

GOVERNMENT OF TELANGANA
COMMERCIAL TAXES DEPARTMENT

Proceedings of the
STATE TAX OFFICER-II,
M.G.ROAD-S.D.ROAD CIRCLE, BEGUMPET DIVISION.
(Present : Venkateshwar Rao Sheri)

GSTIN: 36AADCM5906D2ZO

Date: 24-08-2024

SUMMARY OF ORDER PROCEEDINGS
for the Financial Year 2019-20 under GST Act, 2017
[See Rule 142 (1) and Section 73]

SUB: Goods and Services Tax Act, 2017 (for brevity 'GST Act, 2017') – M.G. Road - S.D. Road Circle - Begumpet Division, Hyderabad –M/s. MODI HOUSING PRIVATE LIMITED (for brevity 'taxpayer') – Conduct of general audit for the financial year 2019-20 under GST Act – Notice issued in ADT-01 - Records produced - Examination/scrutiny made of the same – Certain discrepancies / deficiencies/ anomalies noticed - Proposed to assess under Section 73 of CGST Act, 2017 - Show Cause Notice issued in DRC 01 – Reply Filed – Orders Passed – Regarding.

- REF: 1. Commissioner (ST), Telangana, Hyderabad Audit Authorization in GST Portal on dt. 08-05-2024
2. Joint Commissioner (ST), Begumpet Division, Hyderabad Audit Authorization in Ref No. BGPT-DIVN/STO-II/25/MGSD/2024-25 dt. 30-05-2024.
3. STO-II, M.G. Road - S.D. Road Circle notice issued in GST Form DRC-01 vide Ref No. ZD360524064290J, Dated. 30-05-2024.
4. M/s. MODI HOUSING PRIVATE LIMITED, Reply filed in DRC-06, ARN : ZD360824078987G, dated 21-08-2024.

M/s. MODI HOUSING PRIVATE LIMITED, located at 2nd Floor, 5-4-187/ 3 and 4, Soham Mansion, M G Road, Secunderabad, 500003 are a registered taxpayer under the provisions of GST Act, 2017 with GSTIN 36AADCM5906D2ZO and assessee on the rolls of the state jurisdictional tax office i.e., the Assistant Commissioner (ST), M.G.Road-S.D.Road Circle of Begumpet Division, Hyderabad. They are carrying on business in "trading of Goods as per the Portal" is that, (HSN 995411) Construction services of single dwelling or multi dwelling or multi-storied residential buildings, (995413) Construction services of industrial buildings such as buildings used for production activities (used for assembly line activities), workshops, storage buildings and other similar industrial buildings, (997212) Rental or leasing services involving own or leased non-residential property

In consequent to the GST General Audit authorized as required under the provisions of Section 65, read with Rule 101 of CGST Act and Rules, 2017 in respect of the above-mentioned taxpayer for the financial year 2019-20, the audit of the taxpayer is accordingly undertaken.

In the course of and as a part of processing the Audit undertaken in due process of law, the taxpayer vide reference 1st cited, has been issued 'Notice for conducting Audit' via prescribed "Form GST ADT-01" dated 09-05-2024 as required under the provisions of Rule 101 and Sec.65 of CGST Act, 2017 duly intimating / notifying the authorized Audit of their books of accounts and records and with a direction to attend in person or through an authorized representative on dated. 24-05-2024 before the undersigned at aforementioned address with the relevant books of accounts and records and in the light of Section 65 of CGST Act, 2017 they are asked to render their assistance for timely completion of the Audit for the financial year 2019-20 as required for Audit.

The Notice was served as prescribed under the provisions of Section 169 of CGST Act, 2017 i.e., by way of communicating to the e-Mail address of the taxpayer so given at the time of GST registration or as amended from time to time.

The taxpayer having received the ADT-01 failed to produce the records called for till this date. On due examination of the material available in the GST Common Portal, their tax liabilities and other discharged liabilities are hereby proposed to assess with the following results:-

1) Input Tax on Inward Supplies :-

The Tax Payer claimed Input Tax Credit in GSTR4 return filed by them for the year 2019-20 as under:

CGST	Rs. 17,166.00
SGST	Rs. 17,166.00
Total Input Tax	Rs. 34,332.00

The taxpayer has failed to produce the relevant records (so maintained under Rule 56) and failed to fulfill the documentary requirements and conditions as laid down under Sections 16 and 155 of CGST Act, 2017, read with Rule 36 of CGST Rules, 2017. Since, the taxpayer failed to prove the eligibility and genuineness and legality of their claim of Input Tax Credit by producing the required documentary evidence, it is hereby proposed to reject their claim of Input Tax Credit of Rs. 34,332/-.

While bringing forward to the notice of the taxpayer about the above excess claimed ITC amounting to Rs. 34,332/- (i.e. Rs. 17,166/- towards IGST, Rs. 17,166/- towards CGST and Rs 10,38,606/- towards SGST respectively), the taxpayer is hereby directed to pay the same by generating Form GST DRC-03 or if having any objections, as to file their reply.

2) Output Tax on Outward Supplies :-

The Tax Payer reported Output Tax in GSTR 4 / GST CMP 08 Returns filed by them for the year 2019-20 as under:

CGST	Rs. 30,304.60
SGST	Rs. 30,304.60

As seen from the Statement 6 of the GSTR 4 return filed by the Tax Payer it is noticed that they have disclosed Outward Value as Rs. 90,35,160.00, and they have disclose the Outward tax as Rs. 30,304.80 under CGST Act and Rs. 30,304.80 under SGST Act, it seems not in proper, hence the said Outward Value of Rs. 90,35,160.00 is proposed to Tax @ 9% under CGST Act and @ 9% under SGST Act and arrived shortly reported Output Tax as under.

Particulars	Turnover	CGST Proposed @ 9%	SGST Proposed @ 9%	Total Output Tax Proposed
Output Value disclosed in Statement 6 of the GSTR 4 return filed	9035160	813164	813164	1626328
Less: Output Tax Reported		30305	30305	60610
Shortly Reported Output Tax Proposed		782859	782859	1565718

While bringing forward to the notice of the taxpayer about the above Shortly reported Output Tax amounting to Rs. 15,65,718/- (i.e., Rs.7,82,859/- towards CGST and Rs.7,82,859/- towards SGST respectively), the taxpayer is hereby directed to pay the same by generating Form GST DRC-03 or if having any objections, as to file their reply.

Therefore, it is proposed to assess for year April 2019 to March 2020 for the net tax proposed to be payable indicated under Section 73 of the SGST/CGST Act as under:

S. No.	Particulars	CGST Tax	SGST Tax	Total Tax
1	Proposed to Disallow claim of Input Tax for not furnishing the details	17166	17166	34332
2	Shortly Reported Output Tax proposed for the discrepancies noticed in GSTR 04	782859	782859	1565718
Total Tax Due to the Department		800025	800025	1600050

Accordingly a notice in DRC-01 has been issued vide Reference No. ZD360524064290J, Dated. 30-05-2024, and requested to file their objections.

In receipt of the notice the Tax Payer filed their reply in DRC 06 vide ARN: ZD360824078987G, dated 21-08-2024 and the same is considered as under:

1. Proposed to Disallow claim of Input Tax for not furnishing the details :

Reply of the Tax Payer:

Sub-section 4 of Section 10 of CGST Act,2017 restricts composition dealer from claiming input tax credit on its inward supplies. Section 10(4) of CGST Act,2017 is given below.

*"Section 10(4): A taxable person to whom the provisions of sub-section (1) or, as the case may be, sub- section (2A)] apply **shall not** collect any tax from the recipient on supplies made by him nor shall he **be entitled to any credit of input tax.**"*

Hence, noticee is barred from claiming ITC on their inputs. Moreover, there is no such facility/mechanism available on the common portal that allows composition dealer to claim credit on the common portal. In the current notice it is alleged that the noticee has claimed ITC on its inputs amounting to Rs.34,332/- (CGST- Rs.17,166/- & SGST – Rs.17,166/-) through GSTR-4. While GSTR-4 return under Rule 62 of CGST Rules,2017 is filed annually, wherein details of outward and inward supplies are furnished but such return does not facilitate claiming of ITC. Such allegation as to claiming ITC through GSTR – 4 is bad in law.

Observations and conclusion of the assessing authority

Claim of the Tax Payer has been verified and noticed that, even though they are having Input Tax on their Inputs they have not availed the same in the GSTR-4 returns filed by them, hence the **Tax of Rs.34,332/- (CGST- Rs.17,166/- & SGST – Rs.17,166/-) proposed in the notice is hereby Dropped.**

2. Shortly Reported Output Tax proposed for the discrepancies noticed in GSTR 04:

Reply of the Tax Payer:

According to provisions of Section 10(2A) of CGST Act,2019, noticee is liable to pay tax at the rate CGST - 3% & SGST - 3% on their outward supplies. In the current notice, demand is raised at tax rate of 18% on the outward supplies declared in the F.Y 2019-20. Such demand is in contravention of provisions of Section 10(2A) of CGST Act,2017 and such demand is bad in law.

Further, It is submitted that noticee has inadvertently committed a clerical mistake while reporting consolidated turnover in table 6 of GSTR 4 Annual return. Turnover of Rs.90,35,000/- was inadvertently reported in table 6 instead of Rs.10,10,160/-. Noticee herewith submit the financials of F.Y.2019-20 in support of such submission, as **Annexure I** and an extract of P&L is provided below for your ready reference.

On examination of financials of F.Y.2019-20, it can be clearly established that the actual turnover of the noticee for the financial year is Rs.10,29,660/-, out of which rental income from residential property amounting to Rs.19,500/- is not reported in GST returns since it is an exempt supply vide entry 12 of Notification No. 12/2017- Central Tax (Rate) dated 28-06-2017. Break up of income from operations is provided in the Table given below.

Particulars	Turnover	CGST @3%	SGST @3%	Total Tax liability
Turnover reported in GST returns:				
income from Hoarding Rental Services	10,10,160	30,305	30,305	60,610
Exempt Supply: Income from renting of residential dwelling for use as residence	19,500	-	-	-
Turnover reported in Financials	10,29,660	-	-	-

Observations and conclusion of the assessing authority

Claim of the Tax Payer has been verified with records produced and found in order, hence the **Tax of Rs. 15,65,718/- (CGST of Rs. Rs.7,82,859/- and SGST of Rs.7,82,859/-) proposed in the notice is hereby Dropped.**

Thus, the Tax, Penalty, Interest proposed vide ARN: AD3605240019553 in DRC-01 Reference No. ZD360524064290J, Dated. 30-05-2024 is here by DROPPED.



STATE TAX OFFICER-II,
M.G.ROAD-S.D.ROAD CIRCLE.

To,
M/s. MODI HOUSING PRIVATE LIMITED,
2nd Floor, 5-4-187/ 3 and 4, Soham Mansion,
M G Road, Secunderabad, 500003

State Tax Officer-II
M.G. Road-S.D. Road Circle,
Begumpet Division, Hyderabad