**Commissionerate of Taxes**
**Government of Telangana, India**

# Proceedings of Assistant Commissioner (ST) ,Begumpet II Circle, Hyderabad

## Presented : P. Siva Rami Reddy,

## [Under Section 73 read with rule 142(5) of TGST Act]

**Best Judgement Order: Financial year 2019-20** **Dt.19-08-2024**

| | |
|---|---|
| DIN | GST/36AAHFB7046A1ZT/20/2 |
| Office details<br>Designation of the assessing officer<br>Circle<br>Division | ASSISTANT COMMISSIONER (ST)<br>BEGUMPET-II CIRCLE<br>BEGUMPET DIVISION |
| Details of the Tax payer<br>Name<br>Legal Name<br>GSTIN | B&C ESTATES5<br>B & C ESTATES<br>36AAHFB7046A1ZT |
| Financial Year | 2019-20 |

Ref : 1) SCN ARN No : **AD3605240512565** SCN ARN Date : 31-05-2024

Take notice that you have not filed annual return in GSTR-09 for the financial year **2019-20**.

On examination of the information furnished to this office in GSTR-3B, GSTR-01, GSTR-2A, EWB and other records available in this office it is found that you have not declared your correct tax liability while filing GSTR-3B. The summary of under declared tax is as follows:

SGST Rs.**903171.00**
CGST Rs.**882932.00**
IGST Rs.**14811.00**
CESS Rs.**0.00**
Total Rs.**1800914.00**

The details of the above tax liability are as follows:

### 1. Excess claim of ITC:

**The excess input tax credit (ITC) claimed on account of non-reconciliation of information declared in GSTR-3B:**

It is observed that the taxpayer has not correctly availed input tax on his inward supplies on reconciliation of turnovers in GSTR-3B.

- **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-3B 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-3B | Value of outward | SGST | CGST | IGST | CESS | Total |
|---|---|---|---|---|---|---|---|---|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 |
| 1 | Total supplies | 3.1(a)+3.1(b) +3.1(c) | 4961511.00 | - | - | - | - | - |
| 2 | Exempt supplies | 3.1(c) | 3369151.00 | - | - | - | - | - |
| 3 | Proportion of common ITC which has to be reversed to the extent of exempt supply (2/1 above) "(Maximum value is '1')" | | 0.679057 | - | - | - | - | - |
| 4 | Common input tax credit | 4A-4A(3)-4B (2)-4D | - | 867960.00 | 867960.00 | 21811.000 | 0.000 | 1757731.00 |
| 5 | ITC to be reversed {(S. No.2/S.No.1) X S.No.4} | | - | 589394.00 | 589394.00 | 14811.000000 | 0.000000 | 1193599.00 |
| 6 | ITC reversed as per GSTR-3B | 4B(1) | - | 0.00 | 0.00 | 0.000 | 0.000 | 0.00 |
| 7 | Difference/Excess ITC claimed S.No.5 (-) S.No. 6 | | - | 589394.00 | 589394.00 | 14811.000 | 0.000 | 1193599.00 |

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-3B 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 | SGST | CGST | IGST | CESS | Total |
|---|---|---|---|---|---|---|---|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
| 1 | Works contractors | 9954 | 313777.00 | 293538.00 | 0.00 | 0.00 | 607315.00 |

| S.No | Issue | Table no. in GSTR-3B | SGST | CGST | IGST | CESS | Total |
|---|---|---|---|---|---|---|---|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
| A | Total ineligible ITC u/s 17(5) | | 313777.00 | 293538.00 | 0.00 | 0.00 | 607315.00 |
| B | Ineligible ITC declared in GSTR-3B | Ineligible ITC declared in GSTR-3B at box 4D(1) | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| C | Difference/excess ITC claimed | "Lower of {Sl.NO A-B} or {Sum of 4C of all months GSTR 3B in FY}" | 313777.00 | 293538.00 | 0.00 | 0.00 | 607315.00 |

**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 | CESS | Total |
|---|---|---|---|---|---|---|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| | Total tax due in (Excess claim of ITC) above | 903171.00 | 882932.00 | 14811.00 | 0.00 | 1800914.00 |

Accordingly a Show cause notice was issued vide reference no: ZD3605240848309 dt.31-05-2024.Three reminders to file objections were issued on (3) different occasions as under through common portal.

1.Ref No: ZD360724085958K Date 24-07-2024
2.Ref No: ZD360824017592A Date: 06-08-2024
3.Ref No: ZD360824043463B Date: 14-08-2024

However the tax payer M/S. B & C Estates has neither filed any written objections nor availed any personal hearing. Therefore the tax proposed in the Show cause Notice is Confirmed as under:

| S.No | Issue | SGST | CGST | IGST | CESS | Total |
|---|---|---|---|---|---|---|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| | Total tax due in (Excess claim of ITC) above | 903171.00 | 882932.00 | 14811.00 | 0.00 | 1800914.00 |

**As per the above the Registered Tax person is liable to pay Tax under SGST For Rs. 903171-00 and CGST For Rs. 882932-00 and IGST Rs.14811-00**

The taxpayer was issued a revised Show cause notice through mail, wherein they were informed to propose to assess the registered tax payer for the net tax payable under Section 73 of the SGST/CGST Act and also proposed to pay the tax along with penalty at a rate of 10% of the tax due or Rs.10,000/- penalty whichever is higher. Accordingly, the levy of penalty of Rs.90,317/- (SGST) and Rs.88,293/-(CGST) and IGST Rs.1481-00 is hereby confirmed.

Further Notwithstanding anything contained in sub-section (6) or sub-section (8), penalty under sub-section (9) shall be payable where any amount of self-assessed tax or any amount collected as tax has not been paid within a period of thirty days from the due date of payment of such tax.

Further, Section 122 of the CGST / TGST Act prescribes the amount of Penalty to be levied, which is reproduced hereunder:

Section 122: Penalty for certain offences
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 willful 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;

In view of the above, it is proposed to compute the penalty confirmed as SGST For Rs.90,317-00 and CGST For Rs. 88,293-00 and IGST Rs.1481-00

**(Total Tax Payable of Rs. 1800914-00 and Total Penalty Payable of Rs.1,80,091-00)**

The Tax Payer can file appeal against this order before the Appellate Joint Commissioner (ST) within 90 days of receipt of this order.

SIVARAMI REDDY PARVATHAM

Digitally signed by SIVARAMI REDDY PARVATHAM
Date: 2024.08.24 15:16:46 +05'30'

Assistant Commissioner (ST),
Begumpet- II Circle, Hyd.

# Office of : Assistant Commissioner
# Jurisdiction : BEGUMPET 2:Begumpet:Telangana, State/UT : Telangana

Reference No. : ZD360824097535U  Date : 24/08/2024

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. : ZD3605240848309  Date : 31/05/2024

Tax Period : APR 2019 - MAR 2020  F.Y. : 2019-2020

| **Act/ Rules Provisions :** |
|---|
| GST/73 |

## 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 2019 | MAR 2020 | CGST | NA | 8,82,932.00 | 0.00 | 88,293.00 | 0.00 | 0.00 | 9,71,225.00 |
| 2 | 0 | 0.00 | APR 2019 | MAR 2020 | SGST | NA | 9,03,171.00 | 0.00 | 90,317.00 | 0.00 | 0.00 | 9,93,488.00 |
| 3 | 0 | 0.00 | APR 2019 | MAR 2020 | IGST | Telangana | 14,811.00 | 0.00 | 1,481.00 | 0.00 | 0.00 | 16,292.00 |
| Total | | | | | | | 18,00,914.00 | 0.00 | 1,80,091.00 | 0.00 | 0.00 | 19,81,005.00 |

You are hereby directed to make the payment by 24/09/2024 failing which proceedings shall be initiated against you to recover the outstanding dues.

Signature
Name : Sivarami Reddy Parvatham
Designation : Assistant Commissioner
Jurisdiction : BEGUMPET 2:Begumpet:Telangana

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

Reference No. : ZD360824097535U

Date : 24/08/2024

1. Tax Period :- APR 2019 - MAR 2020

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 2019 | MAR 2020 | CGST | NA | 8,82,932.00 | 0.00 | 88,293.00 | 0.00 | 0.00 | 9,71,225.00 |
| 2 | 0 | 0.00 | APR 2019 | MAR 2020 | SGST | NA | 9,03,171.00 | 0.00 | 90,317.00 | 0.00 | 0.00 | 9,93,488.00 |
| 3 | 0 | 0.00 | APR 2019 | MAR 2020 | IGST | Telangana | 14,811.00 | 0.00 | 1,481.00 | 0.00 | 0.00 | 16,292.00 |
| Total | | | | | | | 18,00,914.00 | 0.00 | 1,80,091.00 | 0.00 | 0.00 | 19,81,005.00 |

You are hereby directed to make the payment by 24/09/2024 failing which proceedings shall be initiated against you to recover the outstanding dues.

| | |
|---|---|
| Signature | |
| Name : | Sivarami Reddy Parvatham |
| Designation : | Assistant Commissioner |
| Jurisdiction : | BEGUMPET 2:Begumpet:Telangana |

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