



**GOVERNMENT OF TELANGANA
COMMERCIAL TAXES DEPARTMENT**

O/o Assistant Commissioner (ST),
Ramgopalpet-Ranigunj-1 circle
Begumpet division,
3rd Floor, Pavani Prestige complex,
Ameerpet, Hyderabad
Date: 19-08-2024

Sub: CGST/SGST Act –M/s. **MODI PROPERTIES PRIVATE LIMITED**- Certain discrepancies noticed – GST DRC-01 issued FY 2019-20 - Records furnished verified - Conclusion proceeding issued -Reg.

Ref : SCN in GST DRC-01 ARN No: **AD360524012452G** , Dt.23-05-2024

M/S MODI PROPERTIES PRIVATE LIMITED, GSTIN: 36AABCM4761E1ZM is a Registered Tax Payer on the Rolls of Assistant Commissioner(ST),Ramgopalpet-Ranigunj-1 Circle,
Begumpet Division.

A Show Cause notice was issued to the assessee vide ARN No. **AD360524012452G** Dt. 23-05-2024 through DRC-01 to pay the proposed tax payable as indicated under Section 73 of the SGST/CGST Act. The registered tax payer was requested to pay the tax along with interest and penalty in DRC-03 with an option to file written objections if any to the proposals made in DRC-01 within (15) days of receipt of the said notice. The objections so filed and taxes paid will be considered before passing the final assessment orders. The assessee submitted their reply on 02-08-2024. The contentions filed by the dealer are discussed as under:

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"

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

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.

Hence they made a Plea to drop the above demands proposed in the Show Cause Notice.

Observations and conclusion of the assessing authority:

The contention put forth by the Tax Payer has been verified with GSTR 09, 9C, Profit and Loss and balance sheet and found to be in order. Hence the proposed tax is hereby dropped.

Assistant Commissioner (ST),
Ramgopalpet-Ranigunj-I Circle