Proceedings of Assistant Commissioner (State Taxes)

Ramgopalpet-Ranigunj-II Circle

BEGUMPET DIVISION

PRESENT: Sri M. UPENDER

(u/s 73 of the TGST & CGST Acts, 2017)

DIN	GST/36AERPK6958C1Z2/19
Office details Designation of the assessing officer Unit Division	 ASSISTANT COMMISSIONER (ST) RAMGOPALPET-RANIGUNJ BEGUMPET
Details of the Tax payer Name Legal Name GSTIN	 Rajesh Kumar Jayanthilal Kadakia RAJESH KUMAR JAYANTILAL KADAKIA 36AERPK6958C1Z2
Financial Year	2018-19

Ref: 1. This office Show Cause notice vide ARN: AD360522016290K dated: 30/05/2022
2. This office Reminders dated: 21/12/2022, 19/05/2023 and 14/06/2023.

You have filed annual return in GSTR-09 for the financial year 2018-19.

On examination of the information furnished in this return under various heads and also the information furnished in TRAN-1, GSTR-01, GSTR-2A, GSTR-3B, EWB and other records available in this office it is found that you have not declared your correct tax liability while filing the annual returns of GSTR-09. The summary of under declared tax is as follows:

SGST Rs. **63514.31**
CGST Rs. **63514.31**
Total Rs. **127028.62**

The details of the above tax liability are as follows:

1. Net tax liability under declared on account of non-reconciliation of information declared in GSTR-09:

A. The tax on outward supplies under declared on reconciliation of data in GSTR-09:

It is observed that the tax payer has not correctly declared tax on his outward supplies on reconciliation of turnovers in GSTR-09. Resulting in a tax payable to a tune of **Rs. 48066.02**

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	2635487.01	2635487.01	5270974.02

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	Add pending demands	15G	0.00	0.00	0.00
6	Total output tax liability as per the above in GSTR-09		2635487.01	2635487.01	5270974.02
7	Less Total tax paid in cash	9	2573479.00	2573479.00	5146958.00
8	Less Tax paid by adjustment of ITC	9	37975.00	37975.00	75950.00
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	Under declared tax in GSTR-09		24033.01	24033.01	48066.02

B. The excess input tax credit (ITC) claimed on account of non-reconciliation of information declared in GSTR-09:

Under Sec 16(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 tax payer has not correctly availed input tax on his inward supplies on reconciliation of turnovers in GSTR-09. Resulting in tax payable to a tune of Rs. 1716.16

S.No	Issue	Table No. in GSTR-09	SGST	CGST	Total
1	2	3	4	5	6
1	Excess claim of ITC declared in GSTR-09	8D	858.08	858.08	1716.16

B. Net tax payable on account of reconciliation in GSTR-09 = Total of A + Total of B = **49782.18**

2. Excess claim of ITC:

- **ITC to be reversed on non-business transactions & exempt supplies**

Under Sec 17(1) & (2) where the goods or services or both are used by the registered person partly for the purpose of business, partly for other purposes or partly used for effecting exempt supply and partly for taxable supply then the amount of credit shall be restricted to so much of the input tax as is attributable to the taxable supplies in the course of business. Therefore the taxable person needs to make an apportionment of available input tax credit under Rule 42 & 43 to arrive at the eligible ITC.

However as seen from the GSTR-09 return filed it is evident that you have not made such apportionment resulting in excess claim of ITC than you are eligible. The details of the working are as under:

S. No	Issue	Table no. in GSTR-09	Value of outward supply	SGST	CGST	Total
1	2	3	4	5	6	7

1	Total supplies	5N+10-11	32901064.00	-	-	-
2	Exempt supplies	5C + 5D + 5E +5For{Sum of 3.1 (c) +3. 1(e)ofGSTR 3B of all monthsinFY }whicheve r is higher.	3617875.000	-	-	-
3	Proportion of common ITC which has to be reversed to the extent of exempt supply (2/1 above)		0.109962	-	-	-
4	Common input tax credit	6O+13	-	37976.36	37976.36	75952.72
5	ITC to be reversed	{S.No.4 (x) S. No.2}/S.No.1	-	4175.96	4175.96	8351.92
6	ITC reversed as per GSTR-09	{7C+7D+7F+ 7G}or{Sum of 4B(1) of GSTR3Bofall months in FY }whicheve r is higher.	-	0.000	0.000	0.000
7	Difference/Excess ITC claimed	S.No.5 (-) S. No.6	-	4175.96	4175.96	8351.92

Therefore the excess ITC claimed is proposed to be recovered.

- **Under declaration of Ineligible ITC:**

Under Sec 17(5) of the SGST Act, 2017 input tax credit shall not be available in respect of the list of commodities & services mentioned therein subject to certain conditions.

It is seen from GSTR-09 and other information that they have claimed ITC on these commodities and therefore the ITC claimed on these commodities or services is proposed to be recovered.

S.No	Commodity/Service	HSN code	Table no. in GSTR-09	SGST	CGST	Total
1	2	3	4	5	6	7
1	Works contractors	9954;		34447.26	34447.26	68894.52
A	Total ineligible ITC u/s 17(5)	-		34447.26	34447.26	68894.52
B	Ineligible ITC declared	-	7E or {Sum of 4D(1) of GSTR 3B of allmonthsin FY } which ever is higher	0.00	0.00	0.00
C	Difference/excess ITC claimed	-		34447.26	34447.26	68894.52

Summary :

The total tax payable on account of these deficiencies after giving credit to the payments made in cash and ITC adjusted is arrived as follows:

S.No	Issue	SGST	CGST	Total
1	2	3	4	5
1	Total tax due in (1) + (2) above	63514.31	63514.31	127028.62

Accordingly, a show cause notice issued to the Tax payer and issued (3) reminders along with personal hearing mentioned in the references cited. The Tax payer was given ample time but they have failed to furnish the details/ written objection called for even after several telephonic reminders for the reasons best known to them. Hence it is construed that they have no valid books of accounts maintained, as such there is no other alternative. Therefore in view of the limitation prescribed for assessment as per section 73(10) of SGST Act 2017 to complete their assessment to the best of judgment for the amount proposed in the show cause notice hereby confirmed as mentioned below:

S.No	Issue	SGST	CGST	Total
1	2	3	4	5
1	Total tax due in (1) + (2) above	63514.31	63514.31	127028.62

Since the taxpayer has not paid the amounts within (30) days of issue of the show cause, they are liable to pay penalty under Sec.122 of the CGST/SGST Act as applicable of CGST Rs. **10000.00** and SGST Rs. **10000.00**.

Note: An appeal against this order lies before the Appellate Joint Commissioner (ST), Punjagutta Division Hyderabad within (90) days from the date of receipt of this order.

Sd/-
Assistant Commissioner (ST)
Ramgopalpet-Ranigunj-II Circle