

GOVERNMENT OF TELANGANA STATE

COMMERCIAL TAXES DEPARTMENT

Proceedings of the Deputy Commissioner(ST), STU-2, Begumpet Division

Present. Sri. S.Madhusudana Chary, M.Sc.,

(Explanation to the Drop Proceeding)

Dt.04-12-2023

DIN	GST/36AAHFB7046A1ZT/18
Office details Designation of the assessing officer Unit Division	DEPUTY COMMISSIONER (ST) BEGUMPET STU2 BEGUMPET
Details of the Tax payer Name Legal Name GSTIN	B&C ESTATES B & C ESTATES 36AAHFB7046A1ZT
Financial Year	2017-18

Ref : 1) SCN ARN No :AD3611210032304

SCN ARN Date :12/11/2021

2) PH Date : 24/11/2023

You have filed annual return in GSTR-09 for the financial year 2017-18.

On examination of the information furnished in this return under various heads and also the information furnished in TRAN-1, GSTR-01, GSTR-2A, GSTR-3B, EWB and other records available in this office it is found that you have not declared your correct tax liability while filing the annual returns of GSTR-09. The summary of under declared tax is as follows:

SGST Rs.6248596.34
CGST Rs.6248596.34
Total Rs.12497192.68

Responding to the show cause notice issued in the reference first cited above the tax payer has filed his written objections on dt24/11/2023 and also appear for the personal hearing represented by Sri/Smt.Aarti Tawry on dt 24/11/2023. The same are discussed item wise along with the conclusions of the assessing authority as under:

1. Net tax liability under declared on account of non-reconciliation of information declared in GSTR-09:

A. The tax on outward supplies under declared on reconciliation of data in GSTR-09:

It is observed that the tax payer has not correctly declared tax on his outward supplies on reconciliation of turnovers in GSTR-09. Resulting in a tax payable to a tune of **Rs. 119170.00**

S.No	Issue	Table No. in GSTR-09	SGST	CGST	Total
1	2	3	4	5	6
1	Tax on taxable supplies as declared in GSTR-09	4N	27013319.00	27013319.00	54026638.00
2	Add net increase due to amendments (Increase in amendments (-) decrease in amendments)	10 (-) 11	0.00	0.00	0.00
3	Add tax on deemed supplies	16B	0.00	0.00	0.00
4	Add tax on unreturned goods	16C	0.00	0.00	0.00
5	Add pending demands	15G	0.00	0.00	0.00
6	Total output tax liability as per the above in GSTR-09		27013319.00	27013319.00	54026638.00
7	Less Total tax paid in cash	9	15092871.00	14457250.00	29550121.00
8	Less Tax paid by adjustment of ITC	9	11860863.00	12496484.00	24357347.00
9	Less differential tax paid on amendments	14	0.00	0.00	0.00
10	Under declared tax in GSTR-09		59585.00	59585.00	119170.00

Response of the tax payer:

The tax payer has 'Not agreed' for the following amount in the SCN.

SGST : 59585.00

CGST : 59585.00

The reasons cited by the tax payer for disagreeing/partially disagreeing are:

1. Difference amount already paid in subsequent year by DRC-03 -

Total SGST: 59585.00 Total CGST: 59585.00

ARN No: AD3601200094000 ARN Date: 2020-02-24 SGST: 59585.00 CGST: 59585.00

Observations and conclusion of the assessing authority

Agreed with TP

B. The excess input tax credit(ITC) claimed on account of non-reconciliation of information declared in GSTR-09:

Under Sec 16(2)(c) 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.

It is observed that the tax payer has not correctly availed input tax on his inward supplies on reconciliation of turnovers in GSTR-09. Resulting in tax payable to a tune of Rs. 1518253.14

S.No	Issue	Table No. in GSTR-09	SGST	CGST	Total
1	2	3	4	5	6
1	Excess claim of ITC declared in GSTR-09	8D	759126.57	759126.57	1518253.14
2	Add excess claim of IGST on imports in GSTR-09	8I	0.00	0.00	0.00
3	Total excess claimed of ITC as per GSTR-09		759126.57	759126.57	1518253.14

Response of the tax payer:

The tax payer has 'Not agreed' for the following amount in the SCN.

SGST : 759126.57

CGST : 759126.57

The reasons cited by the tax payer for disagreeing/partially disagreeing are:

1. GSTR-2A value increased after filing GSTR-09 by Rs.1518253.14.

SGST Rs. 759126.57 CGST Rs. 759126.57

Observations and conclusion of the assessing authority

Agreed with TP

C. Net tax payable on account of reconciliation in GSTR-09 = Total of A + Total of B = **1637423.14**

2. Excess claim of ITC:

• ITC to be reversed on non-business transactions & exempt supplies

Under Sec 17(1) & (2) where the goods or services or both are used by the registered person partly for

the purpose of business, partly for other purposes or partly used for effecting exempt supply and partly for taxable supply then the amount of credit shall be restricted to so much of the input tax as is attributable to the taxable supplies in the course of business. Therefore the taxable person needs to make an apportionment of available input tax credit under Rule 42 & 43 to arrive at the eligible ITC.

However as seen from the GSTR-09 return filed it is evident that you have not made such apportionment resulting in excess claim of ITC than you are eligible. The details of the working are as under:

S.No	Issue	Table no. in GSTR-09	Value of outward supply	SGST	CGST	Total
1	2	3	4	5	6	7
1	Total supplies	5N+10-11	465150876.00	-	-	-
2	Exempt supplies	5C + 5D + 5E + 5F	170889332.00	-	-	-
3	Proportion of common ITC which has to be reversed to the extent of exempt supply (2/1 above)		0.37	-	-	-
4	Common input tax credit	6O+13-12	-	11860863.00	11860863.00	23721726.00
5	ITC to be reversed	{S.No.4 (x) S.No.2}/S.No.1	-	4357500.03	4357500.03	8715000.06
6	ITC reversed as per GSTR-09	7C + 7D +7F + 7G	-	0.00	0.00	0.00
7	Difference/Excess ITC claimed	S.No.5 (-) S.No.6	-	4357500.03	4357500.03	8715000.06

Therefore the excess ITC claimed is proposed to be recovered.

Response of the tax payer:

The tax payer has 'Not agreed' for the following amount in the SCN.

SGST : 4357500.03

CGST : 4357500.03

The reasons cited by the tax payer for disagreeing/partially disagreeing are:

1. Exempt turnover adopted incorrectly:

Adopted Turnover: 170889332

Actual Turnover: 0

Observations and conclusion of the assessing authority

Agreed with TP

• Under declaration of Ineligible ITC:

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

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 code	Table no. in GSTR-09	SGST	CGST	Total
1	2	3	4	5	6	7
1	Works contractors	9954;		1078707.74	1078707.74	2157415.48
A	Total ineligible ITC u/s 17(5)	-		1078707.74	1078707.74	2157415.48
B	Ineligible ITC declared in GSTR-09	-	7E	6323.00	6323.00	12646.00
C	Difference/excess ITC claimed	-		1072384.74	1072384.74	2144769.48

Response of the tax payer:

The tax payer has 'Not agreed' for the following amount in the SCN.

SGST : 1072384.74

CGST : 1072384.74

The reasons cited by the tax payer for disagreeing/partially disagreeing are:

1. ITC claimed on goods under the exception to 17(5) as the assessee is in the business of supply of same goods or services or for other eligible supplies.

Value of purchases Rs. 11915385.99

Value of supplies Rs. 13106924.59

SGST ITC Rs. 1072384.74 CGST ITC Rs. 1072384.74

Reasons to be incorporated in the above table:

a. Work contract services availed for construction of plant and machinery

Observations and conclusion of the assessing authority

Agreed with TP

Summary :

Annexure with details for the above proposals are already sent with show cause notice.

The total tax payable on account of these deficiencies after giving credit to the payments made in cash

and ITC adjusted is arrived as follows:

Statement of Computation of Liability					
S.No	Issue	Amt in SCN		Amt determined by AA	
		SGST	CGST	SGST	CGST
1A	The tax on outward supplies under declared on reconciliation of data in GSTR-09	59585.00	59585.00	0.00	0.00
1B	The excess input tax credit(ITC) claimed on account of non reconciliation of information declared in GSTR-09:	759126.57	759126.57	0.00	0.00
2(i)	Amount of supplies in GSTR-01 in excess of supplies declared in GSTR-09.	-	-	-	-
2(ii)	Amount of supplies in EWB in excess of supplies declared in GSTR-01	-	-	-	-
2(iii)	Reconciliation of turnover in GSTR-07 with supplies declared in GSTR-01/GSTR-09	-	-	-	-
2(iv)	Reconciliation of turnover in GSTR-08 with supplies declared in GSTR-01/GSTR-09	-	-	-	-
3(i)	Excess ITC claimed in GSTR-3B compared with GSTR-09	-	-	-	-
3(ii)	Excess ITC reversed in GSTR-09 over and above reversed in GSTR-3B	-	-	-	-
3(iii)	Excess claim of TRAN-1 credit	-	-	-	-
3(iv)	ITC to be recovered on non-business transactions & exempt supplies	4357500.03	4357500.03	0.00	0.00
3(v)	Ineligible ITC	1072384.74	1072384.74	0.00	0.00
3(vi)	Invalid ITC under Sec 16(4)	-	-	-	-
3(vii)	ITC claimed from cancelled dealers return defaulters and tax non-payers	-	-	-	-
	Total liability	6248596.34	6248596.34	0.00	0.00

Less Tax paid after issuing SCN but within (30) days			0.00	0.00
Less Tax paid after issuing SCN but after (30) days			0.00	0.00
Net liability			0.00	0.00

Note: The AA shall issue SCN for penalty for net liability and also payments made after (30) days from the date of issue of SCN i.e., SGST Rs. **0.00** and CGST Rs.**0.00**.

(The TP can prefer an Appeal before the Appellate Authority within 90 days from the date of receipt of this Order)

Deputy Commissioner(ST), STU-2

Begumpet Division, Hyderabad.