



केन्द्रीयकरसहायक आयुक्त कार्यालय, सिकंदराबादमाल एवम सेवा करमण्डल, सिकंदराबाद।

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

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C. No.GEXCOM/ADJN/GST/1468/2024-CGST DIV-SNBD-COMMRTE-SEC'BAD
DIN: 20240556YO000000BEDO

Date: 16.05.2024

SHOW CAUSE NOTICE No.06/2024-25

Sub: GST – Scrutiny of GST Returns for FY 2019-20 in respect of
M/s.Villa Orchids LLP. bearing GSTIN No. 36AANFG4817C1ZH
-Issuance of Show Cause Notice under section 73 of CGST
Act, 2017-reg.

M/s.Villa Orchids LLP (here-in-after referred to as “Taxpayer”), situated at
2nd Floor, 5-4-187/3&4, Soham Mansion, M.G Road, Secunderabad, Telangana-
500003, are engaged in Service Provision, Works Contract Services,
Construction services of single dwelling or multi dwelling or multi-storied
residential buildings, Real Estate Agents, Construction of Res. Complex, falling
under the HSN 995411, 00440104, 00440334 and 00440410. The taxpayer is
registered with the Central GST Department with GSTIN: **36AANFG4817C1ZH**
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 scrutiny of the returns filed by M/s. VILLA ORCHIDS LLP. for the FY
2019-20, certain discrepancies were noticed. The intimation of the same was
given to the tax payer by issuance of FORM GST-ASMT-10 vide Reference No.
ZU360523050702D dated 27.02.2024 and issuance of DRC-01A vide DIN:
2024056YO000052045A dated. 02.04.2024. The details of the discrepancies are
as follows:

**2.1. ISSUE-1: Excess availment of ITC in GSTR-3B on comparison with
credit available in GSTR-2A for FY 2019-20.**

2.1.1 On comparison of the Input Tax Credit availed in GSTR-3B and the ITC
available in GSTR-2A for the period FY 2019-20, it was noticed that there was
an excess availment of ITC to the tune of **Rs.44,61,441/- (IGST: Rs.4,97,755/-
CGST: Rs.19,81,843/- & SGST: Rs.19,81,843/-)**. The said excess availment of
ITC was irregular in terms of sub-section (2)(c) of Section 16 of the CGST Act,
2017, as the taxpayer has failed to ensure that the tax charged in respect of their

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input supplies has duly been credited to the Government by their suppliers. The details of excess availment of ITC are furnished hereunder: -

Excess availment of ITC as per the comparison between credit available in GTR-2A and credit availed in GSTR-3B for the FY 2019-20									
FY	ITC availed per GSTR-3B for FY 2019-20			ITC available per GSTR-2A for FY 2019-20			Excess availed ITC		
	IGST	CGST	SGST	IGST	CGST	SGST	IGST	CGST	SGST
2019-20	708305	7219001	7219001	210550	5237158	5237158	497755	1981843	1981843

2.1.2. In view of the above, it is found that the taxpayer has availed excess ITC of **Rs.44,61,441/-** (IGST: **Rs.4,97,755/-** CGST: **Rs.19,81,843/-** & SGST: **Rs.19,81,843/-**). in the FY 2019-20 which is not available in GSTR-2A returns which is inadmissible as per Section 16 and 41 of CGST Act, 2017.

2.1.3. LEGAL PROVISIONS:

i) Section 16 of CGST Act 2017: —

*"Every registered person shall, subject to such conditions and restrictions as may be prescribed and, in the manner, specified in section 49, be entitled to take credit of input tax charged on any supply of goods or services or both to him **which are used or intended to be used** in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person.*

(2) Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless, —

(a) he is in possession of a tax invoice or debit note issued by a supplier registered under this Act, or such other tax paying documents as may be prescribed;

(b) he has received the goods or services or both.

[Explanation. — For the purposes of this clause, it shall be deemed that the registered person has received the goods or, as the case may be, services—

(c) subject to the provisions of section 41, the tax charged in respect of such **supply has been actually paid to the Government**, either in cash or through utilisation of input tax credit admissible in respect of the said supply; and

(d) he has furnished the return under section 39;"

ii) Section 41 of CGST Act, 2017: -

Claim of input tax credit and provisional acceptance thereof

(1) Every registered person shall, subject to such conditions and restrictions as may be prescribed, be entitled to avail the credit of eligible input tax, as self-assessed, in his return and such amount shall be credited to his electronic credit ledger.

(2) The credit of input tax availed by a registered person under sub-section (1) in respect of such supplies of goods or services or both, the tax payable whereon has not been paid by the supplier, shall be reversed along with applicable interest, by the said person in such manner as may be prescribed:

iii) Rule-36 of CGST Rules, 2017: -

"(1) the input tax credit shall be availed by a registered person, including the Input Service Distributor, on the basis of any of the following documents, namely, -

- (a) an invoice issued by the supplier of goods or services or both in accordance with the provisions of section 31;
- (b) **an invoice issued in accordance with the provisions of clause (f) of sub-section (3) of section 31, subject to the payment of tax;**
- (c) a debit note issued by a supplier in accordance with the provisions of section 34;
- (d) a bill of entry or any similar document prescribed under the Customs Act, 1962 or rules made thereunder for the assessment of integrated tax on imports;
- (e) an Input Service Distributor invoice or Input Service Distributor credit note or any document issued by an Input Service Distributor in accordance with the provisions of sub-rule (1) of rule 54.

(2) Input tax credit shall be availed by a registered person only if all the applicable particulars as specified in the provisions of Chapter VI are contained in the said document, and the relevant information, as contained in the said document, is furnished in FORM GSTR-2 by such person."

Other Legal Provisions

i) Section 73(1) of CGST Act, 2017: -

In terms of sub-section (1) of Section 73, Where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised for any reason, other than the reason of fraud or any wilful-misstatement or suppression of facts to evade tax, he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under section 50 and a penalty leviable under the provisions of this Act or the rules made thereunder.

ii). Section 50 of CGST Act 2017: -

(1) Every person who is liable to pay tax in accordance with the provisions of this Act or the rules made thereunder, but fails to pay the tax or any part thereof to the Government within the period prescribed, shall for the period for which the tax or any part thereof remains unpaid, pay, on his own, interest at such rate, not exceeding eighteen per cent., as may be notified by the Government on the recommendations of the Council.

[Provided that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period, shall be levied on that portion of the tax that is paid by debiting the electronic cash ledger.]

(2) The interest under sub-section (1) shall be calculated, in such manner as may be prescribed, from the day succeeding the day on which such tax was due to be paid.

(3) A taxable person who makes an undue or excess claim of input tax credit under sub-section (10) of section 42 or undue or excess reduction in output tax liability under sub-section (10) of section 43, shall pay interest on such undue or excess claim or on such undue or excess reduction, as the case may be, at such rate not exceeding twenty four per cent., as may be notified by the Government on the recommendations of the Council.

iii). **Section 122(2)(a) of CGST Act 2017: -**

(2) Any registered person who supplies any goods or services or both on which any tax has not been paid or short-paid or erroneously refunded, or where the input tax credit has been wrongly availed or utilised, —

(a) for any reason, other than the reason of fraud or any wilful misstatement or suppression of facts to evade tax, shall be liable to a penalty of ten thousand rupees or ten per cent. of the tax due from such person, whichever is higher;

2.1.4. From the foregoing facts of the case and statutory provisions it appears that the taxpayer had failed to ensure that the tax charged in respect of their input supplies had duly been credited to the Government by their suppliers as envisaged in Section 16(2)(c) of CGST Act, 2017 either by way of getting the details of outward supplies uploaded by their suppliers in their GSTR-1 returns which in turn would appear in the taxpayer's auto-populated GSTR-2A statement for the relevant period or by furnishing irrefutable evidence to the effect that the supplier had in fact paid the applicable taxes to the Government on the said input supplies by furnishing the suppliers' GSTR-3B returns for the relevant period. This had led to contravention of Section 41 of CGST Act, 2017 according to which the excess availed input tax credit on which tax has not been paid by the supplier shall be reversed along with applicable interest and the taxpayer in the instant case has miserably failed to do so.

2.1.5. As discussed above, in terms of the provisions of Section 16(2)(c) of CGST Act, 2017 and Rule 36(1)(b) of CGST Rules, 2017, to avail input tax credit against invoices being in possession of a recipient of supply, it is also mandatory that the tax mentioned in the said invoice therein is paid. Thus, the ITC availed by a recipient is subject to payment of tax by the supplier in terms of the provisions of Section 39 of CGST Act, 2017 read with Rule 61 of CGST Rules, 2017.

2.1.6. In view of above, it appears that the taxpayer had irregularly availed excess ITC (difference between GSTR-3B and 2A Auto populated statement) to the tune of **Rs.44,61,441/- (IGST: Rs.4,97,755/- CGST: Rs.19,81,843/- & SGST: Rs.19,81,843/-)** for the period FY 2019-20 contravening Section 16 and 41 of CGST Act, 2017 read with Rule 36 of CGST Rules, 2017.

2.1.7. Since the taxpayer has wrongly availed and utilized the excess ITC of **Rs.44,61,441/- (IGST: Rs.4,97,755/- CGST: Rs.19,81,843/- & SGST:**

Rs.19,81,843/-). against the provisions of Section 16 & 41 of CGST Act, 2017 read with Rule 36 of CGST Rules, 2017, the same is required to be recovered from the taxpayer in terms of Section 73(1) of CGST Act, 2017, along with interest in terms of Section 50 of CGST Act, 2017. Further, it appears they are liable for penal action in terms of Section 73 of CGST Act, 2017 read with Section 122(2)(a) of CGST Act, 2017 and SGST Act, 2017 & Section 20 of IGST Act, 2017.

2.1.8. The said observation was communicated to the taxpayer by issuance of FORM GST-ASMT-10 with Reference No. ZU360523050702D dated 27.02.2024 and issuance of DRC-01A vide DIN.2024056YO000052045A dated.02.04.2024. The taxpayer has not made any submissions in response to the said FORM GST DRC-01A.

2.2. ISSUE-2: Short payment of GST on comparison of tax liability declared in GSTR-9 & GSTR-3B for FY 2019-20.

2.2.1 On comparison of tax liability declared in GSTR-9 and GSTR-3B for the FY 2019-20, it is observed that there is a short payment of tax amount to the tune of Rs.48,874/- (CGST: Rs.24,437/- & SGST: Rs.24,437/-). The details of short payment are mentioned hereunder: -

(in Rs.) (numbers are rounded off)

Short payment of GST on comparison of tax liability declared in GSTR-9 and GSTR-3B for FY 2019-20					
Tax liability as declared in table 4 of GSTR-9		Tax paid in GSTR-3B		Difference	
CGST: Rs. 9845849/-	SGST: Rs. 9845849/-	CGST: Rs.9821413/-	SGST: Rs. 9821413/-	CGST: Rs.24437/-	SGST: Rs.24437/-

2.2.2. In view of the above, it appears that the taxpayer has not followed the procedure prescribed in Section 37, Section 39 and Section 59 of CGST Act, 2017. Therefore, it appears that the taxpayer is liable to pay GST of Rs.48,874/- (CGST: Rs.24,437/- & SGST: Rs.24,437/-) along with applicable interest under Section 50 of CGST Act, 2017 and penalty under Section 122(2)(a) read with Section 73 of CGST Act, 2017/SGST Act, 2017 read with Section 20 of IGST Act, 2017.

2.2.3. The said observation was communicated to the tax payer by issuance of FORM GST-ASMT-10 with Reference No. ZU360523050702D dated 27.02.2024 and issuance of DRC-01A vide DIN.2024056YO000052045A dated.02.04.2024. The taxpayer has not made any submissions in response to the said FORM GST DRC-01A.

2.3. ISSUE-3: Non-payment of interest on delayed filing of GSTR-3B Returns for FY 2019-20:

2.3.1. During the course of scrutiny of returns, it was noticed that the taxpayer had filed the GSTR-3B returns for the following months belatedly. The

taxpayer has paid the tax amount and filed the returns but not paid the interest on cash portion of tax paid under Section 50 of CGST Act, 2017. The details of delayed filing of GSTR-3B returns and non-payment of interest are given below:

GSTR-3B Month	Due date of filing	Actual date of filing	No of days delayed	Amt paid in cash	Rate of interest	Amt of Interest Liability
October-2019	20-11-2019	25-01-2020	66	6,34,224	18%	20,643
March-2019	05-05-2020	16-07-2020	72	2,41,156	18%	8,563
Total						29,206/-
Interest Already paid						6162/-
Interest amount to be paid						23044/-

2.3.2. Legal provisions

i). Section 50 (1) of CGST Act 2017:-

(1) Every person who is liable to pay tax in accordance with the provisions of this Act or the rules made thereunder, but fails to pay the tax or any part thereof to the Government within the period prescribed, shall for the period for which the tax or any part thereof remains unpaid, pay, on his own, interest at such rate, not exceeding eighteen per cent., as may be notified by the Government on the recommendations of the Council.

[Provided that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period, shall be levied on that portion of the tax that is paid by debiting the electronic cash ledger.]

ii). Whereas in terms of Section 39(1) of CGST Act, 2017 "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 CHAPTER IX RETURNS 70 thereof, furnish, 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."

iii). Further, in terms of Section 39(7) of CGST Act, 2017 "Every registered person who is required to furnish a return under sub-section (1), other than the person referred to in the proviso thereto, 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. In terms of Section 59 of 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".

2.3.3. In view of the above, the taxpayer is liable to pay interest in cash of **Rs.23,044/-** (CGST: Rs.11,180/- & SGST: Rs.11,864/-) under section 50 as applicable under the provisions of CGST Act, 2017 and SGST Act, 2017.

2.3.4. The said observation was communicated to the taxpayer vide FORM GST-ASMT-10 vide Reference No. ZU360523050702D dated 27.02.2024. The taxpayer has not made any submissions. Hence, FORM GST DRC-01A vide DIN.2024056YO000052045A dated.02.04.2024 was issued to the taxpayer under the provisions of Section 73 of CGST Act, 2017 read with Rule 142(1A) of CGST Rules, 2017. The taxpayer has not made any submissions in response to the said FORM GST DRC-01A.

2.4. ISSUE-4: Nonpayment of Late Fee on delayed filing of GSTR-1 and GSTR-3B for FY 2019-20:

2.4.1. During the course of scrutiny of returns, it was noticed that the taxpayer had not paid late fee for delayed filing of GSTR-I and GSTR-3B returns. The details of delayed filing of GSTR-3B, GSTR-1 returns and non-payment of late fee are given below:

GSTR -1 late filing details

	Due date of filing	Actual date of filing	No of days delayed	Late fee liability
Apr-19	11-05-2019	20-05-2019	9	450
May-19	11-06-2019	10-06-2019	0	0
Jun-19	11-07-2019	09-07-2019	0	0
Jul-19	11-08-2019	12-08-2019	1	50
Aug-19	11-09-2019	10-09-2019	0	0
Sep-19	11-10-2019	07-10-2019	0	0
Oct-19	11-11-2019	12-11-2019	1	50
Nov-19	11-12-2019	25-01-2020	0	0
Dec-19	11-01-2020	27-02-2020	47	2350
Jan-20	11-02-2020	24-06-2020	134	6700
Feb-20	11-03-2020	24-06-2020	105	5250
Mar-20	11-04-2020	25-08-2020	136	6800
	Total			21650

GSTR -3B late filing details

	Due date of filing	Actual date of filing	No of days delayed	Late fee liability
Apr-19	20-05-2019	20-05-2019	0	0
May-19	20-06-2019	20-06-2019	0	0
Jun-19	20-07-2019	20-07-2019	0	0
Jul-19	22-08-2019	27-08-2019	5	250
Aug-19	20-09-2019	18-09-2019	0	0
Sep-19	20-10-2019	21-10-2019	1	50
Oct-19	20-11-2019	25-01-2020	66	3300
Nov-19	23-12-2019	28-01-2020	36	1800
Dec-19	20-01-2020	04-03-2020	44	2200
Jan-20	22-02-2020	24-06-2020	123	6150
Feb-20	22-03-2020	24-06-2020	94	4700
Mar-20	22-04-2020	16-07-2020	85	4250
	Total			22700

	Total	CGST	SGST
Total late fee payable	44350	22175	22175
Late fee paid	10150	5075	5075
Balance Late fee Payable	34200	17100	17100

2.4.2. Legal provisions

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, 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 shall be communicated to the recipient of the said supplies within such time and in such manner as may be prescribed:

9. Levy and collection.- (1) Subject to the provisions of sub-section (2), there shall be levied a tax called the central goods and services tax on all intra-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 and at such rates, not exceeding twenty per cent., as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person.

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

47. Levy of late fee. — (1) Any registered person who fails to furnish the details of outward or inward supplies required under section 37 or section 38 or returns required under section 39 or section 45 by the due date shall pay a late fee of one hundred rupees for every day during which such failure continues subject to a maximum amount of five thousand rupees. (2) Any registered person who fails to furnish the return required under section 44 by the due date shall be liable to pay a late fee of one hundred rupees for every day during which such failure continues subject to a maximum of an amount calculated at a quarter per cent. of his turnover in the State or Union territory

2.4.3. In view of the above, the taxpayer is liable to pay late fee in cash of **Rs.34,200/-** (CGST: Rs.17,100/-, SGST: Rs.17,100/-) under section 47 as applicable under the provisions of CGST Act, 2017 read with Section 37 and Section 39 of CGST Act, 2017 and SGST Act, 2017.

2.4.4. The said observation was communicated to the taxpayer vide FORM GST-ASMT-10 vide Reference No.ZU360523050702D dated 27.02.2024. The taxpayer

has not made any submissions. Hence, FORM GST DRC-01A vide DIN.2024056YO000052045A dated.02.04.2024 was issued to the taxpayer under the provisions of Section 73 of CGST Act, 2017 read with Rule 142(1A) of CGST Rules, 2017. The taxpayer has not made any submissions in response to the said FORM GST DRC-01A.

2.5. Non reversal of ITC in accordance with provisions of Rule 42 and Rule 43 of CGST Rules, 2017 for FY 2019-20.

2.5.1 On scrutiny of GSTR-1 and GSTR-3B returns filed by the taxpayer for FY 2019-20, it is observed that the taxpayer has declared Nil rated/exempted supplies but not reversed ITC proportionately as per Section 17(2) of CGST Act, 2017 read with Rule 42 of CGST Rules, 2017 as detailed below:

1. Taxable Value as per Table 3.1 (c) of GSTR-3B	49636965
2. Taxable Value as per Table 3.1(Total) of GSTR-3B	159072319
3. ITC as per Table 4A of GSTR-3B or 6A of GSTR-9	15201809
4. Amount to be reversed $\{(1/2)*3\}$	4743576.167
Liability	Rs.47,43,576/- (IGST: Rs.2,21,020/-, CGST: Rs.22,61,278/- & SGST: Rs.22,61,278/-)

2.5.2 In view of the above, it appears that the taxpayer is liable to reverse the ITC of Rs.47,43,576/- (IGST: Rs.2,21,020/-, CGST: Rs.22,61,278/- & SGST: Rs.22,61,278/-) for the FY 2019-20 as per Section 17(2) of CGST Act, 2017 read with Rule 42 and Rule 43 of CGST Rules, 2017.

2.5.3. Legal provisions

i). Section 17 - Apportionment of credit and blocked credits: -

(2) Where the goods or services or both are used by the registered person partly for effecting taxable supplies including zero-rated supplies under this Act or under the Integrated Goods and Services Tax Act and partly for effecting exempt supplies under the said Acts, the amount of credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies.

ii). Rule 42. Manner of determination of input tax credit in respect of inputs or input services and reversal thereof. -

(1) The input tax credit in respect of inputs or input services, which attract the provisions of sub-section (1) or sub-section (2) of section 17, being partly used for the purposes of business and partly for other purposes, or partly used for effecting taxable supplies including zero rated supplies and partly for effecting exempt supplies, shall be attributed to the purposes of business or for effecting taxable supplies in the following manner, namely,-

(a) the total input tax involved on inputs and input services in a tax period, be denoted as T;

(b) the amount of input tax, out of T' , attributable to inputs and input services intended to be used exclusively for the purposes other than business, be denoted as $T1'$

(c) the amount of input tax, out of T' , attributable to inputs and input services intended to be used exclusively for effecting exempt supplies, be denoted as $T2'$;

(d) the amount of input tax, out of T' , in respect of inputs and input services on which credit is not available under sub-section (5) of section 17, be denoted as $T3'$;

(e) the amount of input tax credit credited to the electronic credit ledger of registered person, be denoted as $C1'$ and calculated as

$$C1 = T - (T1 + T2 + T3);$$

(f) the amount of input tax credit attributable to inputs and input services intended to be used exclusively for effecting supplies other than exempted but including zero rated supplies, be denoted as $T4'$;

[Explanation: For the purpose of this clause, it is hereby clarified that in case of supply of services covered by clause (b) of paragraph 5 of Schedule II of the said Act, value of $T4$ shall be zero during the construction phase because inputs and input services will be commonly used for construction of apartments booked on or before the date of issuance of completion certificate or first occupation of the project, whichever is earlier, and those which are not booked by the said date.]

(g) $T1'$, $T2'$, $T3'$ and $T4'$ shall be determined and declared by the registered person at the invoice level in FORM GSTR-2 [and at summary level in FORM GSTR-3B];

(h) input tax credit left after attribution of input tax credit under clause [(f)] 75 shall be called common credit, be denoted as $C2'$ and calculated as

$$C2 = C1 - T4;$$

(i) the amount of input tax credit attributable towards exempt supplies, be denoted as $D1'$ and calculated as

$$D1 = (E + F) \times C2$$

where, E

E' is the aggregate value of exempt supplies during the tax period, and E

F' is the total turnover in the State of the registered person during the tax period:

[Provided that in case of supply of services covered by clause (b) of paragraph 5 of Schedule II of the Act, the value of E/F' for a tax period shall be calculated for each project separately, taking value of E and F as under:-

E = aggregate carpet area of the apartments, construction of which is exempt from tax plus aggregate carpet area of the apartments, construction of which is not exempt from tax, but are identified by the promoter to be sold after issue of completion certificate or first occupation, whichever is earlier;

F = aggregate carpet area of the apartments in the project;

Explanation 1: In the tax period in which the issuance of completion certificate or first occupation of the project takes place, value of E shall also include aggregate carpet area of the apartments, which have not been booked till the date of issuance of completion certificate or first occupation of the project, whichever is earlier;

Explanation 2: Carpet area of apartments, tax on construction of which is paid or payable at the rates specified for items (i), (ia), (ib), (ic) or (id), against serial number 3 of the Table in the notification No. 11/2017-Central Tax (Rate), published in the Gazette of

India, Extraordinary, Part II, Section 3, Sub-section (i) dated 28th June, 2017 vide GSR number 690(E) dated 28th June, 2017, as amended, shall be taken into account for calculation of value of E in view of Explanation (iv) in paragraph 4 of the notification No. 11/2017-Central Tax (Rate), published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) dated 28th June, 2017 vide GSR number 690(E) dated 28th June, 2017, as amended.]

[Provided further]⁷⁷ that where the registered person does not have any turnover during the said tax period or the aforesaid information is not available, the value of E/F shall be calculated by taking values of E and F of the last tax period for which the details of such turnover are available, previous to the month during which the said value of E/F is to be calculated;

Explanation: For the purposes of this clause, it is hereby clarified that the aggregate value of exempt supplies and the total turnover shall exclude the amount of any duty or tax levied under entry 84 [and entry 92A]⁷⁸ of List I of the Seventh Schedule to the Constitution and entry 51 and 54 of List II of the said Schedule;

(j) the amount of credit attributable to non-business purposes if common inputs and input services are used partly for business and partly for non-business purposes, be denoted as D2, and shall be equal to five per cent. of C2; and

(k) the remainder of the common credit shall be the eligible input tax credit attributed to the purposes of business and for effecting supplies other than exempted supplies but including zero rated supplies and shall be denoted as C3, where,-

$$C3 = C2 - (D1 + D2);$$

[(l) the amount C3, D1 and D2 shall be computed separately for input tax credit of central tax, State tax, Union territory tax and integrated tax and declared in FORM GSTR-3B or through FORM GST DRC-03;]

(m) the amount equal to aggregate of D1 and D2 shall be [reversed by the registered person in FORM GSTR-3B or through FORM GST DRC-03;]

Provided that where the amount of input tax relating to inputs or input services used partly for the purposes other than business and partly for effecting exempt supplies has been identified and segregated at the invoice level by the registered person, the same shall be included in T1 and T2 respectively, and the remaining amount of credit on such inputs or input services shall be included in T4.

2.5.4. In view of the above, it appears that the taxpayer has not followed the procedure prescribed in Section 17(2) of CGST Act, 2017 read with Rule 42 of CGST Rules, 2017. Therefore, it appears that the taxpayer is liable to reverse the ITC of Rs.47,43,576/- (IGST: Rs.2,21,020, CGST: Rs.22,61,278/- & SGST: Rs.22,61,278/-) along with applicable interest under Section 50 of CGST Act, 2017 and penalty under Section 122(2)(a) read with Section 73 of CGST Act, 2017 & SGST Act, 2017 read with Section 20 of IGST Act, 2017.

2.5.5. The intimation of the same was given to the taxpayer by issuance of FORM GST-ASMT-10 with Reference No ZU360523050702D dated 27.02.2024

and issuance of DRC-01A dated 02.04.2024. The taxpayer has not made any submissions in response to the said FORM GST DRC-01A so far.

3. For the administration and collection of State Goods and Services tax in respect of Telangana State, an Act was in operation in respect of Jurisdiction of Telangana state. This Act is titled as "The Telangana Goods and Services Act, 2017" (for short here in after referred to as "the TGST Act, 2017") and it contains the provisions exactly similar to the CGST Act, 2017 as referred above. Since, it is only repetition; the provisions of the TGST Act, 2017 are not reproduced in This Notice.

3.1. Further, as per Section 6(1) of the TSGST Act, 2017, the Officers appointed under CGST Act, 2017 are authorized to be proper officers for the purposes of the said Act.

3.2. For the administration and collection of the Integrated Goods and Services Tax (IGST), an Act was in operation which is titled as "The Integrated Goods and Services Tax Act, 2017" (for short here in after referred to as "the IGST Act, 2017"). As per the provisions of Section 20 of the IGST Act, 2017, the provisions of CGST Act, 2017 relating to interalia Input tax credit, Registration, tax invoice, account and records, payment of tax, inspection, search, seizure and arrest, Demands and recovery, offences and penalties etc shall, mutatis mutandis, apply, so far as may be, in relation to Integrated tax as they apply in relation to Central tax as if they are enacted under the IGST Act, 2017. Accordingly, in respect of any recovery, penalty and other demands related to IGST, the provisions of CGST Act, 2017 will be applicable.

4. Now therefore, M/S. Villa Orchids LLP, 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/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 **Rs.44,61,441/- (IGST: Rs.4,97,755/- CGST: Rs.19,81,843/- & SGST: Rs.19,81,843/-)** for irregular availment of input tax credit in GSTR-3B on comparison with ITC available in GSTR-2A for the FY 2019-20 as discussed in Para 2.1, should not be demanded from them under the provisions of Sub-Section (1) of Section 73 of the CGST Act, 2017 and SGST Act, 2017 read with Section 20 of IGST Act, 2017;
- ii) an amount of **Rs.48,874/- (CGST: Rs.24,437/- & SGST: Rs.24,437/-)** for short payment GST on comparison of liability declared in GSTR-9 and tax

paid in GSTR-3B for FY 2019-20 as discussed in Para 2.2, *should not be* demanded from them under the provisions of Section 73(1) of the CGST Act, 2017 & TSGST Act, 2017;

- iii) an amount of **Rs.23,044/- (CGST: Rs.11,180/- & SGST:Rs.11,864/-)** for interest on delayed filing of GSTR-3B returns during the FY 2019-20 as discussed in Para 2.3, *should not be* demanded from them under the Section of 50(1) of CGST Act, 2017/SGST Act, 2017;
- iv) an amount of **Rs.34,200/- (CGST: Rs.17,100/-, SGST: Rs.17,100/-)** for late fee on delayed filing of GSTR-1 and GSTR-3B returns during FY 2019-20 as discussed in para 2.4, *should not be* demanded from them under the Section of 47 of CGST Act, 2017/SGST Act, 2017;
- v) an amount **Rs.47,43,576/- (IGST: Rs.2,21,020, CGST: Rs.22,61,278/- & SGST: Rs.22,61,278/-)** for non-reversal of ITC for the FY 2019-20 as discussed in Para 2.5, *should not be* demanded from them under the provisions of sub section (1) of Section 73 of the CGST Act, 2017 & SGST Act, 2017 read with Section 20 of IGST Act, 2017;
- vi) Interest *should not be* demanded on the demand amounts mentioned at Sl.No.(i), (ii) & (v) under Section 50 of the CGST Act, 2017 / TSGST Act, 2017 read with Section 20 of IGST Act, 2017;
- vii) Penalty *should not be* imposed on the demand amounts mentioned at Sl.No.(i), (ii) & (v) in terms of provisions of Section 73(1) of CGST Act, 2017 / TSGST Act, 2017 read with Section 122(2)(a) of CGST Act, 2017 and also read with Section 20 of IGST Act, 2017;

5. M/s. VILLA ORCHIDS LLP, having GSTIN No. 36AANFG4817C1ZH 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. VILLA ORCHIDS 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 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. The show cause notice is issued without prejudice to any other action that may be initiated under any other provisions of the CGST Act, 2017/IGST Act, 2017/TGST Act, 2017 or any other law for the time being in force in India.

9. Reliance for issue of this notice is based on the following:

- i) GSTR 3B, GSTR-1, GSTR-2A and GSTR-9 for the FY 2019-20 (available with the Taxpayer)
- ii) ASMT-10 issued by the Superintendent of Central Tax, Ramgopalpet- III Range vide Reference No. ZU360523050702D dated 27.02.2024
- iii) DRC-01A issued by the Assistant Commissioner of Central Tax, Secunderabad GST Division vide DIN No. 2024056YO000052045A dated.02.04.2024.

3-12-2024
24/12/2024
16/05/2024

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

To
M/S. VILLA ORCHIDS LLP),
2ND FLOOR, 5-4-187/3 & 4,
SOHAM MANSION, M.G ROAD, SECUNDERABAD,
RANGAREDDY, TELANGANA, 500003.

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 Central Tax, Ramgopalpet-III GST Range, Secunderabad GST Division – for information.

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सिकंदरगढ़

To
M/S. VILLA ORCHIDS LLP),
2ND FLOOR, 5-4-187/3 & 4,
SOHAM MANSION, M.G ROAD, SECUNDERABAD,
RANGAREDDY, TELANGANA, 500003.

Office of the
राज्य/उप राज्य का कार्यालय
Asst./Dy. Commissioner
केन्द्रीय कर/Central tax
सिकंदरगढ़ की एस टी मण्डल
Secunderabad GST Division
सिकंदरगढ़ की एस टी अनुसूचक
Secunderabad GST Commissionerate
"सलीक सेंनेट" /# 2-4-416 & 417
"SALIK SENE" # 2-4-416 & 417
रामगोपालपेट, एन जी रोड
Ramgopalpet, M.G Road
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