

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

1.GSTIN	36AABCM4761E1ZM	
2.Name	M/s. Modi Properties Private Limited	
3.Details of Show Cause Notice	ZD3605240418582	Date of issue: 22-05-2024
4.Financial Year	2019-2020	
5.Reply		
Given as Annexure A		
6.Documents uploaded		
I. Reply to Notice.		
7.Option for personal hearing	Yes- Required	No ☐

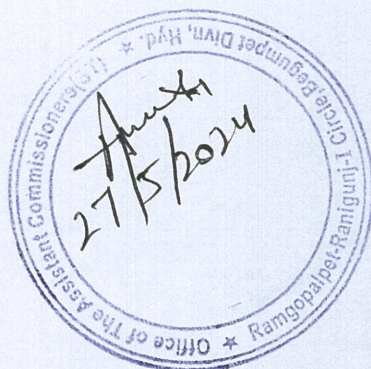
8.Verification –

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.

For MODI PROPERTIES PVT. LTD.

M/s. Modi Properties Private Limited

M. J. S.
Partner

Authorised Signatory

Reply to the Notice:

M/s. Modi Properties Private Limited (hereinafter referred as “noticee”) is engaged in provision of construction services and administrative services. They are registered with goods and services tax department vide GSTIN NO: 36AABCM4761E1ZM. Noticee herein makes the below submissions

Submissions

1. Noticee submits that they deny all the allegations made in Show Cause Notice (SCN) as they are not factually/legal 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.
3. Noticee submits that the Show cause Notice dated 22-05-2024 points out to difference in turnover as per audited financials and turnover as per GSTR 9 as reported in GSTR 9C Statement of the financial year 2019-20.

Financial Year 2019-20		Turnover
Turnover as per audited financials	A	11,19,15,259
Turnover as per GSTR 9	B	22,28,87,906
Difference	A-B	-11,09,72,647

4. In this regard, it is submitted that such Show cause Notice dated 22-05-2024 is void-ab-initio for the reason that such show cause notice issued under Sub-section 1 of section 73 of CGST Act, 2017 can only be issued in cases where taxes are not paid or short paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised. While in our case, taxes paid on turnover reported in GST returns is greater than the turnover as per financials, hence there is no short payment of taxes and the notice is bad in law and Void-ab-initio.

“Section 73 - Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason other than fraud or any wilful misstatement or suppression of facts .

- (1) 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”*



5. Nevertheless, Noticee submits that they are engaged in the business of real estate development. They follow percentage completion method as prescribed in accounting standard 7 for the purpose of Income Tax Act, 1961. While taxable values declared in GST returns is based on demand raised on customers. Such difference in reporting contributes to substantial difference in turnovers as per GST returns and turnovers as per financials. Further, noticee has executed Joint Development Agreement with the land owners wherein, the sales invoices raised on owners of the land does not form part of turnover of financials, further widening such difference in turnovers.
6. Detailed reasons for difference in turnover as per Table 5(R) of GSTR 9C is provided in Table (6) of GSTR 9C. The same is reproduced below.

Particulars	Amount
Instalment on which GST is paid but difference is revenue recognised in financials Vs. GST returns.	3,74,98,022
Value on which GST is paid for construction service rendered to land owner	7,34,74,614
	11,09,72,636

7. Since, there is no short payment of taxes to the revenue as alleged in the notice, it is requested that all such further proceedings under the current notice be dropped.
8. 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.

For M/s. M/s. Modi Properties Private Limited

M. J. D.



Authorised Signatory