

From

Date: 04-07-2024

JMK GEC Realtors Private Limited

5-2-223, Gokul Distilery Road,

Secunderabad, Rangareddy,

Hyderabad -500003

Telangana,

To

Superintendent

Ramgopalpet-II Range

Secunderabad Division,

Secunderabad Commissionerate,

Hyderabad CBIC,Zone

In the matter of -	JMK GEC Realtors Private Limited		
GSTIN –	36AACCJ3243P1ZA		
Reg:	Non-Compliance with E-Invoicing Mandate under Rule 48(4) of CGST Rules, 2017- DIN:20240656YO0000673370		
C.No:	294/2024	Notice dated:	24/06/2024

Dear Sir,

Reply to Notice.

1. JMK GEC Realtors Private Limited (hereinafter called as 'Noticee') is engaged in providing rental services. They are registered with goods and services tax department vide GSTIN NO: 36AACCJ3243P1ZA. Noticee herein makes the below submissions.
2. Noticee acknowledge receipt of the notice pointing out our obligation to issue e-invoices as per Rule 48(4) of the CGST Rules, 2017. The notice further points out that invoices issued by us in non-compliance will be deemed invalid under Rule 48(5) of the CGST Act, 2017, thereby making us liable to penalty as per the provisions of Section 122 of the CGST Act, 2017.

निरीक्षक
Inspector
केन्द्रीय कर (जी एस टी)
रेंज (CGST)
रामगोपालपेट-II रेंज
सिकंदराबाद
Secunderabad Division.
हैदराबाद/Hyderabad

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3. It is our contention that, the threshold aggregate turnover to generate E-invoices as mandated under Sub-Section 4 of Section 48 of CGST Act, 2017 read with Notification No.13/2020-Central Tax dated 21st March 2020 was never attained by the noticee. Hence, noticee is not liable to generate E-invoices.
4. Break up of total turnover of F. Y 2021 -22 as reported in GSTR 9 annual return is provided hereunder in Table 1. Such GSTR 9 is attached as **Annexure 1**.

Table 1

Amount in Rupees.

Table of GSTR 9	Nature of Supplies	Taxable Value	CGST	SGST	IGST
4B	Supplies made to registered person (B2B)	93,40,740	8,40,666	8,40,666	0
5D	Exempted	14,64,926			
5F	Non-GST supply (includes 'no supply')	9,22,00,000			
Total		10,30,05,666			

5. To be liable of mandatory generation of E-invoice as per sub-section 4 of Section 48 of CGST Act, 2017 read with Notification No.13/2020-Central Tax dated 21st March 2020 (**Annexure 2**) and Notification No.17/2022 - Central Tax dated 21st August 2022 (**Annexure 3**), noticees' **aggregate turnover** for any preceding financial year from 2017-18 onwards must exceed ten crore rupees. In our case, aggregate turnover, which is exclusive of non-GST supplies, never crossed the threshold limit as prescribed under the Act. Extracts of Notification 13/2020-Central Tax and Notification 17/2022- Central Tax are provided hereunder.

“Notification 13/2020-Central Tax

*Registered person, other than a government department, a local authority, a Special Economic Zone unit and those referred to in sub-rules (2), (3), (4) and (4A) of rule 54 of the said rules, whose **aggregate turnover** in any preceding financial year from 2017-18 onwards exceeds five crore rupees , as a class of registered person who shall prepare invoice and other prescribed documents, in terms of sub-rule (4) of rule 48 of the said rules in respect of supply of goods or services or both to a registered person or for Exports.”*



“Notification 17/2022-Central Tax

In the said notification, in the first paragraph, with effect from the 1st day of October, 2022, for the words "twenty crore rupees", the words **"ten crore rupees"** shall be substituted.”

6. According to definition of Aggregate turnover as provided in Section 2(6) of CGST Act,2017, Aggregate turnover includes all taxable supplies, exempt supplies, exports and interstate supplies of persons having same PAN, computed on all India basis and **does not include non-taxable supplies.**

“Section 2(6) of CGST Act,2017 - "aggregate turnover" means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis), exempt supplies, exports of goods or services or both and inter-State supplies of persons having the same Permanent Account Number, to be computed on all India basis but excludes central tax, State tax, Union territory tax, integrated tax and cess;”

7. Section 2(78) of CGST Act,2017 provides the definition of non-taxable supply, as supplies on which tax is not leviable. Further, such supplies on which taxes are not leviable are defined under sub-section 2 of Section 7 of CGST Act,2017 read with Schedule III of CGST Act,2017. Extracts of such referred provision of CGST Act,2017 are provided hereunder.

“Section 2(78) of CGST Act,2017 – “non-taxable supply ” means a supply of goods or services or both which is not leviable to tax under this Act or under the Integrated Goods and Services Tax Act;”

“Section 7(2) of CGST Act,2017 - Notwithstanding anything contained in sub-section (1), —

(a) activities or transactions specified in Schedule III; or

(b) such activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council,

shall be treated neither as a supply of goods nor a supply of services.”



8. In consideration of submissions made above, The Non-GST supply amounting to Rs. 9,22,00,000/-, reported in Table 5F of GSTR 9 Annual return of F.Y.2021-22 pertains to sale of immovable property. Such sale of immovable property is non-taxable supply in terms of entry 5 of schedule III (*Activities or transactions which shall be treated neither as a supply of goods nor a supply of services - Entry 5. Sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.*) and does not form part of aggregate turnover of F.Y.2021-22. Aggregate turnover of the noticee for F.Y 2021-22 is Rs.1,08,05,666/-, and such turnover is well within the threshold limit of 10 crores. Hence, noticee is not liable to raise E-Invoices as mandated under Section 48(4) of CGST Act,2017. To Substantiate, GSTR 9C and Financials are attached as **Annexure 4 & 5.**
9. Nevertheless, noticee has raised E-invoices on the supplies made to registered person post 01-10-2022. Details of such invoices are provided in **Annexure 6** and Such E-invoices are attached as **Annexure 7.**
10. It is further submitted this letter issued pointing out Non-Compliance with E-Invoicing Mandate under Rule 48(4) of CGST Rules, 2017 is invalid and should be deemed to have been never issued due to discrepancy in generation and quoting of Document identification number (DIN) as mandated vide Circular No.122/41/2019-GST, dated 5-11-2019 to assure genuineness. An extract of such circular is provided below and Circular is attached as **Annexure 8.**

*"2. The Board in exercise of its power under section 168(1) of the CGST Act, 2017/ Section 37B of the Central Excise Act, 1944 directs that **no** search authorization, summons, arrest memo, inspection notices and letters issued in the course of any enquiry shall be issued by any officer under the Board to a taxpayer or any other person, on or after the 8th day of November, 2019 without a computer-generated Document Identification Number (DIN) being duly quoted prominently in the body of such communication. The digital platform for generation of DIN is hosted on the Directorate of Data Management (DDM)'s online portal "cbicddm.gov.in"*

A handwritten signature in black ink is written over a circular purple stamp. The stamp contains the text "DIRECTOR OF DATA MANAGEMENT" around the perimeter and "CBIC, MUMBAI" in the center.

“10. The electronic generation of DIN and its use in official communications to taxpayers and other concerned persons is a transformative initiative. Principal Chief Commissioners/Principal Director Generals/Chief Commissioners/Director Generals must become fully familiar with the process involved. They are also urged to ensure that adequate and proper training is provided to all concerned officers under their charge to ensure its successful implementation. It is reiterated that any specified document that is issued without the electronically generated DIN shall be treated as invalid and shall be deemed to have never been issued. Therefore, it is incumbent upon all officers concerned to strictly adhere to these instructions.”

11. In this regard, noticee submits that though such DIN-20240656YO0000673370 is quoted in the notice, it is also found that the same DIN is quoted in few other associated entities' notices of the noticee while, Circular No.122/41/2019-GST mandates generation of separate and unique DIN to every notice. Such reuse of the same number for multiple entities raises concerns about the genuineness and authenticity of these documents. Hence, the current notice is invalid and void-ab-initio according to Circular No.122/41/2019-GST dated 05-11-2019. Notices issued to associate entities are attached as **Annexure 9**.
12. It is requested to drop all further proceedings in this regard.
13. 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 JMK GEC Realtors Private Limited


Authorised Signatory