O/C

H N A & Co LLP
Chartered Accountants
(Formerly known as Hiregange & Associates LLP)

Date: 04.12.2024

To
The Joint Commissioner of State Tax (Appeals),
Panjagutta,5th Floor, C.T Complex,
Nampally, Hyderabad-500001

Dear Sir,

Sub: Filing of attested copy of DRC – 07 and appeal in Form GST APL – 01.

Ref: Appeal filed online against the Order Ref No. **ZD360824097535U** dated 24.08.2024 pertaining to **M/s. B & C Estates.**

1. With reference to the above, we have been authorized by M/s. B & C Estates to submit an appeal against the above-referred Order and represent in the appeal proceedings before your good office and to do necessary correspondence. A copy of the authorization is attached to the appeal.
2. In this regard, it is submitted that we have already filed an appeal memorandum online in Form GST APL-01 along with authorization and annexures against the above referred order and is acknowledged vide provisional acknowledgement number AD3611240220002 dated 28/11/2024.
3. Further, we are hereby submitting the physical copy of the Appeal memorandum along with annexures and online filing acknowledgements for easy reference. Therefore, request you to take the same on record and admit the appeal.

Kindly acknowledge the receipt of the above and post the matter for hearing at the earliest.

Thanking You,
Yours truly
For M/s. H N A & Co. LLP
Chartered Accountants

CA Lakshman Kumar K.
Partner

Office of the Appellate Joint Commissioner (ST) 04 DEC 2024 Punjagutta Division, Hyderabad.

H N A & CO LLP Hyderabad Chartered Accountants

Enclosures:
1. Provisional Acknowledgement along with APL-01 form filed online.
2. Copies of Complete Appeal Memorandum.
3. Copy of electronic Cash/Credit ledger.

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Provisional Acknowledgement for submission of Form of Appeal

Your appeal has been successfully submitted against	**AD3611240220002**
GSTIN/UIN/Temporary ID	36AAHFB7046A1ZT
Date of filing	28/11/2024
Time of filing	17:32
Place of filing	Hyderabad
Name of the Taxpayer	B & C ESTATES
Address	2nd floor, 5-4-187/3 and 4, soham mansion, mg road, secunderabad, Rangareddy, Telangana, 500003
Name of the person who is filing Appeal	SOHAM MODI
Amount of pre-deposit	₹ 180094

It is a system generated acknowledgement and does not require any signature.

FORM GST APL-01

[Refer Rule 108(1)]

Appeal to Appellate Authority

1	GSTIN/Temporary ID/UIN -	36AAHFB7046A1ZT
2	Legal Name -	B & C ESTATES
3	Trade Name -	B&C ESTATES5
4	Address -	2nd floor, 5-4-187/3 and 4, soham mansion mg road, secunderabad, Rangareddy, Telangana, 500003
	Order Type -	Demand Order
5	Order No - ZD360824097535U Order Date -	24/08/2024
6	Designation and address of the officer passing the order appealed against	Assistant Commissioner and BEGUMPET 2:Begumpet:Telangana
	Demand Id -	ZD360824097535U
7	Date of communication of the order to be appealed against -	24/08/2024
8	Name of the authorised representative -	SOHAM MODI[ABMPM6725H]

Category of the case under dispute -

1	Others - 1.ITC to be reversed on non-business transactions and exempt supplies. 2.Under declaration of ineligible ITC.

9	Details of Case under dispute	
(i)	Brief issue of case under dispute -	Refer to Annexure
(ii)	Description and clarification of goods/ services in dispute -	Refer to Annexure
(iii)	Period of Dispute - From - 01/04/2019 To -	31/03/2020

(iv) Amount under Dispute

Description		Central tax (₹)	State/UT tax (₹)	Integrated tax (₹)	Cess (₹)	Total Amount(₹)	
Amount of Dispute	Tax/Cess	882932	903171	14811	0	1800914	1981005
	Interest	0	0	0	0	0	
	Penalty	88293	90317	1481	0	180091	
	Fees	0	0	0	0	0	
	Other Charges	0	0	0	0	0	

(v)	Market value of seized goods -	Refer to Annexure
10	Whether the appelant wishes to be heard in person - Yes/No	Refer to Annexure
11	Statement of facts -	Refer to Annexure
12	Grounds of appeal -	Refer to Annexure
13	Prayer -	Refer to Annexure

14 Amount Of Demand created/ admitted/ disputed

Description		Central tax (₹)	State/UT tax (₹)	Integrated tax (₹)	Cess (₹)	Total Amount(₹)	
Amount of demand created (A)	Tax/Cess	882932	903171	14811	0	1800914	1981005
	Interest	0	0	0	0	0	
	Penalty	88293	90317	1481	0	180091	
	Fees	0	0	0	0	0	
	Other Charges	0	0	0	0	0	
Amount of demand admitted (B)	Tax/Cess	0	0	0	0	0	0
	Interest	0	0	0	0	0	
	Penalty	0	0	0	0	0	
	Fees	0	0	0	0	0	
	Other Charges	0	0	0	0	0	
Amount of dispute (C)	Tax/Cess	882932	903171	14811	0	1800914	1981005
	Interest	0	0	0	0	0	
	Penalty	88293	90317	1481	0	180091	
	Fees	0	0	0	0	0	
	Other Charges	0	0	0	0	0	

15 Details of payment of admitted amount and pre-deposit -

Pre-Deposit % of Disputed Tax/Cess - 10%

(a) Details of payment required

Description		Central tax (₹)	State/UT tax (₹)	Integrated tax (₹)	Cess (₹)	Total Amount(₹)	
Admitted Amount	Tax/Cess	0	0	0	0	0	180094
	Interest	0	0	0	0	0	
	Penalty	0	0	0	0	0	
	Fees	0	0	0	0	0	
	Other charges	0	0	0	0	0	
Pre-deposit (10% of Disputed Tax/Cess)	Tax/Cess	88294	90318	1482	0	180094	

(b) Details of payment of admitted amount and pre-deposit

Description		Central tax (₹)	State/UT tax (₹)	Integrated tax (₹)	Cess (₹)	Total Amount(₹)	
Amount Paid	Tax/Cess	88294	90318	1482	0	180094	180094
	Interest	0	0	0	0	0	
	Penalty	0	0	0	0	0	
	Fees	0	0	0	0	0	
	Other Charges	0	0	0	0	0	

(c) Details of amount payable towards admitted amount and pre-deposit

Description		Central tax (₹)	State/UT tax (₹)	Integrated tax (₹)	Cess (₹)	Total Amount(₹)	
Balance payable	Tax/Cess	0	0	0	0	0	0
	Interest	0	0	0	0	0	
	Penalty	0	0	0	0	0	
	Fees	0	0	0	0	0	
	Other Charges	0	0	0	0	0	

16 Whether appeal is being filed after the prescribed period - Yes/No Refer to Annexure

17 if 'Yes' in item 16 -

(a) Period of delay - Refer to Annexure

(b) Reason for delay - Refer to Annexure

18 Place of supply wise details of integrated tax paid(admitted amount only)mentioned in the Table in sub-clause(a)of clause 15(item(a)),if any

Place of Supply (Name of State / UT)	Demand	Tax	Interest	Penalty	Others	Total
1	2	3	4	5	6	7
Telangana	Admitted Amount[In the table In sub-clause(a) of clause 15(item(a))]	0	0	0	0	0

Upload Supporting Documents (Relied upon), if any -

Annexure I-II	Annexures I-II.pdf

Verification

☑ **I, SOHAM MODI , hereby solomenly affirm and declare that the information given herein above is true and correct to the best of my / our knowledge and belief and nothing has been concealed therefrom.**

Place: Hyderabad
Date: 28/11/2024

Name of the Applicant
B & C ESTATES

GST APL

Electronic Credit ledger

GSTIN - 36AAHFB7046A1ZT

Legal Name - B & C ESTATES

Period: From -28/11/2024 To - 28/11/2024

Sr.No	Date	Reference No.	Tax period, if any	Description	Transaction Type [Debit (DR) / Credit (CR)]	Credit/Debit (₹)					Balance Available(₹)				
						Integrated Tax	Central Tax	State Tax	CESS	Total	Integrated Tax	Central Tax	State Tax	CESS	Total
-	-	-	-	Opening Balance	-	-	-	-	-	-	0	165089	126968	0	292057
1	28/11/2024	DI3611240183947	Mar-20	Payment of Demand under Appeal	Debit	0	88636	88636	0	177272	0	76453	38332	0	114785
2	28/11/2024	DI3611240184344	Mar-20	Payment of Demand under Appeal	Debit	0	76453	38332	0	114785	0	0	0	0	0
-	-	-	-	Closing Balance	-	-	-	-	-	-	0	0	0	0	0

Electronic Cash Ledger

GSTIN - 36AAHFB7046A1ZT
Name(Legal) - B & C ESTATES
Period: From - 28/11/2024 To - 28/11/2024

Sr.No	Date of deposit/ Debit	Time of deposit	Reporting date (by bank)	Reference No.	Tax Period, if applicable	Description	Transaction Type (Debit/ Credit)	Integrated Tax Amount Debited / Credited(₹)						Integrated Tax Balance(₹)					
								Tax	Interest	Penalty	Fee	Others	Total	Tax	Interest	Penalty	Fee	Others	Total
1	-	-	-	-	-	Opening Balance	-	-	-	-	-	-	-	5645	0	0	0	0	5645
2	28/11/2024	-	-	AA3611240445686	Dec-24	-	Debit	1900	0	0	0	0	1900	3745	0	0	0	0	3745
3	28/11/2024	-	-	AA3611240445686	-	-	Credit	0	0	0	0	0	0	3745	0	0	0	0	3745
4	28/11/2024	-	-	DC3611240176406	Mar-20	Payment of Demand under Appeal	Debit	1482	0	0	0	0	1482	2263	0	0	0	0	2263
5	-	-	-	-	-	Closing Balance	-	-	-	-	-	-	-	2263	0	0	0	0	2263

Sr.No	Date of deposit/ Debit	Time of deposit	Reporting date (by bank)	Reference No.	Tax Period, if applicable	Description	Transaction Type (Debit/ Credit)	Central Tax Amount Debited / Credited(₹)						Central Tax Balance(₹)					
								Tax	Interest	Penalty	Fee	Others	Total	Tax	Interest	Penalty	Fee	Others	Total
1	-	-	-	-	-	Opening Balance	-	-	-	-	-	-	-	11000	0	0	10	0	11010
2	28/11/2024	-	-	AA36113240445686	Dec-24	-	Debit	0	0	0	0	0	0	11000	0	0	10	0	11010
3	28/11/2024	-	-	AA36113240445686	-	-	Credit	900	0	0	0	0	900	11900	0	0	10	0	11910
4	28/11/2024	-	-	DC36113240176406	Mar-20	Payment of Demand under Appeal	Debit	11841	0	0	0	0	11841	59	0	0	10	0	69
5	-	-	-	-	-	Closing Balance	-	-	-	-	-	-	-	59	0	0	10	0	69

Sr.No	Date of deposit/ Debit	Time of deposit	Reporting date (by bank)	Reference No.	Tax Period, if applicable	Description	Transaction Type (Debit/ Credit)	State Tax Amount Debited / Credited(₹)						State Tax Balance(₹)					
								Tax	Interest	Penalty	Fee	Others	Total	Tax	Interest	Penalty	Fee	Others	Total
1	-	-	-	-	-	Opening Balance	-	-	-	-	-	-	-	51000	0	0	10	0	51010
2	28/11/2024	-	-	AA3611240445686	Dec-24	-	Debit	0	0	0	0	0	0	51000	0	0	10	0	51010
3	28/11/2024	-	-	AA3611240445686	-	-	Credit	1000	0	0	0	0	1000	52000	0	0	10	0	52010
4	28/11/2024	-	-	DC3611240176406	Mar-20	Payment of Demand under Appeal	Debit	51986	0	0	0	0	51986	14	0	0	10	0	24
5	-	-	-	-	-	Closing Balance	-	-	-	-	-	-	-	14	0	0	10	0	24

Sr.No	Date of deposit/ Debit	Time of deposit	Reporting date (by bank)	Reference No.	Tax Period, if applicable	Description	Transaction Type (Debit/ Credit)	CESS Amount Debited / Credited(₹)						CESS Balance(₹)					
								Tax	Interest	Penalty	Fee	Others	Total	Tax	Interest	Penalty	Fee	Others	Total
1	-	-	-	-	-	Opening Balance	-	-	-	-	-	-	-	0	0	0	0	0	0
2	28/11/2024	-	-	AA361124044568 6	Dec-24	-	Debit	0	0	0	0	0	0	0	0	0	0	0	0
3	28/11/2024	-	-	AA361124044568 6	-	-	Credit	0	0	0	0	0	0	0	0	0	0	0	0
4	28/11/2024	-	-	DC361124017640 6	Mar-20	Payment of Demand under Appeal	Debit	0	0	0	0	0	0	0	0	0	0	0	0
5	-	-	-	-	-	Closing Balance	-	-	-	-	-	-	-	0	0	0	0	0	0

Date: 28.11.2024

To
The Joint Commissioner Of State Tax (Appeals),
Panjagutta, 5th Floor, C.T Complex,
Nampally, Hyderabad
Telangana-500001.

Dear Sir/Madam,

Sub: Application for condonation of delay in filing the Appeal.

Ref:

i. Appeal against the Order vide Reference No. ZD360824097535U dated 24.08.2024 related to M/s. B & C Estates.

ii. GSTN: 36AAHFB7046A1ZT.

1. As per Section 107 of CGST Act, 2017, an appeal against the order to the adjudicating authority shall be filed within 3 months from the date of receipt of the order. In the instant case, the order was received on 24.08.2024, thereby, the due date for filing the appeal falls on 23.11.2024.

2. In this regard, we would like to submit that the delay in filing was due to our involvement in the ongoing tax audit for the financial year 2023-24, as required under the Income Tax Act, 1961. Unfortunately, the complexity and volume of the audit work led to delay, causing us to lose track of the due date for the submission of the impugned order. Despite our best efforts to meet the deadlines, the audit process consumed more time than anticipated, and as a result, we were unable to file within the stipulated time.

3. The actual due date for filing the appeal is 23.11.2024 whereas the present appeal is being filed on 28.11.2024. As explained in the above paragraphs, the delay is unintentional, and we have made sincere efforts to file the appeal within the time limit. Hence, we humbly request your good self to consider the same and allow the application for condonation of delay.

We sincerely regret the inconvenience caused in this regard. Kindly acknowledge receipt of this letter and do the needful.

Thanking You,

Yours faithfully,
For M/s B & C Estates

SEC'BAD

Authorized Signatory

H N A & Co LLP
Chartered Accountants
(Formerly known as Hiregange & Associates LLP)

Date: 28.11.2024

To
The Joint Commissioner of State Tax (Appeals),
Panjagutta Division, 5th Floor, C.T Complex,
Nampally, Hyderabad,
Telangana-500001.

Dear Sir,

Sub: Filing of Appeal in Form APL-01 against Order in Form DRC-07.

Ref: i. Order in Form DRC-07 vide Ref No. ZD360824097535U dated 24.08.2024 pertaining to M/s. B & C Estates.

ii. GSTIN: 36AAHFB7046A1ZT.

1. We have been authorized by M/s. B & C Estates to submit an Appeal in form APL-01 against the above referred Order in Form DRC-07 vide Ref No. ZD360824097535U dated 24.08.2024 and represent before your good office to do necessary correspondence in the above referred matter. A copy of authorization is attached to the appeal memorandum.
2. In this regard, we submit that we are herewith filing the appeal in form APL-01 along with the annexures as referred to in the appeal.

We shall be glad to provide any other information in this regard. Kindly acknowledge receipt of the appeal and post the hearing at the earliest.

Thanking You,

Yours faithfully,

For M/s. H N A & Co. LLP
Chartered Accountants

CA Lakshman Kumar K
Partner

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GST APL – 01

Form of Appeal to Appellate Authority

[Under Section 107(1) of Central Goods and Service Tax Act, 2017]

[See rule 108(1)]

BEFORE THE JOINT COMMISSIONER OF STATE TAX (APPEALS), PANJAGUTTA,5th FLOOR, C.T COMPLEX, NAMPALLY, HYDERABAD-500001

(1) GSTIN/ Temporary ID/UIN-		36AAHFB7046A1ZT	
(2) Legal Name of the Appellant		M/s. B & C ESTATES.	
(3) Trade name, if any-		M/s. B & C ESTATES.	
(4) Address		2nd floor , 5-4-187/3 and 4 , soham mansion , Mg road , secunderabad , Rangareddy , Telangana , 500003	
(5) Order No.	Reference No. ZD360824097535U	Order Date	24.08.2024
(6) Designation and address of the officer passing the order appealed against		Assistant Commissioner Begumpet-2 circle, Begumpet division, Hyderabad, Telangana.	
(7) Date of communication of the order appealed against		24.08.2024	
(8) Name of the authorized representative		**CA. Lakshman Kumar** **C/o. M/s. H N A & Co. LLP,** **(Formerly M/s. Hiregange & Associates, LLP),** **Chartered Accountants,** **4th Floor, West Block,** **Anushka Pride, R. No.12, Banjara Hills, Hyderabad, Telangana 500034** Email: laxman@hnaindia.com Mob: 8978114334 **(And also copy to the Appellant)**	
(9) Details of the case under dispute			
i. Brief issue of the case under dispute		1. Excess claim of ITC: • ITC to be reversed on non-business transactions and exempt supplies. • Under declaration of ineligible ITC.	
ii. Description and classification of goods/services in dispute		NA	
iii. Period of dispute		2019-2020	

iv. Amount under dispute

Description	Central tax	State/UT tax	Integrated tax	Cess
a. Tax/Cess	8,82,932	9,03,171	14,811	NA
b. Interest	NA	NA	NA	NA
c. Penalty	88,293	90,317	1,481	NA
d. Fees	NA	NA	NA	NA
e. Other charges	NA	NA	NA	NA

v.	Market value of seized goods	NA
(10)	Whether the appellant wishes to be heard in person	Yes
(11)	Statement of Facts	**Annexure – A**
(12)	Grounds of Appeal	**Annexure-B**
(13)	Prayer	To set aside the impugned order to the extent aggrieved and grant the relief sought

(14) Amount of Demand Created, admitted, and disputed

Particulars of demand/ Refund	Particulars		CGST	SGST	IGST	Cess	Total amount
	Amount of demand created (A)	a) Tax/Cess	8,82,932	9,03,171	14,811	NA	18,00,914
		b) Interest	NA	NA	NA	NA	NA
		c) Penalty	88,293	90,317	1,481	NA	1,80,091
		d)Fees	NA	NA	NA	NA	NA
		e) Other charges	NA	NA	NA	NA	NA
	Amount of demand admitted (B)	a) Tax/Cess	NA	NA	NA	NA	NA
		b) Interest	NA	NA	NA	NA	NA
		c) Penalty	NA	NA	NA	NA	NA
		d)Fees	NA	NA	NA	NA	NA
		e) Other charges	NA	NA	NA	NA	NA
	Amount of demand disputed	Tax/Cess	8,82,932	9,03,171	14,811	NA	18,00,914
		Interest	NA	NA	NA	NA	NA
		Penalty	88,293	90,317	1,481	NA	1,80,091
		d)Fees	NA	NA	NA	NA	NA
		e) Other charges	NA	NA	NA	NA	NA

(15) Details of payment of admitted amount and pre-deposit: -

a) Details of payment required

Particulars		Central tax	State/UT tax	Integrated tax	Cess	Total
a) Admitted amount	Tax/Cess	NA	NA	NA	NA	NA
	Interest	NA	NA	NA	NA	NA
	Penalty	NA	NA	NA	NA	NA
	Fees	NA	NA	NA	NA	NA

		Other charges	NA	NA	NA	NA	NA
	b) Pre-Deposit (10% of disputed tax or 25Cr. Whichever is lower)	Tax/Cess	88,293	90,317	1,481	NA	1,80,091

b) Details of payment of admitted amount and pre-deposit (pre-deposit 10% of the disputed tax and cess)

Sr. No.	Description	Tax payable	Paid through cash/credit ledger	Debit entry No.	Amount of tax paid
1	2	3	4	5	6
1	Integrated tax	NA	NA	NA	NA
2	Central tax	NA	NA	NA	NA
3	State/UT tax		Cash Ledger	NA	NA
			Credit Ledger		
4	Cess		Cash Ledger	NA	NA
			Credit Ledger	NA	NA

c) Interest, Penalty, Late fee and any other amount payable and paid

Sr.No	Description	Amount Payable				Debit Entry No.	Amount paid			
1	2	3	4	5	6	7	8	9	10	11
1	Interest	NA	NA	NA	NA	NA	NA	NA	NA	NA
2	Penalty	NA				NA	NA			
3	Late Fee	NA	NA	NA	NA	NA	NA	NA	NA	NA
4	Others	NA	NA	NA	NA	NA	NA	NA	NA	NA

(16) Whether the appeal is filed after the prescribed period – No

(17) If 'Yes' in item 16 –
a. Period of delay - NA
b. Reasons for delay – NA

(18) Place of supply wise details of the integrated tax paid (admitted amount only) mentioned in the Table in sub-clause (a) of clause 15 (item (a)), if any

Place of Supply (Name of State/UT)	Demand	Tax	Interest	Penalty	Other	Total
1	2	3	4	5	6	7
NA	Admitted amount [in the Table in sub-clause (a) of clause 15 (item (a))]	NA	NA	NA	NA	NA

Appellant

Annexure-A

STATEMENT OF FACTS

a. M/s. B & C ESTATES (hereinafter referred to as "Appellant") located at the 2nd floor, 5-4-187/3 and 4, soham mansion, Mg Road, Secunderabad, Ranga Reddy, Telangana, 500003 are engaged in the provision of works contract services and are registered with Goods and Service Tax Department vide GSTIN No 36AAHFB7046A1ZT in the state of Telangana and has a state jurisdiction allotted by the CBIC is Begumpet-2 circle, Begumpet division, Hyderabad, Telangana.

b. Appellant submits that the Appellant is regularly discharging GST liability and filing periodical returns.

c. The Appellant was in receipt of Show cause notice in form DRC-01 vide Reference no. ZD3605240848309 dated 31.05.2024 for the FY 2019-20 stating that the Appellant has claimed In eligible ITC and short reversal of ITC proposing to demand an amount of Rs. 18,00,914.00/- (CGST of Rs. 8,82,932.00/- and SGST of Rs. 9,03,171.00/-). (A copy of DRC-01 Dated 31.05.2024 is enclosed as **Annexure-II)**.

d. The Appellant has received the present impugned order vide reference no.ZD360824097535U dated 24.08.2024 confirming the same demand amounts Rs. 18,00,914.00/- (CGST of Rs. 8,82,932.00/- and SGST of Rs. 9,03,171.00/-) along with interest and penalty. (Copy of Order dated 24.08.2024 is enclosed as **Annexure-I)**

Aggrieved by the impugned order, which is contrary to facts, law, and evidence, apart from being contrary to a catena of judicial decisions and beset with grave and incurable legal infirmities, the appellant prefers this appeal on the following grounds (which are alternate pleas and without prejudice to one another) amongst those to be urged at the time of hearing of the appeal.

ANNEXURE-B

GROUNDS OF APPEAL

1. The Appellant submits that the impugned order is ex-facie illegal and untenable in law since the same is contrary to facts and judicial decisions.

2. The Appellant submits that the provisions (including Rules, Notifications & Circulars issued thereunder) of both the CGST Act, 2017 and the Telangana GST Act, 2017 are the same except for certain provisions. Therefore, unless a mention is specifically made to any dissimilar provisions, a reference to the CGST Act, 2017 would also mean a reference to the same provision under the TGST Act, 2017. Similarly, the provisions of the CGST Act, 2017 are adopted by the IGST Act, 2017 thereby the reference to CGST provisions be considered for IGST purposes also, wherever it arises.

In Re: Input Tax Credit to be reversed on non-business transactions & exempt supplies:

3. The impugned order alleged that the appellant had short-reversed input tax credit as per Rule 42 & 43 during the relevant year which resulted in excess claim of input tax credit. A summary of the alleged demand is tabulated below;

Particulars	***Amount***	***CGST***	***SGST***	***Total***
Total Supplies	*49,61,510*			
Exempt Supplies	*33,69,151*			
Proportion	*0.679057*			
Total Input Tax Credit		*8,69,355*	*8,69,355*	*17,38,710*
Input Tax Credit to be reversed		*5,90,342*	*5,90,342*	*11,80,684*
Input Tax Credit reversed		*0.00*	*0.00*	*0.00*
Difference		*5,90,342*	*5,90,342*	*11,80,684*

4. The Appellant submits that the impugned order has only considered the exempt supply declared during the months in GSTR-3B and not considered the nature of the amount disclosed as the exempted turnover.

5. In this regard, the Appellant submits that with respect to the amounts declared in table 3.1(e) of GSTR-3B as Exempt supply, the Appellant submits that the Appellant is engaged in the provision of taxable services viz. works contracts services discharging applicable GST on the same.

Table 1: Bifurcation of exempt turnover for the FY 2019-2020.

Sr.no	Particulars	July	August	February	Total
1	Post OC sales	16,69,000	8,00,000	0	**24,69,000**
2	Interest Income	5,69,658	0	3,69,491	**9,39,149**
	Total	**22,38,658**	**8,00,000**	**3,69,491**	**34,08,149**

6. In this regard, Appellant submits that the impugned order is erroneous for the following reasons, thereby, the same needs to be dropped outrightly
   a. Impugned Order has not examined whether the turnover declared in table-03 of GSTR-3B is required to be considered for reversal under Rules 42 and 43 of CGST Rules, 2017.
   b. Impugned notice has considered the entire ITC availed during the period as the common credit whereas the reversal under Rules 42 and 43 is required to be made only on common ITC used for the provision of both taxable and exempted turnover.
   c. This shows that the impugned Order has been issued on an incorrect basis and the same needs to be dropped.

<u>Post OC sales:</u>

7. With respect to the amount related to post OC as Non-GST supplies which is towards the sale of villas after receipt of occupancy certificate and is disclosed under the head Non-GST supply because same is neither supply of goods nor supply of services as per schedule III to the CGST Act, 2017 and the extract is as follows:

   "Sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building."

   <u>clause (b) of paragraph 5 of Schedule II</u>

   construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier."

8. From the above, it is clear that the consideration received after the issuance of the completion certificate is covered under Schedule III of the GST Act 2017 and hence such value cannot be considered as exempt turnover for the purpose of Rule 42/43 reversal. Therefore, the question of ITC reversal is not applicable and the same needs to be dropped.

9. To substantiate further, that the consideration received on villas is after receiving the occupancy certificate, the Appellant is enclosing the copies of sale deeds along with details of payments or instalments received.

Interest Income term deposit Receipts and Interest on income tax refund:

10. With respect to Interest income declared in GSTR-3B, the Appellant submits that the same constitutes the interest income earned from banks. In this regard, the Appellant submits that Explanation 1 to Rule 43 reads as follows

Explanation 1: -For the purposes of rule 42 and this rule, it is hereby clarified that the aggregate value of exempt supplies shall exclude: -

a. .....

b. *the value of services by way of accepting deposits, extending loans or advances in so far as the consideration is represented by way of interest or discount, except in case of a banking company or a financial institution including a non-banking financial company, engaged in supplying services by way of accepting deposits, extending loans or advances; and*

c. .....

11. Appellant submits that from the above referred explanation, it is clear that the value of services for which the consideration is represented by way of interest or discount shall be excluded from the aggregate value of exempt supplies for the purposes of reversal under Rule 42 and 43 of the CGST Act, 2017. Therefore, there is no requirement to reverse any ITC with respect to interest income received by way of the Interest on term deposit Receipts and Interest on income tax refund received by the Appellant. Hence, the impugned order to that extent needs to be set aside.

In Re: No ITC availed on restricted credits under section 17(5):

12. The Impugned order has confirmed that the Appellant has availed the input tax credit of Rs.5,92,018/-(CGST Rs.2,96,009/- and SGST Rs.2,96,009/-) on inputs or Input services covered under Section 17(5) of the CGST Act 2017.

13. In this regard, Appellant submits that the impugned order has not given the basis on which it has concluded that the input tax credit availed by the Appellant is ineligible. This shows that the impugned order is issued without proper basis, thereby the same needs to be set aside.

14. The Appellant submits that the inputs and input services used in respect of the works contract services are eligible if the same has been used for further supply of such works contract services. In the instant case, as explained in the facts of the supra, the Appellant is engaged in the provision of work contract services, and

inputs and input services used in the provision of work contract are rightly eligible and the Order to this extent needs to be set aside.

15. Further Appellant would like to place reliance on the judgment of the Hon'ble High Court of Tripura in the case of **M/s. SR CONSTRUCTIONS VERSUS THE UNION OF INDIA AND ORS.-** 2023 (4) TMI 699 - TRIPURA HIGH COURT where it was held as follows: -

"It is clear that the petitioner has fulfilled all the conditions of work contracts as he is providing work contract services under a contract for construction of building of a Hotel wherein transfer of property in goods is involved in the execution of such contract. The Hotel Polo Pvt. Ltd. is immoveable property. So, the petitioner has been providing work contract services to the owner of the hotel and not for it's own. Further, in providing taxable work contract services for the said construction of Hotel Building, he is entitled to take Input Tax Credit on the Goods *and Services being utilized for providing the taxable work contract services.*

The petitioner do not fall within the definition of Section 17(5)(c) of the CGST Act, 2017. The demand raised on 30.09.2019 and the penalty imposed under Section 74(1) of the CGST Act,2017 is ultra vires, contrary to law and thus, the impugned order dated 01.02.2022, passed by the respondent no.3, the appellate authority affirming the order passed by the adjudicating authority on 13.10.2020, is liable to be set aside and quashed. Petition allowed."

From the above referred it is clear that ITC on work contract services is eligible provided the Appellant used the same in the course or furtherance of business.

In Re: Penalties and interest are not payable/imposable:

16. The impugned order has imposed a penalty of Rs. 1,80,091/- (CGST Rs. 88,635/- and SGST Rs. 88,635/-) on the proposed demand under Section 73 of the CGST Act, 2017.

17. The Appellant submits that Appellant is of vehement belief that the input availed by Appellant is not required to reverse, therefore, the question of interest and penalty does not arise. Further, it is a natural corollary that when the principal is not payable there can be no question of paying any Penalty as held by the Supreme Court in Prathiba Processors Vs UOI, 1996 (88) ELT 12 (SC).

18. Further, Appellant submits that the impugned order had not discharged the burden of proof regarding the imposition of the penalty under CGST Act, 2017. In this regard, wishes to rely on the judgment in the case of Indian Coffee Workers' Co-Op. Society Ltd Vs C.C.E. & S.T., Allahabad 2014 (34) S.T.R 546 (All) it was held that *"It is unjustified in absence of discussion on fundamental conditions for the imposition of penalty under Section 78 of Finance Act, 1994"*.

19. Appellant submits that Section73(11) of the CGST Act, 2017 which provides for penalty in case of non-payment of self-assessed tax reads as follows

    (11) 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

    From the above referred sub-section, it is clear that the penalty is applicable only when any amount of self-assessed tax or any amount collected as tax has not been paid within a period of 30 days from the due date of payment of such tax. However, in the instant case the Appellant has paid the self-assessed tax and there is no delay in payment of tax. Hence, the penalty under Section 73(11) is not applicable in the instant case.

20. Appellant submits that the Supreme Court in case of CIT Vs Reliance Petro Products Pvt Ltd (SC) 2010 (11) SCC (762) while examining the imposition of penalties under Section 271(1)(c) of Income Tax Act, 1961 held that penlaties are not applicable in similar circumstances.

21. Appellant submits that from the above referred decision of the Supreme Court, penalties cannot be imposed merely because the assessee has claimed certain ITC which was not accepted or was not acceptable to the revenue when the assessee has acted on bonafide belief that the ITC is eligible. In the instant case also, Appellant has availed the ITC on bonafide belief that the same is eligible which was not accepted by the department. Therefore, in these circumstances the imposition of penalties is not warranted and the same needs to be dropped.

22. Appellant submits that it is pertinent to understand that the Supreme Court in the above referred case has held that the penalties shall not be imposed even though the mens rea is not applicable for imposition of penalties.

23. Appellant submits that GST being a new law, the imposition of penalties during the initial years of implementation is not warranted. Further, Appellant submits that they are under bonafide belief that ITC availed by them are eligible, thus, penalties shall not be imposed. Further, the government has been extending the due dates & waiving the late fees for delayed filing etc., to encourage compliance and in these circumstances imposition of penalties for claiming ITC on bonafide belief is not at all correct and the same needs to be dropped.

24. In addition to above, Appellant submits that where an authority is vested with discretionary powers, discretion has to be exercised by application of mind and by recording reasons to promote fairness, transparency and equity. In this regard the reliance is placed on the judgement of hon'ble Supreme Court in the case of Maya Devi v. Raj Kumari Batra dated 08.09.2010 [Civil Appeal No.10249 of 2003] wherein it was held that *"14. It is in the light of the above pronouncements unnecessary to say anything beyond what has been so eloquently said in support of the need to give reasons for orders made by Courts and statutory or other authorities exercising quasi-judicial functions. All that we may mention is that in a system governed by the rule of law, there is nothing like absolute or unbridled power exercisable at the whims and fancies of the repository of such power. There is nothing like a power without any limits or constraints. That is so even when a Court or other authority may be vested with wide discretionary power, for even discretion has to be exercised only along well recognized and sound juristic principles with a view to promoting fairness, inducing transparency and aiding equity."*

25. Appellant submits that the Supreme Court in case of **Hindustan Steel Ltd. v. State of Orissa —1978 [AIR 1970 SC 253]** while dealing with the similar facts wherein a mandatory penalty is prescribed without the concept of mens rea held that *""Under the Act penalty may be imposed for failure to register as a dealer: Section 9(1) read with Section 25(1)(a) of the Act. But the liability to pay penalty does not arise merely upon proof of default in registering as a dealer. An order imposing penalty for failure to carry out a statutory obligation is the result of a quasi-criminal proceeding, and penalty will not ordinarily be imposed unless the party obliged either acted deliberately in defiance of law or was guilty of conduct contumacious or dishonest, or acted in conscious disregard of its obligation. Penalty will not also be imposed merely because it is lawful to do so. Whether penalty should be imposed for failure to perform a statutory obligation is a matter of discretion of the authority to be exercised judicially and on a consideration of all the relevant circumstances.* ***Even if a minimum penalty is prescribed, the authority competent to impose***

the penalty will be justified in refusing to impose penalty, when there is a technical or venial breach of the provisions of the Act or where the breach flows from a bona fide belief that The offender is not liable to act in the manner prescribed by the statute. Those in charge of the affairs of the Company in failing to register the Company as a dealer acted in the honest and genuine belief that the Company was not a dealer. Granting that they erred, no case for imposing penalty was made out

26. Appellant further submits that it was held in the case of Collector of Customs v. Unitech Exports Ltd. 1999 (108) E.L.T. 462 (Tribunal) that- "***It is settled position that penalty should not be imposed for the sake of levy. The penalty is not a source of Revenue.*** The penalty can be imposed depending upon the facts and circumstances of the case that there is a clear finding by the authorities below that this case does not warrant the imposition of penalty. ***The respondent's Counsel has also relied upon the decision of the Supreme Court in the case of M/s. Pratibha Processors v. Union of India reported in 1996 (88) E.L.T. 12 (S.C.) that penalty ordinarily levied for some contumacious conduct or a deliberate violation of the provisions of the particular statute.***" Hence, Penalty cannot be imposed in the absence of deliberate defiance of law even if the statute provides for a penalty

27. Appellant submits that the Supreme Court in case of Price Waterhouse Coopers Pvt. Ltd Vs Commissioner of Income Tax, Kolkata S.L.P.(C) No.10700 of 2009 held as follows

"20. We are of the opinion, given the peculiar facts of this case, that the imposition of penalty on the assessee is not justified. We are satisfied that the assessee had committed an inadvertent and bona fide error and had not intended to or attempted to either conceal its income or furnish inaccurate particulars."

28. Appellant submits that from all the above submissions, it is clear that imposition of penalties is not warranted therefore the impugned order needs to be dropped.

29. Appellant submits that the GST is still under trail and error phase and the assessees are facing genuine difficulties and the same was also held by various courts by deciding in favour of assessee. Therefore, the imposition of penalty during the initial trial and error phase is not warranted and this is a valid reason for setting aside the penalties. In this regard, reliance is placed on

- Bhargava Motors Vs UOI 2019 (26) GSTL 164 (Del) wherein it was held that

"The GST system is still in a 'trial and error phase' as far as its implementation is concerned. Ever since the date the GSTN became operational, this Court has been approached by dealers facing genuine difficulties in filing returns, claiming input tax credit through the GST portal. The Court's attention has been drawn to a decision of the Madurai Bench of the Madras High Court dated 10th September, 2018 in W.P. (MD) No. 18532/2018 (Tara Exports v. Union of India) [2019 (20) G.S.T.L. 321 (Mad.)] where after acknowledging the procedural difficulties in claiming input tax credit in the TRAN-1 form that Court directed the respondents "either to open the portal, so as to enable the petitioner to file the TRAN-1 electronically for claiming the transitional credit or accept the manually filed TRAN-1" and to allow the input credit claimed "after processing the same, if it is otherwise eligible in law

- The Tyre Plaza Vs UOI 2019 (30) GSTL 22 (Del)
- Kusum Enterprises Pvt Ltd Vs UOI 2019-TIOL-1509-HC-Del. GST

30. The Appellant submits that, as submitted supra, there was confusion that existed at such point in time and the issue involved interpretation of provisions and law is at nascent stages. Therefore, the penalties cannot be imposed. Relied on CCE Vs Gujarat Narmada Fertilizers Co. Ltd 2009 (240) E.L.T 661 (S.C).

31. In view of the above, it is requested that a lenient view may be adopted and the penalty be waived.

In Re: Impugned order is not valid.

In Re: SCN and order was issued without the issuance of ASMT-10 or DRC-01A

32. Appellant submits that Section 61 read with Rule 99 specifies that scrutiny of the returns shall be done based on the information available with the proper officer and in case of any discrepancy, he shall issue a order to the said person in FORM GST ASMT-10, under Rule 99(1), informing him of such discrepancy and seeking his explanation thereto. In case the explanation provided by the Ordere is satisfactory, then no further action shall be taken in that regard. If the explanation provided is not satisfactory, then the proper officer can initiate appropriate action under Section 73 or Section 74.

33. Further, as per **Section 73 of the TGST Act read with rule 142(1A) of the TGST Rules,** the proper officer shall, before the service of order under section 73(1), communicate the details of any tax, interest, and penalty in **Part A Form GST DRC-01A.**

34. However, in the instant case the appellant had not received any order in **FORM ASMT-10** requiring the appellant to provide an explanation for the discrepancy orderd in the returns and **pre-order consultation** in **Form DRC-01A.** Instead, the proper officer has directly issued Form GST DRC-01 under Section 73 which shows that the impugned order has been issued without following the procedure prescribed in Section 61 of CGST Act, 2017 and Rule 99 of CGST Rules, 2017.

35. In this regard, reliance is placed on **Vadivel Pyrotech Pvt Ltd vs. Assistant Commissioner (ST), Circle-II (2022) 1 Centax 286 (Mad.)** wherein the Madras High Court held that

> *"6. To a pointed question as to whether Form ASMT 10 ought to have been issued in respect of aspects forming the subject matter of the proceedings in GST DRC-01 culminating in GST DRC-07 in view of the fact that the proceedings are pursuant to scrutiny of assessments, the learned Additional Government Pleader submitted that Form ASMT 10 was not issued other than the one issued on 22-12-2021, which does not cover the issues raised in the impugned proceeding. The learned Additional Government Pleader sought leave to issue order in Form ASMT 10 in respect of the aspects forming the subject matter of the impugned proceedings and thereafter to assess in compliance with the procedure contemplated under the Act including Section 61.*
>
> *7. Recording the same, the impugned order dated 9-5-2022 is set aside and the matter is remitted back to the Assessing Officer for redoing the assessment. It is open to the Respondent to issue the appropriate Form (Form ASMT 10) and after affording a reasonable opportunity to the petitioner in the manner contemplated under the Act proceed further in accordance with law. The petitioner shall also co-operate in the proceedings."*

<u>Demand was confirmed based on assumptions and presumptions</u>

36. Appellant submits that the order was issued based on mere assumptions and presumptions and without considering the intention of the law, documents on record, the scope of activities undertaken and the incorrect basis of computation, creating its own assumptions, presumptions. Further, they have arrived at the conclusion in respect of excess availment of ITC without actual examination of facts, provisions of the Finance Act, 1994. In this regard, Appellant relies on decision of the Hon'ble Supreme Court in case ***Oudh Sugar Mills Limited v. UOI, 1978 (2) ELT 172 (SC)*** wherein it was held that "*we must hold that the finding that 11,606 maunds of sugar were not accounted for by the Appellant has been arrived*

at ***without any tangible evidence and is based only on inferences involving unwarranted assumptions.*** *The finding is thus vitiated by an error of law."*
The Hon'ble SC categorically held that such order issued with assumptions and presumptions is not sustainable under the law. Therefore, on this count alone the entire proceedings in the order do not sustain and require to be set aside.

37. Appellant submits that the entire order seems to have been issued with revenue bias without appreciating the statutory provisions, the intention of the same and the objective of the transaction/activity and nature of the business. Appellant submits that the impugned order has been issued without examining the activities carried out by the Appellant. In case the department had examined all these aspects, the department would not have passed the impugned order. Appellant submits that it is the duty of the authority to consider the facts of the case properly before passing the order. Therefore, impugned order issued without considering the facts of the case is not valid and the same needs to be set aside.

38. From the invariable decisions of various High Courts, it is clear that the order without details is not valid and the same needs to be set aside.

39. In this regard, the appellant places reliance on:
    a. **CCE v. Brindavan Beverages (2007) 213 ELT 487(SC)** the Hon'ble Supreme Court held that "The show cause order is the foundation on which the department has to build up its case. If the allegations in the show cause order are not specific and are on the contrary vague, lacking details and/or unintelligible that is sufficient to hold that the ordere was not given proper opportunity to meet the allegations indicated in the show cause order."
    b. Dayamay Enterprise Vs State of Tripura and 3 OR's. 2021 (4) TMI 1203 - Tripura High Court
    c. Mahavir Traders Vs Union of India (2020 (10) TMI 257 - Gujarat High Court)
    d. Teneron Limited Versus Sale Tax Officer Class II/Avato Goods and Service Tax & Anr. (2020 (1) TMI 1165 - Delhi High Court)
    e. Nissan Motor India Private Limited, Vs the State of Andhra Pradesh, The Assistant Commissioner (CT) (2021 (6) TMI 592 - Andhra Pradesh High Court)

<u>The impugned order is time-barred and Notification No. 56/2023-CT dated 28.12.2023 is bad in law for the FY 2019-20:</u>

40. The Appellant submits that the impugned order was issued under section 73 of CGST Act, 2017 which provides for adjudication of demand within 3 years from the due date of the annual return of the corresponding FY. For FY 2019-20, the annual return due date falls on 31.03.2021 and the 3-year time limit expires by 31.03.2024 however citing the difficulties caused due to Covid-19, the Government has extended the time limit from 31.03.2024 to 30.06.2024 by exercising the powers u/s. 168A by the Notification No. 09/2023 dated 31.03.2023. However, again exercising the powers u/s. 168A, ibid the time limit was further extended to 31.08.2024 by the Notification No. 09/2023-C.T dated 31.03.2023 (second extension). In this regard, it is submitted that an extension of the period prescribed for issuance of show cause notice under Section 73 (10) of the Goods and Service Tax Act, 2017 is not sustainable in law, in as much as COVID restrictions were uplifted long back in the year 2022 and the revenue had sufficient time to complete the scrutiny and audit process. Further, the 'force majeure' is as defined u/s. 168A, ibid was never occurred from 2022 till the expiry of the extended due date of 30.06.2024. Hence, the second extension of time runs beyond the mandate of Section 168A and is not sustained in the law. Accordingly, the demand for FY 2019-20 deserves to be dropped as the Show Cause Notice in the instant case is not issued prior to 31.12.2023 (i.e original due date to issue notice without considering extensions) as envisaged under Section 73 of CGST Act, 2017.

41. It is settled law that any delegated legislation travelling beyond the Statutory provisions be 'ultra vires' i.e meaning it is beyond the powers granted to the tax authorities. Such a circular is invalid and unenforceable and is not sustained in law and for the same reliance is placed on the following case laws:

- Mohit Minerals Pvt Ltd Versus Union Of India 2022 (61) G.S.T.L. 257 (S.C.)
- Munjaal Manish bhai Bhatt Versus Union of India 2022 (62) G.S.T.L. 262 (Guj.)

42. Appellant craves leave to alter, add to, and/or amend the aforesaid grounds.

43. Appellant would also like to be heard in personal, before any order being passed in this regard.

Signature of Appellant

PRAYER

Therefore, it is prayed that

a. To set aside the impugned order to the extent aggrieved;
b. To hold that order is passed in gross violation of principles of natural justice;
c. To hold that no reversal is required under Rule-42 & 43;
d. To hold that no interest is applicable;
e. To hold that no penalty under Section 73 of the CGST Act 2017 is leviable;
f. To provide any other consequential relief;

Appellant

VERIFICATION

I, Soham Satish Modi, Partner, Authorised representative of M/S. B & C ESTATES, Appellant herein do hereby solemnly affirm and declare that the information given herein above is true and correct to the best of my knowledge and belief and nothing has been concealed therefrom.

Place: Hyderabad
Date: 28/11/2024

Appellant

BEFORE THE JOINT COMMISSIONER OF STATE TAX (APPEALS), 5th FLOOR, C.T COMPLEX, PANJAGUTTA, NAMPALLY, HYDERABAD-500001.

Sub: Proceedings under in form DRC07 Order-In-Original vide reference no. ZD360824097535U dated 24.08.2024 issued to M/s. B & C Estates.

I, Soham Satish Modi ,Partner of M/s. B & C Estates, the appellant herein, hereby authorize and appoint M/s. H N A & Co. LLP (Formerly known as Hiregange & Associates LLP), Chartered Accountants, Bengaluru or their partners and qualified staff who are authorized to act as an authorized representative under the relevant provisions of the law, to do all or any of the following acts: -

a. To act, appear and plead in the above-noted proceedings before the above authorities or any other authorities before whom the same may be posted or heard and to file and take back documents.
b. To sign, file verify and present pleadings, applications, appeals, cross-objections, revision, restoration, withdrawal and compromise applications, replies, objections and affidavits etc., as may be deemed necessary or proper in the above proceedings from time to time.
c. To Sub-delegate all or any of the aforesaid powers to any other representative and I/Appellant do hereby agree to ratify and confirm acts done by our above-authorized representative or his substitute in the matter as my/our own acts as if done by me/us for all intents and purposes.

This authorization will remain in force till it is duly revoked by me/us.
Executed this on 28.11.2024 at Hyderabad.

B&C ESTATES SEC'BAD

Signature of Appellant

I the undersigned partner of M/s. H N A & Co. LLP (Formerly known as Hiregange & Associates) Chartered Accountants, do hereby declare that the said M/s. H N A & Co. LLP is a registered firm of Chartered Accountants, and all its partners are Chartered Accountants holding certificate of practice and duly qualified to represent in above proceedings under Section 116 of the Central Goods and Services Act, 2017. I accept the above-mentioned appointment on behalf of M/s H N A & Co. LLP (Formerly known as Hiregange & Associates). The firm will represent through any one or more of its partners or Staff members who are qualified to represent before the above authorities.
Dated:28.11.2024

Address for service:
H N A & Co. LLP,
Chartered Accountants,
4th Floor, West Block, Anushka Pride,
Road Number 12, Banjara Hills,
Hyderabad, Telangana 500034

For H N A & Co. LLP
Chartered Accountants
R. Lakshman Kumar
CA Lakshman Kumar K
Partner (M.No.241726)

I, Partner/Employee/Associate of M/s H N A & Co. LLP duly qualified to represent in above proceedings in terms of the relevant law, also accept the above said authorization and appointment.

S.No.	Name	Qualification	Membership No.	Signature
1	Sudhir V S	CA	219109	
2	Venkat Prasad P	Advocate	AP/3511/2023	
3	Srimannarayan S	CA	261612	
4	Revant Krishna	CA	262586	
5	Akash Heda	CA	269711	
6	P. Manikanta	CA	277705	

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.

Order

Annexure-I

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	9,71,225.0
2	0	0.00	APR 2019	MAR 2020	SGST	NA	9,03,171.00	0.00	90,317.00	0.00	0.00	9,93,488.0
3	0	0.00	APR 2019	MAR 2020	IGST	Telangana	14,811.00	0.00	1,481.00	0.00	0.00	16,292.0
Total							18,00,914.00	0.00	1,80,091.00	0.00	0.00	19,81,005.0

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

Order

Public

Copy to -

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	9,71,225.0
2	0	0.00	APR 2019	MAR 2020	SGST	NA	9,03,171.00	0.00	90,317.00	0.00	0.00	9,93,488.0
3	0	0.00	APR 2019	MAR 2020	IGST	Telangana	14,811.00	0.00	1,481.00	0.00	0.00	16,292.0
Total							18,00,914.00	0.00	1,80,091.00	0.00	0.00	19,81,005.0

Order

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

Copy to -

Order

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 Designation of the assessing officer Circle Division	ASSISTANT COMMISSIONER (ST) BEGUMPET-II CIRCLE BEGUMPET DIVISION
Details of the Tax payer Name Legal Name GSTIN	B&C ESTATES5 B & C ESTATES 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 reprodu l 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 +05'3

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

FORM GST DRC - 01
[See rule 100(2) & 142(1)(a)]

Reference No. - ZD3605240848309

Date - 31-05-2024

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

Tax Period : APR 2019 - MAR 2020

F.Y.- 2019-2020

Act/ Rules Provisions - 73

Section / sub-section under which SCN is being issued - 73

Summary of Show Cause Notice

(a) Brief Fact of the Case : As per attached Annexure

(b) Grounds : 73

(c) Tax and other dues :

(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	IGST	Telangana	14,811.00	0.00	0.00	0.00	0.00	14,811.00
2	0	0.00	APR	MAR	CGST	NA	8,82,932.00	0.00	0.00	0.00	0.00	8,82,932.00

Annexure-II

Notice

			2019	2020									
3	0	0.00	APR 2019	MAR 2020	SGST	NA	9,03,171.00	0.00		0.00	0.00	0.00	9,03,171.00
Total							18,00,914.00	0.00		0.00	0.00	0.00	18,00,914.00

Show Cause Notice is attached.

Supporting documents attached by officer:

22_36AAHFB7046A1ZT_B___C_ESTATES_FY_18_19.pdf : drc

Details of personal hearing and due date to file reply:

Sr. No.	Description	Particulars
1	Date by which reply has to be submitted	15-06-2024
2	Date of personal hearing	NA
3	Time of personal hearing	NA
4	Venue where personal hearing will be held	NA

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

Notice

Commissionerate of Taxes
Government of Telangana, India

Attachment to DRC 01

DIN	GST/36AAHFB7046A1ZT/20/2
Office details Designation of the assessing officer Circle Division	
Details of the Tax payer Name Legal Name GSTIN	 B&C ESTATES5 B & C ESTATES 36AAHFB7046A1ZT
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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
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	Total tax due in (Excess claim of ITC) above	903171.00	882932.00	14811.00	0.00	1800914.00

(The detailed workings of the above in tabular form are attached as Annexure-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.

Name :

Designation :

ITC to be reversed on non-business transactions & exempt supplies	Date: 08-02-2024	Amount in Rupees

GSTIN : 36AAHFB7046A1ZT Name : B&C ESTATES5 FY : 2019-20

S.No.	Month	Total supplies	Exempt supplies	Common input tax credit			ITC reversed as per GSTR-3B		
				SGST CGST	IGST CESS	Total	SGST CGST	IGST CESS	Total
1	2	3	4	5a	5b	5c	6a	6b	6c
1	Apr, 2019	0.00	0.00	135483.00 135483.00	0.00 0.00	270966.00	0.00 0.00	0.00 0.00	0.00
2	May, 2019	1.00	0.00	449331.00 449331.00	0.00 0.00	898662.00	0.00 0.00	0.00 0.00	0.00
3	Jun, 2019	108830.00	0.00	282055.00 282055.00	21811.00 0.00	585921.00	0.00 0.00	0.00 0.00	0.00
4	Jul, 2019	2304290.00	2304290.00	0.00 0.00	0.00 0.00	0.00	0.00 0.00	0.00 0.00	0.00
5	Aug, 2019	1882541.00	1015839.00	0.00 0.00	0.00 0.00	0.00	0.00 0.00	0.00 0.00	0.00
6	Sep, 2019	0.00	0.00	0.00 0.00	0.00 0.00	0.00	0.00 0.00	0.00 0.00	0.00
7	Oct, 2019	0.00	0.00	0.00 0.00	0.00 0.00	0.00	0.00 0.00	0.00 0.00	0.00
8	Nov, 2019	197335.00	0.00	0.00 0.00	0.00 0.00	0.00	0.00 0.00	0.00 0.00	0.00
9	Dec, 2019	0.00	0.00	0.00 0.00	0.00 0.00	0.00	0.00 0.00	0.00 0.00	0.00
10	Jan, 2020	250000.00	0.00	0.00 0.00	0.00 0.00	0.00	0.00 0.00	0.00 0.00	0.00
11	Feb, 2020	218514.00	49022.00	0.00 0.00	0.00 0.00	0.00	0.00 0.00	0.00 0.00	0.00
12	Mar, 2020	0.00	0.00	1091.00 1091.00	0.00 0.00	2182.00	0.00 0.00	0.00 0.00	0.00
	Total	4961511.00	3369151.00	867960.00 867960.00	21811.00 0.00	1757731.00	0.00 0.00	0.00 0.00	0.00

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Note:

Common SGST ITC = Common input tax credit from 4A = 867960.00

SGST Tax = SGST ITC to be reversed {Exempt Supplies / Total Supplies X Common SGST ITC } - SGST ITC reversed as per GSTR-3B

= 589394.00 - 0.00

= 589394.00

Common CGST ITC = Common input tax credit from 4A = 867960.00

CGST Tax = CGST ITC to be reversed {Exempt Supplies / Total Supplies X Common CGST ITC } - CGST ITC reversed as per GSTR-3B

= 589394.00 - 0.00

= 589394.00

Common IGST ITC = Common input tax credit from 4A = 21811.00

IGST Tax = IGST ITC to be reversed {Exempt Supplies / Total Supplies X Common IGST ITC } - IGST ITC reversed as per GSTR-3B

= 14811.00 - 0.00

= 14811.00

Common CESS ITC = Common input tax credit from 4A = 0.00

CESS Tax = CESS ITC to be reversed {Exempt Supplies / Total Supplies X Common CESS ITC } - CESS ITC reversed as per GSTR-3B

= 0.00 - 0.00

= 0.00

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Details of Ineligible ITC 17 (5) Date: 08-02-2024 Amount in Rupees

GSTIN : 36AAHFB7046A1ZT
Name : B&C ESTATES5 FY : 2019-20

S.No.	Seller Name	Seller GSTIN	Commodity / Service	HSN code	Month	R1 to this dealer		
						SGST CGST	IGST CESS	Total
1	2	3	4	5	6	7a	7b	7c
1	SUMMIT SALES LLP	36ACQFS2044C1Z7	Works contractors	9954;	Apr, 2019	80347.00 80347.00	0.00 0.00	160694.00
2	SUMMIT SALES LLP	36ACQFS2044C1Z7	Works contractors	9954;	May, 2019	102394.00 102394.00	0.00 0.00	204788.00
3	SUMMIT SALES LLP	36ACQFS2044C1Z7	Works contractors	9954;	Jun, 2019	26554.00 26554.00	0.00 0.00	53108.00
4	YOUSUF ALI INTERIORS	36AFBPY8773N1ZE	Works contractors	9954;	Jun, 2019	5788.00 5788.00	0.00 0.00	11576.00
5	SUMMIT SALES LLP	36ACQFS2044C1Z7	Works contractors	9954;	Jul, 2019	17814.00 17814.00	0.00 0.00	35628.00
6	HANUMAN ENTERPRISES	36AAFFH6354P1ZT	Works contractors	9954;	Jul, 2019	909.00 909.00	0.00 0.00	1818.00
7	SUMMIT SALES LLP	36ACQFS2044C1Z7	Works contractors	9954;	Aug, 2019	34272.00 34272.00	0.00 0.00	68544.00
8	SUMMIT SALES LLP	36ACQFS2044C1Z7	Works contractors	9954;	Sep, 2019	12684.00 12684.00	0.00 0.00	25368.00
9	YOUSUF ALI INTERIORS	36AFBPY8773N1ZE	Works contractors	9954;	Sep, 2019	1836.00 1836.00	0.00 0.00	3672.00
10	karunakarreddy veldi	36AKGPR0150G1ZD	Works contractors	9954;	Sep, 2019	1272.00 1272.00	0.00 0.00	2544.00
11	SUMMIT SALES LLP	36ACQFS2044C1Z7	Works contractors	9954;	Oct, 2019	32634.00 32634.00	0.00 0.00	65268.00
12	SUMMIT SALES LLP	36ACQFS2044C1Z7	Works contractors	9954;	Nov, 2019	8441.00 8441.00	0.00 0.00	16882.00
13	YOUSUF ALI INTERIORS	36AFBPY8773N1ZE	Works contractors	9954;	Dec, 2019	7325.00 7325.00	0.00 0.00	14650.00
14	karunakarreddy veldi	36AKGPR0150G1ZD	Works contractors	9954;	Dec, 2019	636.00 636.00	0.00 0.00	1272.00

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S.No.	Seller Name	Seller GSTIN	Commodity / Service	HSN code	Month	R1 to this dealer		
						SGST CGST	IGST CESS	Total
1	2	3	4	5	6	7a	7b	7c
15	SUMMIT SALES LLP	36ACQFS2044C1Z7	Works contractors	9954;	Dec, 2019	-21973.00 -42212.00	0.00 0.00	-64185.00
16	SUMMIT SALES LLP	36ACQFS2044C1Z7	Works contractors	9954;	Jan, 2020	535.00 535.00	0.00 0.00	1070.00
17	SUMMIT SALES LLP	36ACQFS2044C1Z7	Works contractors	9954;	Feb, 2020	1710.00 1710.00	0.00 0.00	3420.00
18	SUMMIT SALES LLP	36ACQFS2044C1Z7	Works contractors	9954;	Mar, 2020	599.00 599.00	0.00 0.00	1198.00
	Total					313777.00 293538.00	0.00 0.00	607315.00

Note:

SGST Ineligible ITC = Lower of {(Total SGST ineligible ITC u/s 17(5) from GSTR-01 to this dealer - 4D(1) SGST of GSTR-3B) or Sum of 4C of all months GSTR 3B in FY}

= 313777.00 - 0.00

= 313777.00

CGST Ineligible ITC = Lower of {(Total CGST ineligible ITC u/s 17(5) from GSTR-01 to this dealer - 4D(1) CGST of GSTR-3B) or Sum of 4C of all months GSTR 3B in FY}

= 293538.00 - 0.00

= 293538.00

IGST Ineligible ITC = Lower of {(Total IGST ineligible ITC u/s 17(5) from GSTR-01 to this dealer - 4D(1) IGST of GSTR-3B) or Sum of 4C of all months GSTR 3B in FY}

= 0.00 - 0.00

= 0.00

CESS Ineligible ITC = Lower of {(Total CESS ineligible ITC u/s 17(5) from GSTR-01 to this dealer - 4D(1) CESS of GSTR-3B) or Sum of 4C of all months GSTR 3B in FY}

= 0.00 - 0.00

= 0.00