Proceedings of Assistant Commissioner (State Taxes)
Ramgopalpet-Ranigunj-1 Circle
BEGUMPET DIVISION
PRESENT: Sri. S. Ravichandra
(u/s 73 of the TGST & CGST Acts, 2017)

DIN:	GST/36AABCM4761E1ZM/20-21,dt:24-02-2025
Officer details DesignationoftheAssessingofficer Unit	Asst.Commissioner(ST), Ramgopalpet-Ranigunj-1 Circle.
Division	Begumpet
DetailsoftheTaxpayerName	MODI PROPERTIES PRIVATE LIMITED
GSTIN	36AABCM4761E1ZM
FinancialYear	2020-21

Ref: 1. Authorization issued vide no. RR01/AC(ST)/Audit-N/59/36AABCM4761E1ZM/ 24-25 Dt: 06-11-2024 by Joint Commissioner (ST), Begumpet Division.
2.DRC-01 vide ARN: AD361124007184J, dated:19-11-2024
3. DRC-06 vide reference No. ZD361124017135V, dated: 19-12-2024,28-01-2025 & 19-02-2025.

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M/s.MODI PROPERTIES PRIVATE LIMITED is a Registered Tax Payer on the Rolls of Assistant Commissioner (ST), Ramgopalpet-Ranigunj–1 Circle, Begumpet Division bearing GSTTN: 36AABCM4761E1ZM.

As Per the Registration Details Obtained from the GSTN Portal, Their services in WORKS CONTRACT,REAL ESTATE AGENTS,CONSTRUCTION OF RES. COMPLEX, RENTING OF IMMOVABLE PROPERTY SERVICES.

<u>Discrepancies Identified</u>:

On verification of monthly GSTR- 3B, GSTR1, GSTR-09, GSTR-9C filed by them and GSTR2A tax under RCM payable, the following discrepancies are noticed for the FY 2020-21.

1. **Short payment of Tax:**
   . Difference Turnover between GSTR-9/9C and GSTR-3B/1

Total Turnover declared in Table 5 of GSTR-9 (including advances) (4N + 5M - 4G above)	**Details of Outward supplies declared in GSTR-3B (Table 3.1 (a) (b) (c) (Including Zero Rated, Nil Rated and Exempted)**	**Difference Turnover**	**Tax @9% CGST on Difference Turnover**	**Tax @9% SGST on Difference Turnover**	**Total Tax**
1	2	3= (1-2)	4	5	6
564003099	563534437	468662	42179.58	42179.58	84359.16

2. **<u>Late fee payable for Late Filing of GSTR-1 Returns:</u>**

<u>Section 39 of the Central Goods and Services Act, 2017 (CGST Act)</u>

<u>Furnishing of returns.</u>

Every registered person, other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10 or section 51 or section 52 shall, for every calendar month or part thereof, furnish, in such form and manner as may be prescribed, a return, electronically, of inward and outward supplies of goods or services or both, input tax credit availed, tax payable, tax paid and such other particulars as may be prescribed, on or before the eleventh day *of the month succeeding such calendar month or part thereof.*

On examination of records, it was observed that the Taxpayer had filed the returns belatedly. The taxpayer has to pay late fee on delayed filing of GSTR-1 returns as per Notification No. 04/2018 Dt. 23.01.2018 issued under Section 47 of said Act.

The details of delayed filing of GSTR-1 returns and non-payment of late fees are given below.

Month	**Due date for filing**	**Actual date of filing**	**No. of days delayed**	**Late fee to be paid**	
				CGST @ Rs.25/- per day	**SGST @ Rs.25/- per day**
Apr-20	11-05-2020	21-07-2020	71	1775	1775
May-20	11-06-2020	19-08-2020	69	1725	1725
Jun-20	11-07-2020	27-08-2020	47	1175	1175
Jul-20	11-08-2020	21-09-2020	41	1025	1025
Aug-20	11-09-2020	06-10-2020	25	625	625
Sep-20	11-10-2020	09-11-2020	29	725	725
Oct-20	11-11-2020	05-12-2020	24	600	600
Nov-20	11-12-2020	28-12-2020	17	425	425
Dec-20	11-01-2021	30-01-2021	19	475	475
Jan-21	11-02-2021	13-02-2021	2	50	50
Feb-21	11-03-2021	13-03-2021	2	50	50
Mar-21	11-04-2021	23-06-2021	73	1825	1825
			Total	**10475**	**10475**

3. <u>P&L Account</u>:

Apart from the above, the Taxpayer submitted P&L Account where in they have expensed amounts for other income and Trade Payables which are liable to tax under Section 9(4) & section 16(2) (d) of TGST Act'17 being other income for Rs.2,21,83,516.00 &Trade Payables for Rs.8,88,29,718.00 which are liable to tax and which was not paid by them.

The total liability for tax is proposed as under:

(i) Other Income for Rs. 2,21,83,516.00@ 18% the tax is Rs. 39,93,032.88

(ii) Trade Payables for Rs. 8,88,29,718.00 @ 18% the tax is Rs. 1,59,89,349.24

The total tax liability is detailed as under:

Description	**IGST**	**CGST**	**SGST**	**Total**
Difference Turnover between GSTR-9/9C and GSTR-3B/1	0	42179.58	42179.58	84359.16
Late fee payable for	0	10475	10475	20950

Late Filing of GSTR-1 Returns				
Other income	0	1996516.44	1996516.44	3993032.88
Trade Payables	0	7994674.62	7994674.62	15989349.24
TOTAL	**0**	**10043845.64**	**10043845.64**	**20087691.28**

Accordingly, a Show Cause notice was issued to the dealer vide ARN No. AD361124007184J Dt.19-11-2024 through DRC-01 to pay the proposed tax payable as indicated under Section 73 of the SGST/CGST Act. The registered tax payer was requested to pay the tax along with interest and penalty in DRC-03 with an option to file written objections if any to the proposals made in DRC-01 within (15) days of receipt of the said notice. The objections already filed and taxes paid will be considered before passing the final assessment orders. Then the dealer appeared for Personal Hearing on Dt.22-02-2025 and submitted his reply in this office. The contentions filed by the dealer are discussed point wise as under:

Response of the tax payer:

In response to the above notice, the dealer has filed reply with objections as under:

Short payment of Tax:

The assesse stated that the difference in turnover of Rs. 4,68,662/- pertains to the exempt income which is rightly declared in GSTR- 9/9C. Such Exempted income comprises of Interest on IT Refund of Rs.1,19,447/-, Interest on unsecured loans of Rs. 20.016/- and FDR Interest of Rs. 3,29,169/-. To substantiate, a screen short of Note 19 of Financials is provided below for your readily reference.

Other Income	**As at 31st March'2021**
FDR Interest	329169
Interest on IT refund	119477
Interest received on unsecured loans	20016

On examination of extract of financials provided above, it can be clearly established that such exempt income pertains to interest received on FDR, IT Refund, Unsecured Loans.

Further, it is submitted that such interest income is exempted by the Government by exercising its power under Section 11 vide Notification No. 12/2017- Central Tax (Rate), dated 28th June, 2017. A relevant extract of such Section and Notification is provided hereunder for your readily reference.

Section 11. Power to grant Exemption. -

(1) Where the Government is satisfied that it is necessary in the public interest so to do, it may, on the recommendations of the Council, by notification, exempt generally, either absolutely or subject to such conditions as may be specified therein, goods or services or both of any specified description from the whole or any part of the tax leviable thereon with effect from such date as may be specified in such notification.

Notification No. 12/2017- Central Tax (Rate), dated 28th June, 2017.

Sl. No	Chapter, Heading, Group or Service Code (Tariff)	Description of Services	Rate (%)	Condition
27	Heading 9971	Services by way of— (a) extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services); (b) inter se sale or purchase of foreign currency amongst banks or authorized dealers of foreign exchange or amongst banks and such dealers.	Nil	Nil

As the differential income pertains to such interest on loans or advances specified in the above notification, no tax shall be levied on such income.

Since, there is no short payment of taxes to the revenue as alleged in the notice, it is requested that all such further proceedings under the current notice be dropped.

Observations and conclusion of the assessing authority:

The contentions of the dealer has been verified and found to be in order. Hence the tax proposed here by **"Dropped".**

Late fee payable for Late Filing of GSTR-1 Returns:

In this regard, notice submits that the Central government vide Notification No. 53/2020 – Central Tax, dated 24.06.2020 has waived of late fees on GSTR 1 returns of April, 2020 if the same are furnished on or before 24th day of July, 2020. In our case GSTR 1 return for April, 2020 was filed on 21st July, 2020. Hence, late fees for April, 2020 is not payable. Extract of such notification is provided below and such notification is attached as Annexure 1.

Extract of Notification No. 53/2020 – Central Tax, dated 24.06.2020.

"Provided also that the amount of late fee payable under section 47 of the said Act shall stand waived for the registered persons who fail to furnish the details of outward supplies for the months or quarter mentioned in column (2) of the Table below in FORM GSTR-1 by the due date, but furnishes the said details on or before the dates mentioned in column (3) of the said Table: -

Sl.No	Month	Date
1	April'20	24-07-2020

The recomputed late fee from May'20 to Mar'21 is paid through Form DRC-03 Vide ARN:AD3601250134696 dated:28/01/2025.

Observations and conclusion of the assessing authority:

On verification of DRC-03 the assesse paid an amount of Rs. 8700/- under CGST & Rs. 8700/- under SGST vide ARN Number. AD3601250134696,Dt28/01/2025. Hence the tax proposed here by **"Dropped".**

Other Income for Rs. 2,21,83,516.00@ 18% the tax is Rs. 39,93,032.88

The assesse stated that the break up of the other income as reported in the Profit and loss Account is provided below.

Sl.No	Other Income	As on 31st March 2021
1	FDR Interest	329169
2	Interest on IT refund	119477
3	Interest received on unsecured Loans	20016
4	Share of Profit from Firms/LLP	21181282
5	Forfeit income	522619
6	Sundry Balance Written Off	4729
7	Prior Period Items	6223
	TOTAL	**22183515**

In this regard, it is already established in Para 1, that interest income on FDR, IT refund, Unsecured Loans are exempted by the Government by exercising its power under Section 11 vide Notification No.12/2017- Central Tax (Rate), dated 28th June, 2017.

"Section 9(4) The Government may, on the recommendations of the Council, by notification, specify a class of registered persons who shall, in respect of supply of specified categories of goods or services or both received from an unregistered supplier, pay the tax on reverse charge basis as the recipient of such supply of goods or services or both, and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to such supply of goods or services or both."

For Share of profit from partnership firms mentioned in Serial No.4 of Table given above, para 7.7 advance ruling pronounced by AAR Karnataka in a matter of Anil Kumar Agarwal dated 04-05-2020 clarifies that such income does not fall under the ambit of GST since it is mere application of funds. Extract of such advance ruling is provided hereunder and such advance ruling is attached as Annexure 3.

Extract Of Authority for Advance Rulings, Karnataka, Anil Kumar Agrawal, In Re

"7.7 Partner's salary, received as partner, from applicant's partnership firm: The applicant is in receipt of certain amount termed as partner's salary from the firm where the applicant is also a partner. The applicant
has not furnished any documents relevant to the issue, such as copy of agreement, appointment order etc., so as to decide whether the applicant is an employee of the partnership firm or not. In case, if the applicant is a working partner and is getting salary then the said salary is neither supply of goods nor supply of service in terms of clause 1 of Schedule III of CGST Act, 2017. Further, in case if the applicant is in receipt of the amount towards his share of profit from the said partnership firm, then also the said income is not under the purview of GST as the share of profit is nothing but application of money and hence the said salary is not required to be included in the aggregate turnover for registration under the provisions of GST Act."

With respect to the rest specified incomes provided above, it is submitted that liability under Section 9(4) of CGST Act, 2017 under reverse charge arises on the few specified supply of services which are Notified by the government vide Notification No. 13/2017-Central Tax (Rate) dated 28-06-2017.

Further, it is submitted that such incomes received by the notice as specified in the table above does not fall under the purview of such notification.

Hence, notice is not liable to pay taxes on reverse charge basis on such incomes. Such notification is attached as Annexure 4 and extract of Section 9(4) of CGST Act,2017 is provided hereunder. Therefore, no ITC can be collected nor paid under RCM on such supplies. Nature of such incomes under GST is provided in table 1 given below.

Sl.No	Income	Amount	Nature of Supply	Supporting
1	FDR Interest	329169	Exempt	Serial No.27 of with notification No.12/2017-Central Tax
2	Interest on IT Refund	119477	Exempt	Serial No.27 of with

				notification No.12/2017-Central Tax
3	Interest Received on Unsecured Loans.	20016	Exempt	Serial No.27 of with notification No.12/2017-Central Tax
4	Share of Profit from Firms/LLP	21181282	Non-GST	With reference to advance ruling pronounced by AAR Karnataka in a matter of Anil Kumar Agarwal dated 04-05-2020
5	Forfeit Income	522619		
6	Sundry Balance Written Off	4729	Non-GST	
7	Prior Period Items	6223	Non-GST	
	Total	22183516		

Observations and conclusion of the assessing authority:

The contentions of the dealer has been verified and found to be in order. Hence the tax proposed here by **"Dropped".**

Trade Payables for Rs. 8,88,29,718.00 @ 18% the tax is Rs. 1,59,89,349.24

The assesse stated that payments against all such trade payables reported in the financials are made within 180days time limit as prescribed under provisio to Section 16(2) of the CGST Act,2017. To substantiate, the party wise ledgers along with Bank statements for F.Y.2021-22 are attached to prove payments

Since, there is no short payment of taxes to the revenue as alleged in the notice, it is requested that all such further proceedings under the current notice be dropped.

Observations and conclusion of the assessing authority:

The contentions of the dealer has been verified and found to be in order. Hence the tax proposed here by **"Dropped".**

Therefore, the assessment of M/s MODI PROPERTIES PRIVATE LIMITED bearing GSTN: 36AABCM4761E1ZM under Section 73 of the SGST/CGST Act FY 2020-21 is completed. The registered tax payer shall pay the tax along with interest and penalty at a rate of 10% of the tax due or Rs.10,000 penalty whichever is higher. The tax details as under:

Description	Demand raised as per Order	Paid	Balance
Late fee payable for Late Filing of GSTR-1 Returns	CGST:8700 SGST:8700	CGST:8700 SGST:8700	0
TOTAL	**17400**	**17400**	**0**

SIKHA RAVI CHANDRA

Digitally signed by SIKHA RAVI CHANDRA
Date: 2025.02.24 15:15:47 +05'30'

Assistant Commissioner (ST),
Ramgopalpet-Ranigunj1 Circle

To
M/s MODI PROPERTIES PRIVATE LIMITED
2ND FLOOR, 5-4-187/3 AND 4, SOHAM MANSION, M.G ROAD, SECUNDERABAD, Rangareddy, Telangana, 500003