and Services Tax Act, 2017 and Rules made thereunder and/or any other law for the time being in force and enforceable in India.

9. Reliance for issuance of the notice is placed on the following documents which are already available with the taxpayer:

(i) DRC-01A issued from C.No. GEXCOM/Adjn/GST/2889/2023-CGST-DIV-SNBD-COMMRTE-SECUNDERABAD dt. 20.12.2023 issued by the Assistant Commissioner of Central Tax (Adjudicating Authority), Secunderabad GST Division, Secunderabad GST Commissionerate.

(ii) Observation communicated by the Telangana GST Authority as per GSTR-9 and other returns filed by the taxpayer.

आ.स.सत्यनारायण
28/12/2023

(आ.सत्यनारायण)/(R.SATYANARAYANA)
सहायक आयुक्त/Assistant Commissioner
सिकंदराबाद मण्डल/ Secunderabad Division

To/

✓ M/s. SILVER OAK VILLAS LLP
GSTIN: 36ADBFS3288A2Z7
2ND FLOOR, 5-4-187/3 AND 4,
SOHAM MANSION, M.G ROAD,
SECUNDERABAD, Rangareddy, Telangana, 500003

Copy to:

1. Superintendent of Central Tax, Ramgopalpet-III Range, Secunderabad GST Division - He is directed to serve the SCN on the Tax payer, obtain dated acknowledgement and submit the same to this office for record.
2. Office Copy/Spare Copy.
3. Notice Board.

स्पीड पोस्ट
SPEED POST

भारत सरकार सेवार्थ
ON INDIA GOVERNMENT SERVICE



Office of the
अधीक्षक का कार्यालय
Superintendent
केन्द्रीय कर/Central Tax
बन्सलपेट-1 नो एच टी रेंज
Bansalpet-1, GST Range
सिकन्दराबाद नो एच टी आयुक्तालय
Secunderabad GST Commissionerate
सलीक सेन्ट्रल # 2-4-10 88,417
*SALIK SEWATE # 2-4-10 88,417
रामगुप्त बाजार, एच.टी. रोड
Ramgopet, M.G. Road
सिकन्दराबाद, Secunderabad-500 003

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