



केन्द्रीयकरसहायक आयुक्त कार्यालय,सिकंदराबादमालएवमसेवाकरमण्डल,
सिकंदराबाद।

OFFICE OF THE ASSISTANT COMMISSIONER OF CENTRAL TAX,
SECUNDERABAD GST DIVISION, SECUNDERABAD

SALIKI SENATE, D.No: 2-4-416 & 417, RAMGOPALPET, M.G. ROAD,
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C.No.GEXCOM/ADJN/GST/2916/2023-CGST-DIV-SNBD-COMMRTE-SECUNDERABAD

दिनांक/Date: 19.04.2024

DIN: 20240456YO000000E212

ORDER-IN-ORIGINAL No.23/2024-25 (GST-Adjn)

(Passed by Shri R.Satyanarayana, I.R.S., Assistant Commissioner of Central Tax,
Secunderabad GST Division)

PREAMBLE

1. This copy is granted free of charge for the private use of persons to whom it is issued.

इसे जिस व्यक्ति को जारी किया गया है यह प्रतिनिजी प्रयोग के लिए बिना मूल्य के दी जाती है।

2. Under Section 107(1) of the Central Goods and Service Act, 2017 any person aggrieved by this order can prefer appeal within three months from the date of communication of such order to the Joint Commissioner (Appeals), Hqrs Office, 7th floor, L.B. Stadium Road, Basheerbagh, Hyderabad-4.

कोई भी व्यक्ति जो केंद्रीयवस्तु एवम सेवा कर अधिनियम, 2017 की धारा 107 (1) के तहत, इस आदेश से दुखी होता हो तो वह ऐसे आदेश के विरुद्ध संयुक्त आयुक्त (अपील), मुख्यालय कार्यालय, सातवीं मंजिल, जी.एस.टी. भवन, एल. बी. स्टेडियम रोड, बशीरबाग, हैदराबाद -500 004 के समक्ष इस आदेश के सूचित होने के तीन माह के अंदर अपील दर्ज कर सकता है।

3. Appeals shall be filed in **FORM GST APL-01** prescribed under Rule 108 of Central Goods and Service Tax Rules, 2017.

केंद्रीयवस्तु एवम सेवा कर नियम, 2017 के नियम 108 के तहत निर्धारित फॉर्म GST APL-01 में अपील दायर की जाएगी।

4. The grounds of appeal and form of verification as contained in Form GST APL 01 shall be signed in the manner specified in rule 26 of Central Goods and Service Tax Rules, 2017

अपील का आधार और फॉर्म के सत्यापन के रूप में फॉर्म जीएसटीएपीएल 01 में निहित है, केंद्रीय सामान और सेवा कर नियम, 2017 के नियम 26 में निर्दिष्ट तरीके से हस्ताक्षर किए जाएंगे।

5. A certified copy of the decision or order appealed against shall be submitted within seven days of filing appeal under sub rule 1 of 108 of Central Goods and Service Tax Rules, 2017.

केंद्रीयवस्तु एवम सेवा कर नियम, 2017 के 108 के उपनियम 1 के तहत अपील करने के सात दिनों के भीतर आदेश की प्रमाणित प्रति प्रस्तुत की जाएगी।

6. As per Section 107(6) of CGST Act, 2017, no appeal shall be filed under Section 107(1) of CGST Act, 2017 unless the appellant has paid—

(a) in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and

(b) a sum equal to ten per cent of the remaining amount of tax in dispute arising from the said order, in relation to which the appeal has been filed.

केंद्रीयवस्तु एवम सेवा कर अधिनियम, 2017 की धारा 107 (6) के अनुसार, अपील करने वाले केंद्रीयवस्तु एवम सेवा कर अधिनियम, 2017 की धारा 107 (1) के तहत कोई अपील दायर नहीं की जाएगी, जब तक कि अपील करने वाले ने निम्नलिखित नहीं किया हो—

(ए) पूर्णरूपसे, लगाए गए आदेश से उत्पन्न कर, ब्याज, जुर्माना, शुल्क और जुर्माना की राशि का ऐसा हिस्सा, जिसका उससे द्वारा स्वीकार किया गया है; तथा

(बी) दस प्रतिशत के बराबर राशि। उक्त आदेश से उत्पन्न विवाद में कर की शेष राशि, जिसके संबंध में अपील दायर की गई है।

Sub: GST-On account of discrepancies observed during verification of Returns filed by M/S NILGIRI ESTATES (**GSTIN: 36AAHFN0766F1ZA**) for the FY 2018-19- Order-in-Original – Regarding.

M/S NILGIRI ESTATES (here-in-after referred to as “Taxpayer”), situated at 2nd FLOOR, 5-4-187/3 AND 4, SOHAM MANSION, MG ROAD, SECUNDERABAD, Rangareddy, Telangana, 500003, is registered with the Centre GST Department with (**GSTIN: 36AAHFN0766F1ZA**) for the purpose of payment of GST and falls under the jurisdiction of Ramgopalpet-II CGST Range, Secunderabad GST Division, Secunderabad GST Commissionerate. Their business activities are ‘WORKS CONTRACT SERVICES (HSNs- 00440334, 00440410).

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

2.1. ISSUE 1: Under declaration of output tax. It is observed that, the taxpayer has not correctly declared tax on his outward supplies on reconciliation of turnover in GSTR-01, GSTR-3B and GSTR-9 for the financial year 2018-19.

2.2. The taxpayer has self-assessed the tax liability on outward supply and furnished the details of the same in returns specified under Section 37 of the CGST Act, 2017. In terms of provision of Section 59 of the CGST Act, 2017, ‘every registered person shall self-assess the taxes payable under this Act and furnish a return for each tax period as specified under Section 39’. The taxpayer failed to discharge the self-assessed tax in the returns specified under Section 39 and the taxpayer was to pay taxes liable under Section 9 of the CGST Act, 2017 and therefore, the differential tax of **Rs 27,66,974/-** as detailed in table below, is liable for recovery under Section 73 of the CGST Act, 2017 along with applicable interest under Section 50 and penalty under Section 73 of the CGST Act, 2017 read with Section 122(2)(a) of the CGST Act, 2017.

Table-1

Amount: INR

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	6384137.00	6384137.00	12768274.00
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	Pending demands	15G	0.00	0.00	0.00
6	Total output tax liability as per the above in GSTR-09(S.NO 1+2+3+4+5)		6384137.00	6384137.00	12768274.00
7	Less Total tax paid in cash	9	0.00	0.00	0.00
8	Less Tax paid by adjustment of ITC	9	5000650.00	5000650.00	10001300.00
9	Less differential tax paid on amendments	14	0.00	0.00	0.00
10	Add differential tax paid on amendments related to previous year in current year	(14) of previous FY GSTR-09	0.00	0.00	0.00
11	Net tax payable (S.NO 6-7-8-9+10)		1383487.00	1383487.00	2766974.00

3. ISSUE 2: The excess input tax credit (ITC) claimed on account of non-reconciliation of information:

Under Section16(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 taxpayer has not correctly availed input tax on his inward supplies on reconciliation of turnovers in GSTR-09.

- Scrutiny of ITC availed:

Amt in Rs.

S.No	Description	SGST	CGST	Total
1	2	3	4	5
1	ITC in the year as per Table 8A of GSTR-09	6803981.00	6803981.00	13607962.00
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	0.00	0.00	0.00
8	ITC Available for use in the same year (S.No 1+2+3+4+5-6-7)	6803981.00	6803981.00	13607962.00
9	ITC used in same year as per 4C of GSTR-3B	7607458.00	7607458.00	15214916.00
10	Net excess used (S.No 9-8)	803477.00	803477.00	1606954.00

ISSUE 3.Scrutiny of ITC reversals:

S.No	Description	SGST	CGST	Total
1	2	3	4	5
1	ITC reversed in Table 4(B) of GSTR-3B	0.00	0.00	0.00
2	ITC reversed in Table 7(I) of GSTR-09	228159.00	228159.00	456318.00
3	Excess ITC reversal showing in GSTR-09 as completed the GSTR-3B (S.No 2-1)	228159.00	228159.00	456318.00

From the above taxpayer has declared excess ITC reversal in GSTR 9 compared to ITC reversed in table 4(B) of GSTR-3B as detailed in table above.

Therefore, excess ITC of Rs. **20,63,272/-** availed is required to be recovered 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 for issues 1 to 2.	2415123.00	2415123.00	4830246.00
2	Interest	In terms of Section 50 of the CGST Act, 2017		
3	Penalty	In terms of Section 73 of the CGST Act, 2017		

4. The DRC 01A vide DIN: 20231256YO0000888A4D dated 19.12.2023 issued to the taxpayer requesting to pay tax along with interest and applicable penalty. However the taxpayer neither paid dues nor submitted any reply.

5. In view of the above, **M/S NILGIRI ESTATES** (here-in-after referred to as "Taxpayer"), situated at 2nd FLOOR, 5-4-187/3 AND 4, SOHAM MANSION, MG ROAD, SECUNDERABAD, Rangareddy, Telangana, 500003, was issued a Show Cause Notice answerable to the **Assistant/Deputy Commissioner of Central Tax, Secunderabad Division, Salike** Senate, 1st Floor, D. No. 2-4-416 & 417, Ramgopalpet, MG Road, Secunderabad 500003 within thirty days (30) from the date of issue of this notice as to why: -

- (i) an amount of **Rs.27,66,974/- [Rs.13,83,487/-CGST and Rs13,83,487/-SGST] (Rupees Twenty Seven Lakhs Sixty Six Thousand Nine Hundred and Seventy Four only)**, as discussed supra in Para 2 should not be demanded from them under Section 73(1) of the CGST Act, 2017 and similar provisions as laid in the TGST Act, 2017 read with Section 20 of IGST Act, 2017.
- (ii) an amount of **Rs. 20,63,272 /- [Rs.10,31,636/- CGST and Rs.10,31,636/- SGST] (Rupees Twenty Lakhs Sixty Three Thousand Two Hundred and Seventy Two only)**, as discussed supra in Para 3 should not be demanded from them under Section 73(1) of the CGST Act, 2017 and similar provisions as laid in the TGST Act, 2017 read with Section 20 of IGST Act, 2017.
- (iii) interest at the applicable rate should not be demanded from them on tax demanded at (i) & (ii) above under Section 50 of CGST Act, 2017 read with Section 20 of IGST Act and similar provisions under TGST Act, 2017.

- (iv) penalty should not be imposed on them demands at (i) & (ii) above under Section 73 of CGST Act, 2017 read with Section 122(2)(a) of CGST Act, 2017 and Section 20 of IGST Act, 2017 and similar provisions under TGST Act, 2017

6. Reply to Show Cause Notice

The TP has submitted their reply to the SCN on 16.02.2024. The tax payer in his reply stated that in respect of:

6.1 Issue-1: Under declaration of output tax

The taxpayer Submitted that the alleged difference of output tax liability was factually incorrect and wherever there was short payment, it was paid voluntarily. The actual difference was quite less than the amount arrived in the impugned SCN. The detailed explanation was already made to the previous SCN which may be considered here also.

6.2. Issue-2: The excess input tax credit (ITC) claimed on account of non-reconciliation of information

The taxpayer submitted that the demand was raised in the previous SCN in any case, such alleged differences between ITC in GSTR3B Vs GSTR2A is factually wrong as impugned SCN was based on the old GSTR2A as on the date of filing of annual returns. Once, the updated GSTR2A was considered, the actual difference was quite less than the amount arrived in the SCN. Further, submitted that ITC cannot be denied merely due to non-reflection of invoices in GSTR2A as all the conditions specified under Section 16 have been satisfied. The taxpayer submitted that GSTR2A 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. Finally, requested to drop further proceedings initiated in the show cause notice.

6.3. ISSUE-3: Scrutiny of ITC Reversals:

The tax payer submitted, they have reversed the said ITC of Rs. 4,56,318/- (CGST: Rs.2,28,159/- SGST: Rs.2,28,159/-) vide DRC dated 07.01.2020 under Debit Entry DI3601200012760 and DRC dated 16.10.2020 under debit entry DI3610200050832 and requested to drop further proceedings.

7. Personal Hearing:

7.1 A Personal Hearing was fixed on 25.01.2024, 13.02.2024 & 27.02.2024 and intimated to the tax payer. Shri Srimannarayana, authorized representative of the company has attended the PH reiterated the submissions made in their reply dated 16.02.2024 and requested to drop further proceedings.

8. Discussions & Findings :

I have carefully gone through the records of the case, Show Cause Notice, tax payer's reply dated 16.02.2024, submissions made during the course of

personal hearing and other material available on record. I now propose to adjudicate the case under the provisions of Section 73 of CGST Act, 2017. There are three issues before me to decide. I shall take up the aforesaid issues one by one for discussion.

9. Issue-1: Under declaration of output tax

Section 37. Furnishing details of outward supplies. -

(1) Every registered person, other than an Input Service Distributor, a non-resident taxable person and a person paying tax under the provisions of section 10 or section 51 or section 52, shall furnish, electronically ¹[subject to such conditions and restrictions and] in such form and manner as may be prescribed, the details of outward supplies of goods or services or both effected during a tax period on or before the tenth day of the month succeeding the said tax period and such details ²[shall, subject to such conditions and restrictions, within such time and in such manner as may be prescribed]

Section 39. Furnishing of returns.— (1) Every registered person, other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10 or section 51 or section 52 shall, for every calendar month or part thereof, furnish, in such form and manner as may be prescribed, a return, electronically, of inward and outward supplies of goods or services or both, input tax credit availed, tax payable, tax paid and such other particulars, in such form and manner, and within such time, as may be prescribed, on or before the twentieth day of the month succeeding such calendar month or part thereof. (2) A registered person paying tax under the provisions of section 10 shall, for each quarter or part thereof, furnish, in such form and manner as may be prescribed, a return, electronically, of turnover in the State or Union territory, inward supplies of goods or services or both, tax payable and tax paid within eighteen days after the end of such quarter. (3) Every registered person required to deduct tax at source under the provisions of section 51 shall furnish, in such form and manner as may be prescribed, a return, electronically, for the month in which such deductions have been made within ten days after the end of such month. (4) Every taxable person registered as an Input Service Distributor shall, for every calendar month or part thereof, furnish, in such form and manner as may be prescribed, a return, electronically, within thirteen days after the end of such month. (5) Every registered non-resident taxable person shall, for every calendar month or part thereof, furnish, in such form and manner as may be prescribed, a return, electronically, within twenty days after the end of a calendar month or within seven days after the last day of the period of registration specified under sub-section (1) of section 27, whichever is earlier. (6) The

Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing the returns under this section for such class of registered persons as may be specified therein: Provided that any extension of time limit notified by the Commissioner of State tax or Union territory tax shall be deemed to be notified by the Commissioner. (7) Every registered person, who is required to furnish a return under sub-section (1) or sub-section (2) or sub-section (3) or sub-section (5), shall pay to the Government the tax due as per such return not later than the last date on which he is required to furnish such return. CHAPTER IX RETURNS 71 (8) Every registered person who is required to furnish a return under sub-section (1) or sub-section (2) shall furnish a return for every tax period whether or not any supplies of goods or services or both have been made during such tax period. (9) Subject to the provisions of sections 37 and 38, if any registered person after furnishing a return under sub-section (1) or sub-section (2) or sub-section (3) or subsection (4) or sub-section (5) discovers any omission or incorrect particulars therein, other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities, he shall rectify such omission or incorrect particulars in the return to be furnished for the month or quarter during which such omission or incorrect particulars are noticed, subject to payment of interest under this Act: Provided that no such rectification of any omission or incorrect particulars shall be allowed after the due date for furnishing of return for the month of September or second quarter following the end of the financial year, or the actual date of furnishing of relevant annual return, whichever is earlier. (10) A registered person shall not be allowed to furnish a return for a tax period if the return for any of the previous tax periods has not been furnished by him.

Section 49. Payment of tax, interest, penalty and other amounts.-

(8) Every taxable person shall discharge his tax and other dues under this Act or the rules made thereunder in the following order, namely:-

- (a) self-assessed tax, and other dues related to returns of previous tax periods;*
- (b) self-assessed tax, and other dues related to the return of the current tax period;*
- (c) any other amount payable under this Act or the rules made thereunder including the demand determined under section 73 or section 74.*

9.1. In the instant case, a show cause notice was issued on the same issue, by the Additional Commissioner, Hyderabad Audit II Commissionerate vide Show Cause No. 06/23-24 dated 19.05.2023 under C.No.V/Audit-II/C-I/28/2021-22/Gr-15. The said Show Cause Notice was adjudicated by the Additional

Commissioner, Secunderabad GST Commissionerate vide OIO No. 28/2023-24 (Sec-Adjn-ADC)(GST) Dated 12.10.2023. In view of the above, it is proposed to drop the proceedings initiated in the show cause notice.

10. Issue-2: The excess input tax credit (ITC) claimed on account of non-reconciliation of information

In the instant case, a show cause notice was issued by the Hyderabad Audit II Commissionerate issued by the Additional Commissioner vide Show Cause Notice No. 06/23-24 dated 19.05.2023 under C.No.V/Audit-II/C-I/28/2021-22/Gr-15. The said Show Cause Notice was adjudicated by the Additional Commissioner, Secunderabad GST Commissionerate vide OIO No. 28/2023-24 (Sec-Adjn-ADC)(GST) Dated 12.10.2023.

10.1. In view of the above, it is proposed to drop the proceedings initiated in the show cause.

11. Issue-3: Scrutiny of ITC reversals:

In the instant case, the tax payer submitted that they have reversed the said ITC of **Rs. 4,56,318/- (CGST: Rs.2,28,159/- SGST: Rs.2,28,159/-)** vide DRC dated 07.01.2020 under Debit Entry DI3601200012760 and DRC dated 16.10.2020 under debit entry DI3610200050832 and requested to drop further proceedings. The same has to be appropriated. However, interest under Section 50 and Penalty under 73 read with Section 122(2)(a) of CGST Act, 2017 is recoverable.

12. Further, Section 6 of the Telangana State Goods & Services tax Act, 2017 authorizes the officers appointed under the Central Goods and Services Tax Act as proper officers for the purposes of the said Act, subject to such conditions as the Government shall, on the recommendations of the Council, by Notification, specify. Accordingly, the demand of levy of SGST is authorized under the provisions of Section 6 of the TGST Act, 2017.

13. In view of the foregoing discussions and findings, in terms of provisions of Section 73 of CGST Act 2017, having regard to the facts and circumstances of the case, I pass the following order:

ORDER

- (i) I drop the proceedings initiated in the show cause under **Issue-1** in view of the discussions and findings in **Para 9** above.
- (ii) I drop the proceedings initiated in the show cause under **Issue-2** in view of the discussions and findings in **Para 10** above.
- (iii) I confirm the demand of **Rs. 4,56,318/- (CGST: Rs.2,28,159/- SGST: Rs.2,28,159/-) (Rupees Four Lakh Fifty Six Thousand Three Hundred and Eighteen Only)**, in respect of Issue-3, as

discussed supra in Para -11 under Section 73(9) of the CGST Act, 2017 and similar provisions as laid down in the TGST Act, 2017 read with Section 20 of IGST Act, 2017.

- (iv) I appropriate the amount of **Rs. 4,56,318/- (CGST: Rs.2,28,159/- SGST: Rs.2,28,159/-) (Rupees Four Lakh Fifty Six Thousand Three Hundred and Eighteen Only)** which was already paid by them vide DRC dated 07.01.2020 under Debit Entry No. DI3601200012760 and DRC dated 16.10.2020 under debit entry no. DI3610200050832 towards duty confirmed at Sl.No. (iii) above, under Section 73(9) of the CGST Act, 2017 and similar provisions as laid down in the TGST Act, 2017 read with Section 20 of IGST Act, 2017
- (v) I confirm the demand of interest at the applicable rate from them on tax demanded at (iii) above under Section 50 of CGST Act, 2017 read with Section 20 of IGST Act and similar provisions under TGST Act, 2017.
- (vi) I confirm the demand of penalty from them on the demand at (iii) above under Section 73(9) of CGST Act, 2017 read with Section 122(2)(a) of CGST Act, 2017 and Section 20 of IGST Act, 2017 and similar provisions under TGST Act, 2017

312. 21/04/2024
(19/04/2024)

(आर.सत्यनारायण)/(R.SATYANARAYANA)

सहायक आयुक्त/Assistant Commissioner

सिकंदराबाद मण्डल/ Secunderabad GST Division

To

M/S NILGIRI ESTATES

2nd FLOOR, 5-4-187/3 AND 4,
SOHAM MANSION, MG ROAD, SECUNDERABAD.

Copy submitted to:

The Commissioner of Central Tax, Secunderabad GST Commissionerate, GST Bhavan, Opp. L.B.Stadium, Hyderabad (Attention: Superintendent, (Review))

Copy to:

The Superintendent of GST, Ramgopalpet-II Range, Secunderabad GST Division – For information.

Office copy & Master file.

