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/36AERPK6958C1Z2/20/1
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	2019-20

Ref:
1. These offices Show Cause notice vide ARN: AD3605240327138 dated: 31/05/2024.
2. This office Reminders dated: 20/07/2024, 31/07/2024 and 06/08/2024.
3. Tax Payers reply dated: 24/08/2024.

You have filed annual return in GSTR-09 for the financial year 2019-20.

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

SGST Rs.**79306.00**
CGST Rs..**79306.00**
IGST Rs.**0.00**
CESS Rs.**0.00**
Total Rs.**158612.00**

The details of the above tax liability are as follows:

1.Under declaration of output tax:

- **Reconciliation of GSTR-01 with GSTR-09:**

The outward supplies turnover declared in GSTR-01 is greater than net outward supplies information furnished in GSTR-09 and arrived at box (5N+10-11) above.

This amount is therefore proposed to be taxed as under declared outward supplies as follows:

S. No	Issue	SGST	CGST	IGST	CESS	Total
1	2	3	4	5	6	7
1	Tax on Outward supplies declared inGSTR-01fortheFY	2813427.00	2813427.00	0.00	0.00	5626854.00
2	Less tax on Outward supplies arrived inGSTR-09(5N+10-11)	2777203.00	2777203.00	0.00	0.00	5554406.00
3	Difference (1-2)	36224.00	36224.00	0.00	0.00	72448.00

Response of the taxpayer:

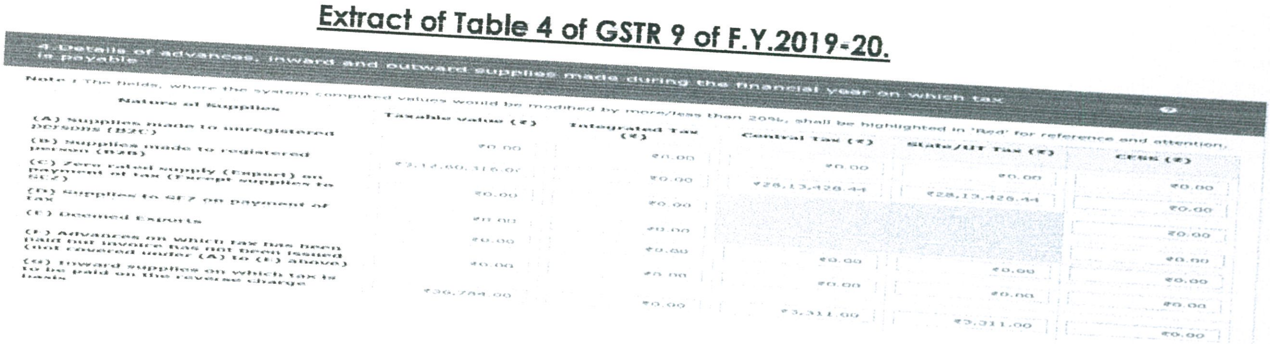
1. Notice in this regard, submits that, the GSTR 1 tax liability arrived in the notice is exclusive of credit notes; hence such exclusion is resulting in difference in tax liability reported in GSTR 9 and liability declared in GSTR 1 returns. Computation of actual tax liability is provided in the Table 1 given below.

Table 1Amount in Rupees.

Particulars	IGST	CGST	SGST
GSTR 1 values adopted in Notice	0	28,13,427	28,13,427
Credit notes	0	36,225	36,225
Net liability as per GSTR 1	0	27,77,202	27,77,202
Reported in GSTR 9	0	27,77,203	27,77,203
Difference	0	1	1

2. On examination of table 1 provided above, it can be clearly established that there in consideration of such credit notes, there is no such difference in CGST and SGST tax liability reported in GSTR 1 in comparison with GSTR 9. Further, an extract of Table 4 of GSTR 9 for the F.Y.2019-20 is provided below, showing such credit notes were duly reported in GSTR 9 annual return.

Extract of Table 4 of GSTR 9 of F.Y.2019-20.


4. Details of advances, inward and outward supplies made during the financial year on which tax is payable

Note : The fields, where the system computed values would be modified by more/less than 20%, shall be highlighted in 'Red' for reference and attention.

Nature of Supplies	Taxable value (₹)	Integrated Tax (₹)	Central Tax (₹)	State/UT Tax (₹)	CESS (₹)
(A) Supplies made to unregistered persons (B2C)	₹0.00	₹0.00	₹0.00	₹0.00	₹0.00
(B) Supplies made to registered person (B2B)	₹3,12,60,316.00	₹0.00	₹28,13,428.44	₹28,13,428.44	₹0.00
(C) Zero rated supply (Export) on payment of tax (Except supplies to SEZ)	₹0.00	₹0.00			₹0.00
(D) Supplies to SEZ on payment of tax	₹0.00	₹0.00			₹0.00
(E) Deemed Exports	₹0.00	₹0.00	₹0.00	₹0.00	₹0.00
(F) Advances on which tax has been paid but invoice has not been issued (not covered under (A) to (E) above)	₹0.00	₹0.00	₹0.00	₹0.00	₹0.00
(G) Inward supplies on which tax is to be paid on the reverse charge basis	₹36,784.00	₹0.00	₹3,311.00	₹3,311.00	₹0.00

6	ITC carried forward from present FY to subsequent FY,Table 8C of GSTR-09	0.00	0.00	0.00	0.00	0.00
7	Reversals in Table 4B of GSTR-3B	0.00	0.00	0.00	0.00	0.00
8	ITC Available for use in the same year (S.No1+2+3 +4+5-6-7)	48794.00	48794.00	0.00	0.00	97588.00
9	ITC used in same year as per 4C of GSTR-3B	50567.00	50567.00	0.00	0.00	101134.00
10	Net excess used (S.No 9-8)	1773.00	1773.00	0.00	0.00	3546.00

Response of the taxpayer:

4. In this regard, it is submitted that noticee has claimed credit pertaining to F.Y.2018-19 in F.Y.2019-20 details of such purchase on which ITC has been claimed in F.Y.2019-20 is provided in table 2 below.

Table 1Amount in rupees.

Invoice Date	Invoice No.	Party	Taxable Value	CGST	SGST
31-mar-19	MCS52/18-19	Modi Consultancy Services	30,685	2,761	2,761

5. In support of such submission, Tax liability and input comparison report downloaded from the common portal is provided hereunder.

Tax liability and Input comparison report

Tax Period	ITC claimed in GSTR-3B during the month [as per table 4A(4)+4A(5)-4B(1)-4B(2)] *		ITC auto-drafted in GSTR-2A during the month [as per PART-A, PART-B](Excluding RCM supplies)		Shortfall (-) /Excess (+) in ITC (GSTR-3B - GSTR-2A)	
	CGST	SGST	CGST	SGST	CGST	SGST
Apr-19	2,206	2,206	2,206	2,206	-	-
May-19	2,206	2,206	2,206	2,206	-	-
Jun-19	4,052	4,052	4,052	4,052	-	-
Jul-19	7,861	7,861	5,099	5,099	2,762	2,762
Aug-19	2,969	2,969	2,294	2,294	675	675
Sep-19	2,409	2,409	4,434	4,434	-2,025	-2,025
Oct-19	3,759	3,759	2,409	2,409	1,350	1,350
Nov-19	9,827	9,827	9,827	9,827	-	-
Dec-19	3,984	3,984	4,558	4,558	-574	-574
Jan-20	2,983	2,983	2,564	2,564	419	419
Feb-20	2,564	2,564	2,409	2,409	156	156
Mar-20	2,436	2,436	3,425	3,425	-989	-989
Total	**47,256**	**47,256**	**45,483**	**45,483**	**1,773**	**1,773**

(H) Sub total (A to G above)	₹3,12,97,100.00	₹0.00	₹28,16,739.44	₹28,16,739.44	₹0.00
(I) Credit notes issued in respect of transactions specified in (B) to (F) above (-)	₹4,02,500.00	₹0.00	₹36,225.00	₹36,225.00	₹0.00
(J) Debit notes issued in respect of transactions specified in (B) to (F) above (+)	₹0.00	₹0.00	₹0.00	₹0.00	₹0.00
(K) Supplies/tax declared through Amendments (+)	₹0.00	₹0.00	₹0.00	₹0.00	₹0.00
(L) Supplies/tax reduced through	₹0.00	₹0.00	₹0.00	₹0.00	₹0.00
(M) Sub total (I to L above)	₹4,02,500.00	₹0.00	-₹36,225.00	-₹36,225.00	₹0.00
(N) Supplies and advances on which tax is to be paid (H + M) above	₹3,08,94,600.00	₹0.00	₹27,80,514.44	₹27,80,514.44	₹0.00

BACK TO GSTR 9 DASHBOARD

3. Hence, notice has discharged all the liability as pointed out in this para and it is therefore requested to drop all further proceedings under this para.

Observations and conclusion of the assessing authority:

The Reply filed by the Tax Payer has been verified with reference to the GSTR01 & GSTR3B of FY2019-2020 and found in Order. Hence the proposed tax in the Show cause notice is hereby dropped.

2. Excess claim of ITC:

The excess input tax credit (ITC) claimed on account of non-reconciliation of information.

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 taxpayer has not correctly availed input tax on his inward supplies on reconciliation of turnovers in GSTR-09.

- **Scrutiny of ITC availed:**

S.No	Description	SGST	CGST	IGST	CESS	Total
1	2	3	4	5	6	7
1	ITC in the year as per Table 8A of GSTR-09	45483.00	45483.00	0.00	0.00	90966.00
2	ITC from ISD table 4A (4)	0.00	0.00	0.00	0.00	0.00
3	ITC from imports table 4A (1) +4A (2)	0.00	0.00	0.00	0.00	0.00
4	Inward Supplies liability to reverse charge 4A(3) (otherthan 4A(1) & 4A(2))	3311.00	3311.00	0.00	0.00	6622.00
5	ITC brought forward from previous FYto currentFY,Table 8C of previous FY GSTR-09	0.00	0.00	0.00	0.00	0.00

6. On examination of extract of tax liability and input comparison report provided above, it is clear that excess credit pertaining to invoice no. MCS52/18-19 dated 31-mar-19 is claimed in GSTR 3B return of June 2019, hence resulting in difference between ITC claimed in GSTR 3B return and ITC available for utilization as arrived in GSTR 9.It is requested to drop all further proceedings in this regards.

Observations and conclusion of the assessing authority:

The taxpayer filed the reply for excess claim of ITC SGST: 1773.00 CGST: 1773.00 and stated that they have claimed the short claimed ITC of FY 2018-2019 in FY 2019-2020 and the same has been verified with reference to the table 8D of GSTR-09 of FY 2018-2019 and found in order, hence agreed with taxpayer and the proposed tax is hereby withdrawn.

- **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/SAC code	SGST	CGST	IGST	CESS	Total
1	2	3	4	5	6	7	8
1	Works contractors	9954	41309.00	41309.00	0.00	0.00	82618.00

S.No	Issue	Table no. inGSTR-09	SGST	CGST	IGST	CESS	Total
1	2	3	4	5	6	7	8
A	Total ineligible ITC u/s 17(5)		41309.00	41309.00	0.00	0.00	82618.00
B	Ineligible ITC declared	7E or {Sum of 4D (1) of GSTR 3B ofall months in FY}whichever ishigher	0.00	0.00	0.00	0.00	0.00
C	Difference/excess ITC claimed	"If (SL.No A – SI.NO B >0) then Lower of {SL.No A – SI.NO B} or {(Sum of 4Cof GSTR 3B of allmonths in currentFY)	41309.00	41309.00	0.00	0.00	82618.00

		– {13-12 of Previous FY GSTR-09} + {13-12 of current FY GSTR-09}}"					

Response of the taxpayer:

7. In this regard, it is submitted that such credits alleged as works contracts pertains to business administration services availed and credit claimed against such purchase does not fall under the ambit of Section 17(5) of CGST Act, 2017. In support of such submission a sample invoice is attached as **Annexure 1.**
8. Noticee has discharged all his liability as pointed out under this notice. It is therefore requested to all further proceedings in this regard.
9. 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.

Observations and conclusion of the assessing authority:

The taxpayer filed reply and stated that ITC SGST: 41309.00 CGST: 41309.00 claimed on goods under the exception to 17(5) as the taxpayer is in the business of supply of same goods and produced the documentary evidence, hence agreed with taxpayer and the proposed tax is hereby withdrawn.

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	IGST	Total
1	2	3	4	5	6
1	Total tax due in (1) + (2) + (3) above	0	0	0	0

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 SGST Rs.**0.00** and CGST Rs. **0.00**andIGST **Rs.0.00**.

This order is issued only to the extent of the discrepancies identified prima facie in the returns as mentioned in the Show cause notice mentioned above.

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.