FORM GST DRC – 06

[See rule 142(4)]

Reply to the Show Cause Notice

1. GSTIN	36AADCM5906D2ZO	
2. Name	Modi Housing Private Limited	
3. Details of Show Cause Notice	ZD360524064290J	Date of issue: 30-05-2024
4. Financial Year	2019-20	
5. Reply		
Given as Annexure A		
6. Documents uploaded I. Reply to Notice.		
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.

Modi Housing Private Limited

MODI HOUSING PVT. LTD.

Authorised Signatory

Office of the Assistant Commissioner (ST) ★ M.G.Road-S.D.Road Circle,Begumpet Division, Hyd.

04 JUL 2024

Reply to the Notice:

Modi Housing Private Limited (hereinafter referred as "noticee") is engaged in business of providing business support services. They are registered with goods and services tax department vide GSTIN NO: 36AADCM5906D2ZO. Noticee herein makes the below submissions.

Submissions

9. Noticee submits that they deny all the allegations made in Show Cause Notice (SCN) as they are not factually/legally correct.

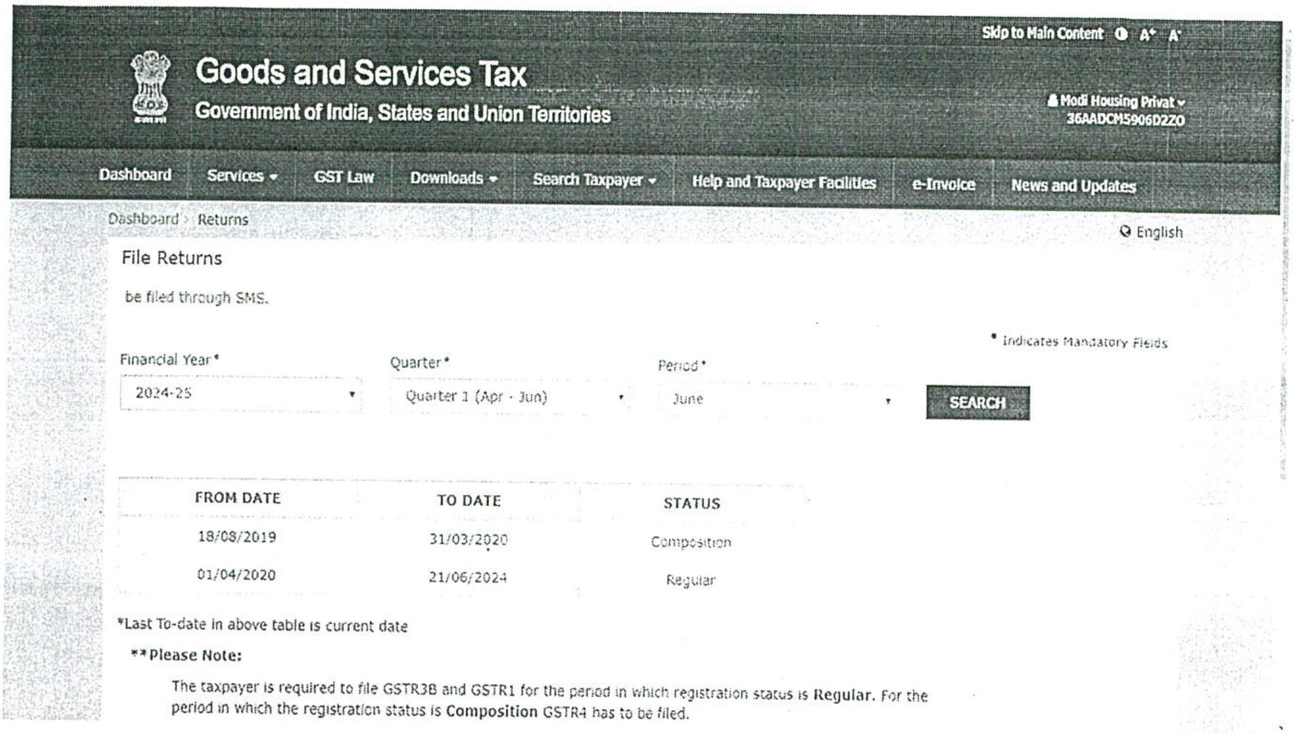
10. Noticee submits that the provisions (including Rules, Notifications & Circulars issued thereunder) of both the CGST Act, 2017 and the Telangana GST Act, 2017 are the same except for certain provisions. Therefore, unless a mention is specifically made to any dissimilar provisions, a reference to the 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.

11. Noticee submits that the allegations made by the Show cause Notice dated 30-05-2024 are:

Para No.	Description	Amount
1	Input tax claimed on inward supplies by composition dealer in Form GSTR 4.	Rs. 34,332/-
	Output tax on outward supplies short paid at 6% by composition dealer instead of 18%.	Rs.15,65,718/-
	Total	Rs.16,00,050/-

MODI HOUSING PVT. LTD.

12. Noticee submits that they have opted for composition levy under section 10(2A) of CGST Act,2017 for the period from 18-08-2019 to 31-03-2020.



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Goods and Services Tax

Government of India, States and Union Territories

Modi Housing Privat
36AADCM5906D2Z0

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English

File Returns

be filed through SMS.

* Indicates Mandatory Fields

Financial Year*: 2024-25

Quarter*: Quarter 1 (Apr - Jun)

Period*: June

SEARCH

FROM DATE	TO DATE	STATUS
18/08/2019	31/03/2020	Composition
01/04/2020	21/06/2024	Regular

*Last To-date in above table is current date

**Please Note:

The taxpayer is required to file GSTR3B and GSTR1 for the period in which registration status is **Regular**. For the period in which the registration status is **Composition** GSTR4 has to be filed.

"(2A) Notwithstanding anything to the contrary contained in this Act, but subject to the provisions of sub-sections (3) and (4) of section 9, a registered person, not eligible to opt to pay tax under sub-section (1) and sub-section (2), whose aggregate turnover in the preceding financial year did not exceed fifty lakh rupees, may opt to pay, in lieu of the tax payable by him under sub-section (1) of section 9, an amount of tax calculated at such rate as may be prescribed, but not exceeding ***three per cent of the turnover*** *in State or turnover in Union territory, if he is not—*

(a) Engaged in making any supply of goods or services which are not leviable to tax under this Act;

(b) Engaged in making any inter-State outward supplies of goods or services;

(c) Engaged in making any supply of services through an electronic commerce operator who is required to collect tax at source under section 52;

(d) A manufacturer of such goods or supplier of such services as may be notified by the Government on the recommendations of the Council; and

(e) A casual taxable person or a non-resident taxable person:"

13. According to provisions of Section 10(2A) of CGST Act,2019, noticee is liable to pay tax at the rate CGST – 3% & SGST - 3% on their outward supplies. In the current notice, demand is raised at tax rate of 18% on the outward supplies declared in the F.Y 2019-20. Such demand is in contravention of provisions of Section 10(2A) of CGST Act,2017 and such demand is bad in law.

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14. Sub-section 4 of Section 10 of CGST Act,2017 restricts composition dealer from claiming input tax credit on its inward supplies. Section 10(4) of CGST Act,2017 is given below.

*"Section 10(4): A taxable person to whom the provisions of sub-section (1) 55[or, as the case may be, sub-section (2A)] apply **shall not** collect any tax from the recipient on supplies made by him nor shall he **be entitled to any credit of input tax.**".*

15. Hence, noticee is barred from claiming ITC on their inputs. Moreover, there is no such facility/mechanism available on the common portal that allows composition dealer to claim credit on the common portal. In the current notice it is alleged that the noticee has claimed ITC on its inputs amounting to Rs.34,332/- (CGST-Rs.17,166/- & SGST – Rs.17,166/-) through GSTR-4. While GSTR-4 return under Rule 62 of CGST Rules,2017 is filed annually, wherein details of outward and inward supplies are furnished but such return does not facilitate claiming of ITC. Such allegation as to claiming ITC through GSTR – 4 is bad in law.

16. Hence, noticee is not liable for any demand raised under the current notice and it is requested to quash all the proceedings under the current notice.

17. The noticee reserves the right to add, to withdraw, to correct, to change, to delete, to modify any submissions at the time of Personal Hearing in the Principal of Natural Justice.

Modi Housing Private Limited

MODI HOUSING PVT. LTD.

Authorised Signatory