केन्द्रीय माल एवं सेवा कर अधीक्षक का कार्यालय
OFFICE OF THE SUPERINTENDENT OF CENTRAL GOODS & SERVICES TAX
शामीरपेट रेंज: मेडचल मण्डल SHAMEERPET RANGE: MEDCHAL DIVISION
मकान संख्या: 8-2-77/3 एवं 4, आदित्य टावर्स, श्री साई एन्क्लेव
H No: 8-2-77/3 & 4, Aditya Towers, Sri Sai Enclave
ओल्ड बोवेनपल्ली: सिकंदराबाद - 500011 Old Bowenpally : Secunderabad - 500011.
Mobile No.8074972493 Email: cgst.shameerpetrg@gov.in

DIN **20241156YP000091489E** दिनांक/Date:26.11.2024

SHOW CAUSE NOTICE
SCN No: 12 /2024-25-SUPDT(GST)

Sub: - FY 2020-21 - Irregular availment of Input Tax Credit of GST in contravention of Section 16(2)(c) of CGST Act 2017 and Non-payment of tax on inward supplies attracting tax under RCM in GSTR-2A by GSTIN: **36AAHCG4940K1ZC, GV DISCOVERY CENTERS PRIVATE LIMITED** - Issuance of notice– Reg.

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M/s GV DISCOVERY CENTERS PRIVATE LIMITED, Plot No. 1A, Sy. No. 234 and 235, Turkapally Village, [illegible], Shapoorji Pallonji Biotech Park, Phase-1, Shamirpet Mandal, Hyderabad, Medchal Malkajgiri, Telangana, 500078 (hereinafter referred to as "taxpayer/Noticee") are registered under CGST Act 2017 vide GSTIN: **36AAHCG4940K1ZC** and administered by Central Tax Authority (Shameerpet Range, Medchal Division, Medchal GST Commissionerate).

2.1 : GSTR-3B vs GSTR-2A

It was observed that taxpayer had availed excess ITC of GST in GSTR-3B returns than was available in GSTR-2A returns. The discrepancy is tabulated below:

	IGST	CGST	SGST/UTGST
ITC availed i.r.o 'All other ITC' in Table 4(A)(5) of GSTR 3B	35370	747516	747516
ITC of inward supplies in GSTR 2A (Excl RCM)	273600	790034	790034
Difference	238230	42518	42518

As tabulated above, ITC of IGST of Rs. **2,73,600/-**, CGST of Rs. **7,90,034/-** & SGST of Rs. **7,90,034/-** were available in GSTR-2A of period FY 2020-21. So, it appears that the Government had received only ITC of IGST of Rs. **2,73,600/-**, CGST of Rs. **7,90,034/-** & SGST of Rs. **7,90,034/-** towards inward supplies of the taxpayer for period FY 2020-21 as their suppliers had declared this much tax only in their GSTR-1 returns i.r.o. the taxpayer's GSTIN and subsequently had paid this much tax only to the Government towards supplies made to the taxpayer for the said period. But, as mentioned above, the taxpayer has availed ITC of IGST of Rs. **35,370/-**, CGST of Rs. **7,47,516/-** & SGST of Rs. **7,47,516/-** in GSTR-3B returns of period FY 2020-21. In terms of Section 16(2)(c) of CGST Act, one of the conditions for availing ITC by the recipient of supply is that the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilization of input tax credit admissible in respect of the said supply. As such, the taxpayer had irregularly excess availed Input Tax Credit of IGST of Rs. **2,38,230/-**, CGST of Rs. **42,518/-** & SGST of Rs. **42,518/-** through GSTR-3B returns of months **April 2020 to March 2021**, contravening section 16(2)(c) of the CGST Act 2017 as these amounts of GST had not been received by the Government on their inward supplies.

2. 2:- RCM vs GSTR-3B: Non-payment of tax on inward supplies attracting tax under RCM in GSTR-2A.

As per the provisions of Sec16 of CGST Act, 2017, the input tax credit under RCM/Import of services cannot be claimed for any amount which is not declared and paid under reverse charge mechanism. Thus, the credit taken in GSTR-3B(table 4A2 and 4A3) should match with the amount of Tax paid under RCM in GSTR-3B. The discrepancy noticed on scrutiny is tabulated below and you are requested to give clarification or pay the liability along with applicable interest& Penalty-

Taxable value of inward supplies attracting tax under RCM in GSTR 2A, In IGST	56,084
Taxable value of supplies under RCM as per 3.1(d) of GSTR 3B	29,668
Difference	26,416

3. Statuary Provisions

- **As per Clause (2) of Section 16 of the Acts,**

notwithstanding anything contained in the section 16, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless,—

(a) he is in possession of a tax invoice or debit note issued by a supplier registered under this Act, or such other taxpaying documents as may be prescribed;
(b) he has received the goods or services or both.

(c) subject to the provisions of section 41, the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilization of input tax credit admissible in respect of the said supply; and

(d) he has furnished the return under section 39.

- **the Rule 36 of the Rules,**

Documentary requirements and conditions for claiming input tax credit.-

(1)The input tax credit shall be availed by a registered person, including the Input Service Distributor, on the basis of any of the following documents, namely,-

(a) an invoice issued by the supplier of goods or services or both in accordance with the provisions of section 31;
(b) an invoice issued in accordance with the provisions of clause (f) of sub-section (3) of section 31, subject to the payment of tax;
(c) a debit note issued by a supplier in accordance with the provisions of section 34;
(d) a bill of entry or any similar document prescribed under the Customs Act, 1962 or rules made thereunder for the assessment of integrated tax on imports;

(e) an Input Service Distributor invoice or Input Service Distributor credit note or any document issued by an Input Service Distributor in accordance with the provisions of sub-rule (1) of rule 54.

(2) Input tax credit shall be availed by a registered person only if all the applicable particulars as specified in the provisions of Chapter VI are contained in the said document, and the relevant information, as contained in the said document, is furnished in FORMGSTR-2 bys uch person:

(3) No input tax credit shall be availed by a registered person in respect of any tax that has been paid in pursuance of any order where any demand has been confirmed on account of any fraud, willful misstatement or suppression of facts.

(4) Input tax credit to be availed by a registered person in respect of invoices or debit notes, the details of which have not been furnished by the suppliers under sub-section (1) of section 37, in FORM GSTR-1 or using the invoice furnishing facility shall not exceed as permissible from time to time of the eligible credit available in respect of invoices or debit notes the details of which have been furnished by the suppliers under sub-section (1) of section 37 in FORM GSTR-1 or using the invoice furnishing facility;

- ***Section* 61 of the Acts,**

➢ **As per Section 155 of the CGST Act, 2017** – ***Burden of proof—***

Where any person claims that he is eligible for input tax credit under this Act, the burden of proving such claim shall lie on such person.

Similar provisions exist under the Telangana State Goods and Services Tax Act, 2017 and the provisions of CGST Act, 2017 made applicable to IGST Act, 2017

4. **Contravention of provisions of GST Law:**

In the light of the above, it appears that the taxpayer has contravened the following provisions of the Central GST Act, 2017 and the Rules made there under:

- Section 16(2) and Section 50 of CGST Act, 2017, inasmuch as the taxpayer has availed input tax credit on the supplies on which the tax has not been paid to the Government.

5. **Legal provisions for recovery of tax/credit, and imposition of penalty:**

Section 73 of CGST Act 2017

(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.

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(8) Where any person chargeable with tax under sub-section (1) or sub-section (3) pays the said tax along with interest payable under section 50 within thirty days of issue of show cause notice, no penalty shall be payable and all proceedings in respect of the said notice shall be deemed to be concluded.
(9) The proper officer shall, after considering the representation, if any, made by person chargeable with tax, determine the amount of tax, interest and a penalty equivalent to ten per cent. of tax or ten thousand rupees, whichever is higher, due from such person and issue an order.

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Section 50. Interest on delayed payment of tax.-

(1) Every person who is liable to pay tax in accordance with the provisions of this Act or the rules made thereunder, but fails to pay the tax or any part thereof to the Government within the period prescribed, shall for the period for which the tax or any part thereof remains unpaid, pay, on his own, interest at such rate, not exceeding eighteen per cent., as may be notified by the Government on the recommendations of the Council:

***Provided** that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of section 39, except where such return is furnished after commencement of any proceedings under* section 73 *or* section 74 *in respect of the said period, shall be levied on that portion of the tax that is paid by debiting the electronic cash ledger.]*

(2) The interest under sub-section (1) shall be calculated, in such manner as may be prescribed, from the day succeeding the day on which such tax was due to be paid.

(3) Where the input tax credit has been wrongly availed and utilised, the registered person shall pay interest on such input tax credit wrongly availed and utilised, at such rate not exceeding twenty-four per cent. as may be notified by the Government, on the recommendations of the Council, and the interest shall be calculated, in such manner as may be prescribed

Section 122 - Penalty for certain offences:

(1) Where a taxable person who

(i) supplies any goods or services or both without issue of any invoice or issues an incorrect or false invoice with regard to any such supply;

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(2) Any registered person who supplies any goods or services or both on which any tax has not been paid or short paid or erroneously refunded, or where the input tax credit has been wrongly availed or utilized, -

(a) ***for any reason, other than the reason of fraud or any wilful misstatement or suppression of facts to evade tax, shall be liable to a penalty of ten thousand rupees or ten per cent. of the tax due from such person, whichever is higher.***

(b) .....

6. For the administration and collection of State Goods and Services tax in respect of Telangana State, an Act is in operation in respect of Jurisdiction of Telangana state. This Act is titled as "The Telangana Goods and Services Act, 2017" (for short here in after referred to as "the TGST Act, 2017") and the provisions of it are in pari materia with the provisions of CGST Act, 2017 as referred above. To avoid repetition; the provisions of the TGST Act, 2017 are not reproduced in this notice.

7. Further, as per Section 6(1) of the Telangana State Goods and Services Tax Act, 2017, the officers appointed under the Central Goods and Services Tax Act, 2017 are authorized to be the proper officers for the purposes of the said Act.

8. The taxpayer was informed about this irregularity vide Rule 99(1) of CGST Rules, 2017, FORM GST ASMT 10 dated 04.11.2024 (DIN: **20241156YP0400333CE7**) issued by the Superintendent, Shameerpet Range, Medchal Division intimating the tax ascertained as payable under section 73(5) of CGST Act 2017. The taxpayer has neither paid the amount pointed out nor responded.

9. Now, therefore **M/s GV DISCOVERY CENTERS PRIVATE LIMITED**, Plot No. 1A, Sy. No. 234 and 235, Turkapally Village, Thumkunta, Shapoorji Pallonji Biotech Park, Phase-1, Shamirpet Mandal, Hyderabad, Medchal Malkajgiri, Telangana, 500078 is hereby required to show cause to the Superintendent of Central Tax Shameerpet GST Range, 4th Floor, H No: 8-2-77/3 & 4, Aditya Towers, Sri Sai Enclave, Old Bowenpally, Secunderabad – 500011 within thirty (30) days from the date of receipt of this notice as to why;

i) an amount of Rs. **3,23,266/-** (IGST of Rs. **2,38,230/-**, CGST of Rs. **42,518/-** & SGST of Rs. **42,518/-**) should not be treated as wrongly/irregularly availed Input Tax Credit in contravention of Section 16(2)(c) for period 2020-21 and should not be demanded from them in terms of Section 73 of the CGST Act 2017 read with corresponding provisions of TSGST Act 2017; and

ii) the amount of Rs. **26,416/-** (CGST of Rs. 13,208/- + CGST of Rs. 13,208/-) being the non-payment of tax on ITC utilized for inward supplies attracting tax under RCM as per Sec 16 of the Acts should not be demanded and recovered from them under the provisions of Section 73 of the Acts;

iii) interest on the amounts mentioned at S.No.(i) & (ii) above should not be demanded and recovered from them under Section 50 of the Acts read with Rule 88B of the Rules;

iv) penalty on tax demanded at S.No. (i) & (ii) above, should not be imposed on them under Section 73 read with clause (a) of sub-section (2) of section 122 of the Acts;

10. The taxpayer is further required to produce, at the time of showing cause, all the evidence upon which they intend to rely in support of their case. They are further required to mention in their written reply whether they wish to be heard in person before the case is adjudicated. If no mention is made about this in their written reply, it would be presumed that they do not desire to be heard in person.

11. If no cause is shown against the action proposed to be taken within thirty (30) days of the receipt of this notice or if they fail to appear before the adjudicating authority when the case is posted for hearing, they are hereby informed that the case

will be decided on merits based on the evidence available on record without any further reference to them.

12. The taxpayer is also informed that in terms of sub section 8 of section 73 of the CGST Act, 2017, if the amount of tax is paid along with interest payable under section 50 within thirty days of issue of the notice, all proceedings in respect of the notice shall be deemed to be concluded.

13. This Show Cause Notice is issued without any prejudice to any other action that may be taken against the recipients of this Notice or any other persons concerned with the Finance Act or any other law time being in force.

the Finance Act or any other law time being in force.

14. Reliance for issue of this notice to show cause is placed on the following documents:

- Tax Liability Comparison Sheet taken from GST Portal & the data received from CC Office for the FY 2020-21.

(K. K. SINGH)
अधीक्षक/SUPERINTENDENT
शामीरपेट सीजीएसटी रेंज
SHAMEERPET CGST RANGE

To

GSTIN: **GV DISCOVERY CENTERS PRIVATE LIMITED,**
Plot No. 1A, Sy. No. 234 and 235, Turkapally Village,
Thumkunta, Shapoorji Pallonji Biotech Park Phase-I,
Shamirpet Mandal, Hyderabad, Medchal Malkajgiri,
Telangana, 500078.

Copy submitted to

(i) The Assistant Commissioner of Central Tax, Medal Division for information
(ii) Office copy / Spare Copy