



GOVERNMENT OF TELANGANA
COMMERCIAL TAXES DEPARTMENT

PROCEEDINGS OF THE DEPUTY COMMISSIONER (ST)-STU2 (FAC) BEGUMPET DIVN: HYD
PRESENT SMT. G. MADHAVI

ANNEXURE

Ref.No: GSTIN:36AAHFB7046A1ZT / DC (ST)-STU-2/2018-2019 Dated: 25.04.2024

DIN	GST/36AAHFB7046A1ZT/19
Designation of the assessing officer	DEPUTY COMMISSIONER (ST)
Office details Circle Division	BEGUMPET STU2 BEGUMPET
Details of the Tax payer Name Legal Name GSTIN	B & C ESTATES B & C ESTATES 36AAHFB7046A1ZT
Financial Year	2018-19

Ref:	1. Show cause notice in Form DRC-01 in ARN: AD361121003609H Ref. No.ZD3611210038014 Dated:12.11.2021 2. Reply filed by the tax payer Dt.17.12.2021 3. Personal hearing: Dt.23.04.2024
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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.7707113.00
CGST Rs.7707112.80
Total Rs.15414225.80

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 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. 3441980.86**

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	1720990.53	1720990.33	3441980.86
2	Add excess claim of IGST on imports in GSTR-09	8I	0.00	0.00	0.00
3	Total excess claimed of ITC as per GSTR-09		1720990.53	1720990.33	3441980.86

2. Excess claim of ITC:

• Excess ITC reversed in GSTR-09 over and above GSTR-3B:

You have reversed ITC in GSTR-09 over and above the amount reversed in GSTR-3B which has resulted in an underpayment of tax as follows:

S.No	Description	Table No. in GSTR-09	SGST	CGST	Total
1	2	3	4	5	6
1	Reversals in GSTR-09 related to current year	7I (-) 7E	740047.49	740047.49	1480094.98
2	Net reversals in GSTR-09 in the current year after reducing the reversals pertaining to previous year.	{12 of previous FY GSTR-09} (-) {12 of current FY GSTR-09}	0.00	0.00	0.00
3	Reversals in GSTR-3B	4B(1) + 4B(2) of GSTR-3B	0.00	0.00	0.00
4	Excess reversals in GSTR-09	S.No.1 (-) {S.No.3 (-) S.No.2}	740047.49	740047.49	1480094.98

• 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	326607474.45	-	-	-
2	Exempt supplies	5C + 5D + 5E + 5F	117358948.77	-	-	-
3	Proportion of common ITC which has to be reversed to the extent of exempt supply (2/1 above)		0.36	-	-	-
4	Common input tax credit	6O+13-12	-	9059175.28	9059175.28	18118350.56
5	ITC to be reversed	{S.No.4 (x) S.No.2}/S.No.1	-	3255208.07	3255208.07	6510416.14
6	ITC reversed as per GSTR-09	7C + 7D + 7F + 7G	-	0.00	0.00	0.00
7	Difference/Excess ITC claimed	S.No.5 (-) S.No.6	-	3255208.07	3255208.07	6510416.14

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;		1988357.71	1988357.91	3976715.62
2	Accident & Health Insurance	997133;		2509.20	2509.20	5018.40
A	Total ineligible ITC u/s 17(5)	-		1990866.91	1990866.91	3981733.82
B	Ineligible ITC declared in GSTR-09	-	7E	0.00	0.00	0.00
C	Difference/excess ITC claimed	-		1990866.91	1990866.91	3981733.82

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	7707113.00	7707112.80	15414225.80

(The detailed workings of the above in tabular form are attached as Annexures-B)

Therefore it is proposed to assess the registered tax payer for the net tax payable indicated above under Section 73 of the SGST/CGST Act. The registered tax payer may therefore pay the tax along with interest in DRC-03. However, If the registered tax payer is not agreeing with the proposals in this notice they may file their objections in DRC-06 within (15) days from the date of receipt of this notice. A draft standard format is also attached for filing your response along with your detailed reply.

Accordingly a Show Cause Notice Annexed to DRC-01 has been issued in ARN: AD361121003609H on Dt. 12.11.2021 raising demand and calling for their objections if any along with documentary evidence within thirty (30) days of receipt of this notice and availing of personal hearing opportunity.

Having received the notice the taxpayer filed reply on 17.12.2021 and Ms.Sowmya. U, Authorised Representative of the firm attended for personal hearing on 23.04.2024 and put-forth their contentions.

The reply of the taxpayer and observations and conclusions of the Assessing Authority are discussed as follows:

**1. Net tax liability under declared on account of non-reconciliation of information declared in GSTR-09:
A. The excess input tax credit (ITC) claimed on account of non-reconciliation of information declared in GSTR-09:**

Reply: There is excess ITC reflected in GSTR-2A. Excess ITC of Rs.14,80,094/-

Observations and Conclusions of the Adjudicating Authority: The contention of the taxpayer is verified as follows:

Description	SGST	CGST
Table 8(B) of GSTR-9: ITC as per sum total of GSTR-3B	9059175	9059175
Table 7(I) ITC reversed	740047	740047
Table 7(J) Net ITC available	8319127	8319127
GSTR-2A as per GSTR-3B comparison statement	7679781	7679781
Difference of ITC availed	639346	639346

The above difference of Rs. 639346/- under SGST and Rs. 639346/- under CGST is not covered by documentary evidence. Hence, tax of Rs. 639346/- under SGST and Rs. 639346/- under CGST is hereby confirmed and payable along with interest.

2. Excess claim of ITC:

• Excess ITC reversed in GSTR-09 over and above GSTR-3B:

Reply: ITC of Rs.7,40,047/- reversed in GSTR-3B and Rs.74002/- through two DRCs under CGST and SGST respectively. Form DRC-03 for tax amount of Rs.61756/- and Rs.12246/- under CGST and SGST submitted for verification. Remaining amount of Rs.666046/- under CGST and SGST paid along with GSTR-3B returns.

Observations and Conclusions of the Adjudicating Authority: The contention of the taxpayer is examined along with GSTR-9, GSTR-3B summary and DRC-03 voluntary payment forms and found that tax of Rs.61756/- and Rs.12246/- & interest of Rs.3714/- under CGST and SGST respectively. Regarding remaining of Remaining amount of Rs.666046/- under CGST and SGST is verified as follows:

Tax payment details	SGST	CGST
Table 3.1(a) of GSTR-3B summary: Outward taxable supplies (Other than zero rated, Nil rated and Exempted)	12980242	12980242
Table 4(N) of GSTR-9: Supplies on which taxes to be paid	12314196	12314196
Excess tax paid: GSTR-3B - GSTR-9	666046	666046

Hence there is no excess claim of ITC. Therefore tax proposed in DRC-01 show cause notice is hereby withdrawn.

3. ITC to be reversed on non-business transactions & exempt supplies:

Reply: ITC attributable to exempted supplies under Rule 42 of CGST Rules,2017 is Rs.65,10,416/-. Working sheet of ITC reversal under Rule 42 submitted. ITC of Rs25,44,838/- toward SGST and Rs25,44,880/- toward CGST is reversed in the month September 2020.

Observations and Conclusions of the Adjudicating Authority: The taxpayer is engaged in construction business. Working sheet of Rule 42 reversal calculation submitted by the taxpayer is verified and found that the ITC of Rs.25,44,880/- under CGST and SGST has to be reversed. The same ITC has reversed in GSTR-3B for the month of September 2020, Table 4(B)1. Therefore tax proposed in DRC-01 show cause notice is hereby withdrawn.

4. Under declaration of Ineligible ITC:

Reply: The noticee is engaged in construction and sales of residential apartments and discharging GST on same. The noticee has been receiving the services from various suppliers engaged in provision of works contract services and availing ITC of GST charged by such supplies. The noticee is using such services for the purpose providing the outward supplies.

verified as

Observations and Conclusions of the Adjudicating Authority: The contention of the taxpayer is examined and found that the taxpayer is eligible for ITC during the course of business to an extent of Rs.19888358/- under CGST and Rs.19888358/- under SGST. The balance amount of Rs. 2508/- under CGST and Rs.2508/- under SGST, the ledger copy of the Health Insurance is verified and found as not claimed. Therefore tax proposed in DRC-01 show cause notice is hereby withdrawn.

Summary: Annexure with details for the above proposals were already sent with show cause notice. 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:

Statement of Computation of Liability					
S. No	Particulars	Amount determined in SCN		Amount determined by AA	
		SGST	CGST	SGST	CGST
1	Excess ITC claimed on account of non-reconciliation of information declared in GSTR-09:	1720991	1720991	639346	639346
2	Excess claim of ITC: Excess ITC reversed in GSTR-09 over and above GSTR-3B	740047	740047	0	0
3	Excess claim of ITC: ITC to be reversed on non-business transactions & exempt supplies	3255208	3255208	0	0
4	Under declaration of Ineligible ITC	1990867	1990867		
	Total tax liability	7707113	7707113	639346	639346

If payment of the proposed tax is made within one month of the receipt of this show cause notice, no penalty will be leviable and any payment made after one month would attract a penalty @ 10% of the tax determined or Rs.10000/-, whichever is higher, under Sec.122 of the CGST/SGST Act.

Therefore, Penalty of Rs.63935/- under SGST and Rs.63935/- under CGST on tax of Rs. 639346/- and Rs.639346/- respectively is hereby confirmed.


DEPUTY COMMISSIONER (ST)STU2 (FAC)
BEGUMPET DIVISION, HYDERABAD

To
M/s. B & C ESTATES
GSTIN: 36AAHFB7046A1ZT

An appeal against this order lies before the Appellate Joint Commissioner (ST) Punjagutta Division, 5th Floor, O/o Commissioner of Commercial Taxes, Opposite Gandhi Bhawan, Nampally, Hyderabad: 500001, Telangana, within 3 months from the date of receipt of this order.

Office of : Assistant Commissioner
Jurisdiction : Begumpet STU-2: Begumpet: Telangana, State/UT : Telangana

Reference No. : ZD360424063212Q

Date : 26/04/2024

To

GSTIN/ID : 36AAHFB7046A1ZT

Name : B & C ESTATES

Address : 5-4-187/3 and 4, 2nd floor, soham mansion, mg road, secunderabad, Rangareddy, Telangana, 500003

SCN/Statement Reference No. : ZD3611210038014

Date : 12/11/2021

Tax Period : APR 2018 - MAR 2019

F.Y. : 2018-2019

Order under section 73

A show cause notice/statement referred to above was issued to you u/s 73 of the Act for reasons stated therein. Since, no payment has been made within 30 days of the issue of the notice by you; therefore, on the basis of documents available with the department and information furnished by you, if any, demand is created for the reasons and other details attached in annexure

Please note that interest, if any, has been levied up to the date of issue of the order. While making payment, interest for the intervening period between date of order and date of payment, shall also be worked out and paid along with the dues stated in the order.

In case any refund is arising as per the above order, please claim the same by filing application in the prescribed form.

Demand Details :-

(Amount in Rs.)

Sr. No.	Tax Rate (%)	Turnover	Tax Period		Act	POS (Place of Supply)	Tax	Interest	Penalty	Fee	Others	Total
			From	To								
1	2	3	4	5	6	7	8	9	10	11	12	13
1	0	0.00	APR 2018	MAR 2019	SGST	NA	6,39,346.00	0.00	63,935.00	0.00	0.00	7,03,281.00
2	0	0.00	APR 2018	MAR 2019	CGST	NA	6,39,346.00	0.00	63,935.00	0.00	0.00	7,03,281.00
Total							12,78,692.00	0.00	1,27,870.00	0.00	0.00	14,06,562.00

You are hereby directed to make the payment by 27/05/2024 failing which proceedings shall be initiated against you to recover the outstanding dues.

Signature

Name : GUNDAPALLY MADHAVI
Designation : Assistant Commissioner
Jurisdiction : Begumpet
STU-2: Begumpet: Telangana

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FORM GST DRC - 07
[See rule 142(5)]
Summary of the order

Reference No. : ZD360424063212Q

Date : 26/04/2024

1. Tax Period :- APR 2018 - MAR 2019

2. Issues involved :- Excess ITC claimed

3. Description of goods / services :-

Sr. No	HSN	Description
-	-	-

4. Details of demand :-

(Amount in Rs.)

Sr. No	Tax Rate (%)	Turnover	Tax Period		Act	POS (Place of Supply)	Tax	Interest	Penalty	Fee	Others	Total
			From	To								
1	2	3	4	5	6	7	8	9	10	11	12	13
1	0	0.00	APR 2018	MAR 2019	SGST	NA	6,39,346.00	0.00	63,935.00	0.00	0.00	7,03,281.00
2	0	0.00	APR 2018	MAR 2019	CGST	NA	6,39,346.00	0.00	63,935.00	0.00	0.00	7,03,281.00
Total							12,78,692.00	0.00	1,27,870.00	0.00	0.00	14,06,562.00

You are hereby directed to make the payment by 27/05/2024 failing which proceedings shall be initiated against you to recover the outstanding dues.

Signature

Name : GUNDAPALLY MADHAVI

Designation : Assistant Commissioner

Jurisdiction : Begumpet

STU-2: Begumpet: Telangana

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Order