

GOVERNMENT OF TELANGANA
COMMERCIAL TAX DEPARTMENT

DRC-07

[u/Sec 73 of TGST & CGST Act 2017]

Date: 23-04-2024

DIN	GST/36ABCFM6774G2ZZ/19
Office details	
Designation of the assessing officer	ASSISTANT COMMISSIONER (ST)
Unit	M.G.ROAD-S.D.ROAD
Division	BEGUMPET
Details of the Tax payer	
Name	M/s MODI REALTY (MIRYALAGUDA) LLP
Legal Name	MODI REALTY (MIRYALAGUDA) LLP
GSTIN	36ABCFM6774G2ZZ
Financial Year	2018-19

Ref: 1) SCN ARN No: **AD361121028612L**, Date: **14.11.2021**.

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.**800614.64**
CGST Rs.**800614.64**
Total Rs.**1601229.28**

Responding to the show cause notice issued in the reference first cited above the tax payer has filed his written objections through DRC-06 vide ARN: ZD361221027817H, Dt.09.12.2021. The same are discussed item wise along with the conclusions of the assessing authority as under:

1. Net tax liability under declared on account of non-reconciliation of information declared in GSTR-09:

a. The tax on outward supplies under declared on reconciliation of data in GSTR-09:

It is observed that the tax payer has not correctly declared tax on his outward supplies on reconciliation of turnovers in GSTR-09. Resulting in a tax payable to a tune of **Rs.362613.80**

S.No	Issue	Table No. in GSTR-09	SGST	CGST	Total
1	Tax on taxable supplies as declared in GSTR-09	4N	1557626.13	1557626.13	3115252.26
2	Add net increase due to amendments (Increase in amendments (-) decrease in amendments)	10 (-) 11	170761.77	170761.77	341523.54
3	Add tax on deemed supplies	16B	0.00	0.00	0.00
4	Add tax on unreturned goods	16C	0.00	0.00	0.00
5	Add pending demands	15G	0.00	0.00	0.00
6	Total output tax liability as per the above in GSTR-09		1728387.90	1728387.90	3456775.80
7	Less Total tax paid in cash	9	0.00	0.00	0.00
8	Less Tax paid by adjustment of ITC	9	1547081.00	1547081.00	3094162.00

9	Less differential tax paid on amendments	14	0.00	0.00	0.00
10	Add differential tax paid on amendments related to previous year in current year.	(14) of previous FY GSTR-09	0.00	0.00	0.00
11	Under declared tax in GSTR-09		181306.90	181306.90	362613.80

Response of the tax payer:

The tax payer has '**Not agreed**' for the following amount in the SCN.

SGST: Rs.181306.90

CGST: Rs.181306.90

The reasons cited by the tax payer for disagreeing are:

- The tax payer has replied that the difference is paid in subsequent GSTR-3B while filing GSTR-09 for the F.Y 2018-19:

GSTR-3B	ARN	Date	SGST	CGST
Aug,2019	AA360819182075S	18.09.2019	Rs.170761.70	Rs.170761.70

- Difference amount has already been paid through DRC-03:

ARN	Date	SGST	CGST
AD361220001522X	11.12.2020	Rs.10545.00	Rs.10545.00

Observations and conclusion of the assessing authority:

Agreed with TP

b. The excess input tax credit(ITC) claimed on account of non-reconciliation of information declared in GSTR-09:

The 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.489235.56**

S.No	Issue	Table No. in GSTR-09	SGST	CGST	Total
1	Excess claim of ITC declared in GSTR-09	8D	244617.78	244617.78	489235.56
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		244617.78	244617.78	489235.56

Response of the tax payer:

The tax payer has '**Not agreed**' for the following amount in the SCN.

SGST: Rs.244617.78

CGST: Rs.244617.78

The reasons cited by the tax payer for disagreeing are:

- The tax payer has submitted that ITC cannot be denied merely due to non-reflection of invoices in GSTR-2A as all the conditions specified under Sec.16 of CGST Act, 2017 has been satisfied.
- Also the tax payer has replied that even if there is differential ITC, they said that they are accompanied by a valid tax invoices containing all the particulars specified in Rule 36 of SGST/CGST rules.

Observations and conclusion of the assessing authority

Disagreed with TP.

- i. Though the tax payer has mentioned that they are accompanied by a valid tax invoices containing all the particulars specified in Rule 36 of SGST/CGST rules, they have failed to produce any Invoices as per circular 183/15/2022, dt.27.12.2022 even after granting sufficient time and reminding them of the same in many instances. Hence the demand proposed under this head is hereby confirmed as below:

SGST: Rs.244617.78 **CGST:** Rs.244617.78

2. Excess claim of ITC:

a. 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	Reversals in GSTR-09 related to current year	7I (-) 7E	368643.21	368643.21	737286.42
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}	368643.21	368643.21	737286.42

Response of the tax payer:

The tax payer has '**Not agreed**' for the following amount in the SCN.

SGST: Rs.368643.21 **CGST:** Rs.368643.21

The reasons cited by the tax payer for partially disagreeing are:

- i. Difference amount has already been paid through DRC-03:

ARN	Date	SGST	CGST
AD361220001522X	11.12.2020	Rs.10545.00	Rs.10545.00

Observations and conclusion of the assessing authority:

Agreed with TP

b. 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-09	Value of outward supply	SGST	CGST	Total
1	Total supplies	5N+10-11	19108206.00	-	-	-

2	Exempt supplies	5C + 5D + 5E + 5F	21072.00	-	-	-
3	Proportion of common ITC which has to be reversed to the extent of exempt supply (2/1 above)		0.00	-	-	-
4	Common input tax credit	6O+13-12	-	4566313.78	4566313.78	9132627.56
5	ITC to be reversed	{S.No.4 (x) S. No.2}/S.No.1	-	5035.60	5035.60	10071.20
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	-	5035.60	5035.60	10071.20

Response of the tax payer:

The tax payer has '**Not agreed**' for the following amount in the SCN.

SGST: Rs.5035.60

CGST: Rs.5035.60

The reasons cited by the tax payer for disagreeing are:

- The tax payer has replied that the exempt supplies mentioned in the notice belongs to Non-GST i.e.; Interest Income and enclosed their balance sheet.

Observations and conclusion of the assessing authority

Agreed with TP

c. 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	Accident & Health Insurance	997133;		1011.15	1011.15	2022.30
A	Total ineligible ITC u/s 17(5)	-		1011.15	1011.15	2022.30
B	Ineligible ITC declared in GSTR-09	-	7E	0.00	0.00	0.00
C	Difference/excess ITC claimed	-		1011.15	1011.15	2022.30

Response of the tax payer:

The tax payer has '**not agreed**' for the following amount in the SCN.

SGST: Rs.1011.15

CGST: Rs.1011.15

The reasons cited by the tax payer for disagreeing are:

- The tax payer has replied that they have not availed any ITC on the vendors mentioned in the impugned notice, as a proof of evidence the tax payer has enclosed the copy of ledger account of M/s. Star Health and allied Insurance Company Limited.

Observations and conclusion of the assessing authority

Agreed with TP

Summary:

Annexure with details for the above proposals are 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	Issue	Amt in SCN		Amt determined by AA	
		SGST	CGST	SGST	CGST
1	The tax on outward supplies under declared on reconciliation of data in GSTR-09	181306.90	181306.90	0.00	0.00
2	Excess claim of ITC declared in GSTR-09	244617.78	244617.78	244617.78	244617.78
3	Excess ITC reversed in GSTR-09 over and above GSTR-3B	368643.21	368643.21	0.00	0.00
4	ITC to be reversed on non-business transactions & exempt supplies	5035.60	5035.60	0.00	0.00
5	Under declaration of Ineligible ITC	1011.15	1011.15	0.00	0.00
	Total	800614.64	800614.64	244617.78	244617.78
Less Tax paid after issuing SCN but within (30) days				0.00	0.00
Less Tax paid after issuing SCN but after (30) days				0.00	0.00
Net liability				244617.78	244617.78
Penalty(/Sec 73 (9) of TGST & CGST Act 2017)				24461.77	24461.77

The Total due determined by the Assessing authority is Tax of SGST: Rs.244617.78 & CGST: Rs.244617.78 and Penalty of SGST: Rs.24461.77 & CGST: Rs.24461.77. You are hereby directed to make the payment within (30) days of issue of this order, failing which proceedings shall be initiated against you to recover the outstanding dues.

Sd/-xxx
Assistant Commissioner (ST)
M.G.Road - S.D.Road Circle,
Begumpet Division, Hyderabad.

Office of : Assistant Commissioner
Jurisdiction : M.G.ROAD - S.D.ROAD:Begumpet:Telangana, State/UT : Telangana

Reference No. : ZD360424048614D

Date : 23/04/2024

To

GSTIN/ID : 36ABCFM6774G2ZZ

Name : MODI REALTY (MIRYALAGUDA) LLP

Address : 5-4-187/3 AND 4, SOHAM MANSION, 2ND FLOOR, M.G ROAD, SECUNDERABAD, Rangareddy, Telangana, 500003

SCN/Statement Reference No. : ZD3611210252690

Date : 14/11/2021

Tax Period : APR 2018 - MAR 2019

F.Y. : 2018-2019

Act/ Rules Provisions :
GST ACT

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 :-

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	CGST	NA	2,44,618.00	0.00	24,462.00	0.00	0.00	2,69,080.00
2	0	0.00	APR 2018	MAR 2019	SGST	NA	2,44,618.00	0.00	24,462.00	0.00	0.00	2,69,080.00
Total							4,89,236.00	0.00	48,924.00	0.00	0.00	5,38,160.00

(Amount in Rs.)

You are hereby directed to make the payment by 23/05/2024 failing which proceedings shall be initiated against you to recover the outstanding dues.

Signature
Name : UPENDER REDDY BOPPIDI
Designation : Assistant Commissioner
Jurisdiction : M.G.ROAD -
S.D.ROAD: Begumpet: Telangana

Copy to -

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

Reference No. : ZD360424048614D

Date : 23/04/2024

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 :-

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	CGST	NA	2,44,618.00	0.00	24,462.00	0.00	0.00	2,69,080.00
2	0	0.00	APR 2018	MAR 2019	SGST	NA	2,44,618.00	0.00	24,462.00	0.00	0.00	2,69,080.00
Total							4,89,236.00	0.00	48,924.00	0.00	0.00	5,38,160.00

You are hereby directed to make the payment by 23/05/2024 failing which proceedings shall be initiated against you to recover the outstanding dues.

Copy to -

Signature

Name :

UPENDER REDDY BOPPIDI

Designation : Assistant Commissioner

Jurisdiction : M.G.ROAD -

S.D.ROAD: Begumpet:Telangana