GOVERNMENT OF TELANGANA
COMMERCIAL TAXES DEPARTMENT

Proceedings of the
STATE TAX OFFICER-II,
M.G.ROAD-S.D.ROAD CIRCLE, BEGUMPET DIVISION.
(Present : Venkateshwar Rao Sheri)

GSTIN: 36ABCFM6774G2ZZ

Date: 30-01-2025

SUMMARY OF ORDER PROCEEDINGS

for the Financial Year 2020-21 under GST Act, 2017
[See Rule 142 (1) and Section 73]

SUB: Goods and Services Tax Act, 2017 (for brevity 'GST Act, 2017') – M.G.Road-S.D.Road Circle - Begumpet Division, Hyderabad –M/s. MODI REALTY (MIRYALAGUDA) LLP (for brevity 'taxpayer') – Conduct of general audit for the financial year 2020-21 under GST Act – Notice issued in ADT-01 - Records produced - Examination/scrutiny made of the same – Certain discrepancies / deficiencies/ anomalies noticed - Proposed to assess under Section 73 of CGST Act, 2017 - Show Cause Notice issued in DRC 01 – Reply Filed – Orders Passed – Regarding.

REF:
1. Commissioner (ST), Telangana, Hyderabad Audit Authorization in GST Portal on dt. 20-04-2024
2. Joint Commissioner (ST), Begumpet Division, Hyderabad Audit Authorization In Ref No. BGPT-DIVN/STO-II/34/MGSD/2024-25 dt. 05-11-2024.
3. STO-II, M.G. Road - S.D. Road Circle notice issued in GST Form DRC-01 vide Ref No. ZD361124013285S, Dated. 13-11-2024.
4. M/s. MODI REALTY (MIRYALAGUDA) LLP, Reply filed dt. 30-12-2024, dt. 24-01-2025, and dt. 29-01-2025

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M/s. MODI REALTY (MIRYALAGUDA) LLP, located at SOHAM MANSION, 2ND FLOOR, 5-4-187/3 AND 4, M.G ROAD, SECUNDERABAD, 500003 are a registered taxpayer under the provisions of GST Act, 2017 with GSTIN 36ABCFM6774G2ZZ and assessee on the rolls of the state jurisdictional tax office i.e., the Assistant Commissioner (ST), M.G.Road-S.D.Road Circle of Begumpet Division, Hyderabad. They are carrying on business in "trading of Goods as per the Portal' is that, (HSN 00440290) CONSTRUCTION SERVICES IN RESPECT OF COMMERCIAL OR INDUSTRIAL BUILDINGS AND CIVIL STRUCTURES(HSN 00440410) WORKS CONTRACT SERVICES.

In consequent to the GST General Audit authorized as required under the provisions of Section 65, read with Rule 101 of CGST Act and Rules, 2017 in respect of the above-mentioned taxpayer for the financial year **2020-21**, the audit of the taxpayer is accordingly undertaken.

In the course of and as a part of processing the Audit undertaken in due process of law, the taxpayer vide reference 1st cited, has been issued 'Notice for conducting Audit' via prescribed "Form GST ADT-01" dated 20-04-2024 as required under the provisions of Rule 101 and Sec.65 of CGST Act,2017 duly intimating / notifying the authorized Audit of their books of accounts and records and with a direction to attend in person or through an authorized representative on dated. 07-05-2024 before the undersigned at aforementioned address with the relevant books of accounts and records and in the light of Section 65 of CGST Act, 2017 they are asked to render their assistance for timely completion of the Audit for the financial year **2020-21** as required for Audit.

The Notice was served as prescribed under the provisions of Section 169 of CGST Act, 2017 i.e., by way of communicating to the e-Mail address of the taxpayer so given at the time of GST registration or as amended from time to time.

The taxpayer having received the ADT-01 appeared in person and produced Profit and Loss Account, Balance Sheet, Purchase and Sale Statements etc., On due examination of the same with reference to the material available in the GST Common Portal, their tax liabilities and other discharged liabilities are hereby proposed to assess with the following results:-

1) <u>Input Tax on Inward Supplies :-</u>

The Tax Payer claimed Input Tax Credit in GSTR3B / GSTR 9 returns filed by them for the year **2020-21** as under:

IGST Rs. 82,05,291.00
CGST Rs. 47,23,417.00
SGST Rs. 47,23,417.00

On verification of the ITC claim of the taxpayer among the Form GSTR-3B and Form GSTR-2A, the following variations are noticed.

The following Ineligible Input Taxes under Section 17(5) of the GST Act reflected in the Table 8A of GSTR 9 proposed for rejection.

Particulars	CGST Input	SGST Input
M/S CAPS GOLD PRIVATE LIMITED	3,451.46	3,451.46
Total	**3451.46**	**3451.46**

Thus, the eligible for Input Tax Credit as per the Table 8A of GSTR 9 is arrived as under:

Particulars	CGST	SGST
Input Tax as per Table 8A of GSTR 9	4442644.33	4442644.33
Less: Credit Notes	12577.50	12577.50
Net ITC	4430066.83	4430066.83
Ineligible Input Tax under Section 17(5) of the GST Act	3451.46	3451.46
Net ITC Eligible	**4426615.37**	**4426615.37**

The Tax Payer claimed excess ITC in GSTR3B/GSTR 9 compared with the ITC as appearing in Table 8A of GSTR 9 as under.

Particulars	CGST	SGST	Total
ITC claimed in GSTR 3B / GSTR 9	4723417	4723417	9446834
Less: Net ITC Eligible as per Table 8A of GSTR 9	4426615	4426615	8853230
Excess ITC Claimed	**296802**	**296802**	**593604**

2) **Output Tax on Outward Supplies :-**

The Tax Payer reported Output Tax in GSTR3B / GSTR 9 Returns filed by them for the year **2020-21** as under:

IGST Rs. 00.00
CGST Rs. 57,51,108.00
SGST Rs. 57,51,108.00

A) The Tax Payer claimed Exemption on the Output Turnover of Rs. 2,13,18,231/- in the GSTR3B / GSTR 9 Returns filed by them, but they have failed to file documentary evidences for their claim of exemption, hence the same is Proposed to Tax @ 18% as under:

Particulars	Turnover	CGST Proposed @ 9%	SGST Proposed @ 9%	Total Output Tax Proposed
Exempted Turnover Reported Proposed to Tax in absence of documentary evidences	21318231	1918641	1918641	3837282

Note: If the Tax Payer submits the documentary evidence for their claim of Exempted Output Turnover, the Input Tax to be reversed on non-business transactions & exempt supplies under Section 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, 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	Total
1	2	3	4	5	6	7
1	Total supplies	3.1-3.1(D)	85020859.00	-	-	-
2	Exempt supplies	3.1(c)+3.1(e)	21150875.00	-	-	-
3	Proportion of common ITC which has to be reversed to the extent of exempt supply (2/1 above)		0.248772	-	-	-
4	Common input tax credit	4A+Tran 1+ Tran 2	-	4746403.98	4746403.98	9492807.96
5	ITC to be reversed	[S.No.2]/[S.No.1]X[S.No. 4]	-	1180772.41	1180772.41	2361544.82
6	ITC reversed as per GSTR-3B	4B(1)	-	0.00	0.00	0.00
7	Difference/Excess ITC claimed	S.No.5 (-) S. No.6	-	1180772.41	1180772.41	2361544.82

B) As seen from the Sales Register filed compared with the Output Taxes reported in GSTR 3B / GSTR 9 the following variations noticed in Output Turnovers and Taxes Reported.

Particulars	Turnover	Turnover	CGST Proposed @ 9%	SGST Proposed @ 9%	Total Output Tax Proposed
Gross Output Turnover as per Sales Register filed		97172291			
Less: Output Turnover Reported		96721645			
1. GST Output Turnover	63901198				
2. CGST Tax	5751108				
3. SGST Tax	5751108				
4. Non-GST Output Turnover	21318231				
Total	**96721645**				
Short Reported Output Turnover Now Proposed to Tax @ 18%		**450646**	**40558**	**40558**	**81116**

Therefore, it is proposed to assess for year **April 2020 to March 2021** for the net tax proposed to be payable indicated under Section 73 of the SGST/CGST Act as under:

S. No.	Particulars	CGST Tax	SGST Tax	Total Tax
1	Proposed to Disallow Excess claim of Input Tax compared with Table 8A of GSTR 9 and GSTR 3B / GSTR 9	296802	296802	593604
2A	Exempted Turnover Reported Proposed to Tax in absence of documentary evidences	1918641	1918641	3837282
2B	Short Reported Output Tax proposed compared with Sales Register filed and GSTR 3B / GSTR 9 returns filed	40558	40558	81116
	Total Tax Due to the Department	**2256001**	**2256001**	**4512002**

As per Section 47(2) of CGST Act, 2017 enumerates that, "any registered person who fails to furnish the return required under Section 44 by the due date shall be liable to pay a Late Fee of one hundred rupees for every day during which such failure continues subject to a maximum of an amount calculated at a quarter per cent of his turnover in the State or Union Territory.

In the light of the above legal positions, the amount of Late fee to be paid on account of belated filing of Form GSTR 9C and GSTR-1 Returns is hereby enumerated by due calculative exercise as under:

Nature of return	Period	Due Date of Filing	Date of Filing Return	No. of Days Delayed	Late Fee @ Rs.100 per day
GSTR 1	April, 2020	11-05-2020	25-05-2020	14	1400
GSTR 1	May,2020	11-06-2020	29-06-2020	18	1800

GSTR 1	June, 2020	11-07-2020	27-07-2020	16	1600
GSTR 1	July, 2020	11-08-2020	13-10-2020	63	6300
GSTR 1	Aug-20	11-09-2020	09-11-2020	59	5900
GSTR 1	Sept.2020	11-10-2020	16-11-2020	36	3600
GSTR 1	Oct.2020	11-11-2020	20-11-2020	9	900
GSTR 1	Nov.2020	11-12-2020	15-12-2020	4	400
GSTR 1	Mar.2021	11-04-2021	04-08-2021	115	11500
	Total				**33400**

While bringing forward to the notice of the taxpayer about the above Late Fee calculated for belated filing of Form GSTR-01 returns amounting to Rs.33,400/- (i.e., Rs.16,700/- towards CGST and Rs.16,700/- towards SGST respectively), the taxpayer is hereby directed to pay the same by generating Form GST DRC-03 or if having any objections, as to file their reply.

The Tax payer failed to file GSTR 01 returns for the months January 2021 and February 2021, which is liable to levy Penalty @0.50% of the Turnover under Section 47 of CGST Act, 2017, as under.

Nature of return	Period	Output Turnover for the month	Late Fee @ 0.50% on Output Turnover
GSTR 1	Jan.2021	1688611	8443
GSTR 1	Feb.2021	4398500	21993
	Total		**30436**

While bringing forward to the notice of the taxpayer about the above Penalty calculated for not filing of Form GSTR-01 returns amounting to Rs.30,436/- (i.e., Rs.15,218/- towards CGST and Rs.15,218/- towards SGST respectively), the taxpayer is hereby directed to pay the same by generating Form GST DRC-03 or if having any objections, as to file their reply.

Further it is noticed that the Tax Payer wrongly claimed an IGST Input Tax of Rs.82,05,291/- in GSTR 3B Return filed for the month of July, 2020, subsequently it was reversed in GSTR 3B Return filed for the month of September, 2020 from the Credit having with them under IGST for Rs. 45,72,637/- and under CGST for Rs. 36,32,654/-, it clearly shows that the Tax Payer utilised the IGST Input Tax of Rs. 36,32,654/-, it needs to be levied Interest @ 18% PA, hence the same it proposed as under:

Ineligible IGST Input Tax utilised	Rs. 36,32,654-00
Period of Ineligible IGST Input Tax utilised	(2) months
Interest @ 18% (i.e. 3632654 x 2/12 x 18/100)	Rs. 1,08,980-00

Accordingly a notice in DRC-01 has been issued vide Reference No. ZD361124013285S, Dated. 13-11-2024, and requested to file their objections if any within the stipulated time provided. In receipt of the notices the Tax Payer filed their reply on 30-12-2024, dt. 24-01-2025, and dt. 29-01-2025, the Reply filed by the Tax Payer along with documents attached have been verified and considered as under:

1) **Input Tax on Inward Supplies :-**

The Tax Payer claimed that few of their suppliers haven't filed their respective returns due to which the same has not auto-populated in GSTR-2B for the tax period 2020-21, and they have filed declaration certificate as per Circular No. 193/05/2023-GST dated 17th July 2023 issued by Central Board of Indirect Taxes and Customs, New Delhi, and requested to allow the Input Tax credit.

The Reply filed along with documents produced have been verified and found that the excess Input Tax claimed than the Input Tax auto-populated in GSTR-2B for the period from 01-04-2020 to 31-12-2020 is below 10% and for the period from dt. 01-01-2021 to 31-03-2021 is below 5% as applicable as per Circular No. 193/05/2023-GST dated 17th July 2023, hence the claim of the Tax Payer is allowed and the **Tax of Rs. 2,96,802/- under CGST and Rs. 2,96,802/- under SGST proposed in the notice is hereby withdrawn.**

2 (A) **Output Tax on Outward Supplies of Rs. 2,13,18,231/-**

The Tax Payer claimed that, the Output Turnover of Rs. 2,13,18,231/- is pertains to Land Portion in the Sale value of the Flats, as they have reported the Taxable Output Turnover as Taxable @18%, and the project is ongoing project started before dt. 01-04-2019, they are eligible for claiming of exemption for the land portion of Flats sold. In support of their claim they have filed documentary evidences, the same have been verified and found in order, hence the **Tax of Rs.19,18,641/- under CGST and Rs. 19,18,641/- under SGST proposed in the notice is hereby withdrawn.**

Further, the restriction of Input Tax under Section 17(1) & (2) for the Exempted sales is not applicable as the sale of Land is exempted and there is no common Input Tax involved in the sale of Land.

2 (B) **Output Tax on Outward Supplies of Rs. 4,50,646/-**

The Tax Payer claimed that, the Output Turnover of Rs. 4,50,646/- is pertains to Credit notes issued, in support of their claim they have filed documentary evidence to that extent, the same have been verified and found in order, hence the **Tax of Rs. 40,558/- under CGST and Rs.40,558/- under SGST proposed in the notice is hereby withdrawn.**

Late Fee of Rs. 33,400/- for late filing of GSTR-01 Returns:

The Tax **Payer Paid the Late Fee of Rs. 16,700/- under CGST and Rs. 16,700/- under SGST vide DRC-03 in ARN: AD3601250139571 dt. 29-01-2025,** as proposed in the notice for late filing of GSTR-01 Returns.

Penalty of Rs. 30,436/- for non-filing of GSTR-01 Returns:

The Tax **Payer Paid the Penalty of Rs. 15,218/- under CGST and Rs. 15,218/- under SGST vide DRC-03 in ARN: AD3601250139571 dt. 29-01-2025,** as proposed in the notice for non-filing of GSTR-01 Returns.

Interest of Rs. 1,08,980/- for late payment of Taxes:

The Tax Payer claimed that, the late payment of Taxes were paid by utilizing the Input Tax Credit having credit from the due date of Tax Payments, in support of their claim they have filed Input Tax Credit Ledger, the same have been verified and found in order, hence the claim of the Tax Payer is allowed and Interest of Rs. 1,08,980/- for late payment of Taxes proposed in the notice is hereby withdrawn.

Thus, the Tax, Penalty, Interest proposed for the year 2020-21 in the DRC-01 Reference No. ARN: ZD361124013285S, Dated. 13-11-2024 is here by **DROPPED**.

STATE TAX OFFICER-II,
M.G. ROAD - S.D. ROAD CIRCLE.

State Tax Officer-II
M.G. Road-S.D. Road Circle,
Begumpet Division, Hyderabad

To,
M/s. MODI REALTY (MIRYALAGUDA) LLP,
SOHAM MANSION, 2ND FLOOR, 5-4-187/3 AND 4,
M.G ROAD, SECUNDERABAD, 500003

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

Reference No. : ZD360125054633J | Date : 30/01/2025

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

Tax period : APR 2020 - MAR 2021 | F.Y. : 2020-2021

SCN/Statement Reference No. : ZD361124013285S | Date : 13/11/2024

Act/ Rules Provisions :
Under Section 73 of the GST Act

Order for dropping the proceedings under section 73/74

With reference to the above referred show cause notice issued to you for representing your case against the reasons stated in the Annexure attached thereto and on the basis of information available on record, the proceedings are hereby dropped for the reasons and other details stated in the Annexure attached herewith.

Signature
Name : VENKATESHWAR RAO SHERI
Designation : State Tax Officer
Jurisdiction : M.G.ROAD - S.D.ROAD:Begumpet:Telangana