

Droop PdgS

GOVERNMENT OF TELANGANA
COMMERCIAL TAX DEPARTMENT

SUMMARY OF ORDER PROCEEDINGS
for the Financial Year 2019-20 under GST Act, 2017
[Under Sec 73 of TGST & CGST Act 2017]

Date: 22-08-2024

DIN	GST/36ACQFS2044C1Z7/20
Office details Designation of the assessing officer Unit Division	ASSISTANT COMMISSIONER (ST) M.G.ROAD-S.D.ROAD BEGUMPET
Details of the Tax payer Name Legal Name GSTIN	SUMMIT SALES LLP SUMMIT SALES LLP 36ACQFS2044C1Z7
Financial Year	2019-20

Ref: 1) SCN ARN No: **AD361121008674F**, Date: **12.11.2021**.

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.**299437.11**

CGST Rs.**299437.11**

Total Rs.**598874.22**

The details of the above tax liability are as follows:

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. 6011.44**

S.No	Issue	Table No. in GSTR-09	SGST	CGST	Total
1	Tax on taxable supplies as declared	4N	14166748.72	14166748.72	28333497.44
2	Add net increase due to amendments (Increase in amendments (-) decrease in	10 (-) 11	0.00	0.00	0.00
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		14166748.72	14166748.72	28333497.44
7	Less Total tax paid in cash	9	3494964.00	1877472.00	5372436.00
8	Less Tax paid by adjustment of	9	10668779.00	12286271.00	22955050.00
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	(14) of previous FY GSTR-09	0.00	0.00	0.00
11	Under declared tax in GSTR-09		3005.72	3005.72	6011.44

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

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. 580876.56**

S. No	Issue	Table No. in GSTR-09	SGST	CGST	Total
1	Excess claim of ITC declared in GSTR-09	8D	290438.28	290438.28	580876.56
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		290438.28	290438.28	580876.56

C. Net tax payable on account of reconciliation in GSTR-09 = Total of A + Total of B = **586888.00**

2. Net tax under declared due to non-reconciliation of turnovers in other returns and E- way bill information:

In addition to the above under declared turnovers with respect to GSTR-09, it is seen that you have under declared turnovers with respect to other information available in this office.

• Reconciliation of GSTR-01 with GSTR-09:

The outward supplies turnover declared in GSTR-01 is greater than net outward supplies information furnished in GSTR-09 and arrived at box 1A(1)+1A(2) above. This amount is therefore proposed to be taxed as under declared outward supplies as follows:

S. No	Issue	SGST	CGST	Total
1	Tax on Outward supplies declared in GSTR-01	14169767.36	14169767.36	28339534.72
2	Less tax on Outward supplies arrived in GSTR-	14166748.72	14166748.72	28333497.44
3	Difference (1-2)	3018.64	3018.64	6037.28

3. Excess claim of ITC:

• Excess ITC claimed in GSTR-3B compared to GSTR-09:

You have claimed excess ITC in GSTR-3B as compared to the net ITC available in the annual return GSTR-09 which has resulted in an under payment of tax as follows:

S. No	Description	Table No. in GSTR-09	SGST	CGST	Total
1	Eligible ITC in GSTR-3B	6A	10293490.81	10293490.81	20586981.62
2	ITC pertaining to previous year but availed in the current year	{13 (-) 12} of previous GSTR-09	0.00	0.00	0.00
3	Net ITC available in the current year	S.No.1 (-) S. No.2	10293490.81	10293490.81	20586981.62
4	Total ITC availed in GSTR-09	6O	10293097.00	10293097.00	20586194.00
5	ITC availed in GSTR-3B in excess of GSTR-09	S.No.3 (-) 6O	393.81	393.81	787.62

• **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	SGST	CGST	Total
1	Motor Vehicle Insurance	997134;		2580.66	2580.66	5161.32
A	Total ineligible ITC u/s 17(5)	-		2580.66	2580.66	5161.32
B	Ineligible ITC declared in GSTR-09	-	7E	0.00	0.00	0.00
C	Difference/excess ITC claimed	-		2580.66	2580.66	5161.32

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	Total
1	Total tax due in (1)+(2)+(3) above	299437.11	299437.11	598874.22

Accordingly a Show cause notice was issued in DRC 01 on Date: 08.12.2020.

Reply of the Tax Payer:

Reply to Para 1 A and Para 2:

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

In the said para it is provided that CGST of Rs 3,005 and SGST of Rs 3,005 is tax payable.

The same has been paid through DRC-03 dated 26-11-2021. DRC-03 is attached as reference

Reply to Para 1B:

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

In the said para, it is provided that ITC is not availed correctly when compared to GSTR 2A and hence a demand of CGST Rs 2,90,438 and SGST Rs 2,90,438 is raised.

It is to be noted that, Under Section 16(2)(c) of CGST Act payment of tax to Government, is subject to the provisions of Section 41 read with Rules 69 and 71. However, the ITC matching, reversal mechanism laid down under Section 41 read with rules is kept in abeyance. Therefore, till the provisions in this respect are given effect, the recipients are entitled to claim the ITC on the basis of tax invoice issued by the vendor without any consideration that such tax invoice is being reflected in GSTR-2A or not.

As held by Hon'ble Supreme Court in Tata Chemicals Limited v Commissioner, 2015 (320) ELT 45 (SC) when the law requires a particular thing to be done in a particular manner, it must be done in that manner only or not done at all. Therefore, ideally, the recipient cannot be asked to comply with this condition and reverse ITC when he has no mechanism to ensure whether the supplier has paid tax to the government or not.

Therefore, it is unjust to demand payment of tax under the relevant section.

Reply to Para 2:

Net tax under declared due to non-reconciliation of turnovers in other returns and Eway bill information, Reconciliation of GSTR-01 with GSTR-09:

In the said para it is provided that GST to the tune of CGST Rs 3,018 and SGST Rs 3,018 is payable on account of difference between GSTR-01 and GSTR-09.

In this regards, we would like to provide that actual liability as per BoA and as declared in GSTR-09 is CGST Rs 1,41,66,748 and SGST Rs 1,41,66,748 for the F.Y. 2019-2020. Taxes under paid of CGST Rs 3,005 and SGST Rs 3,005 have been paid though DRC-03.

Reply to Para 3:

Excess claim of ITC:

Excess ITC claimed in GSTR-3B compared to GSTR-09:

In the said para it is provided that CGST of Rs 394 and SGST of Rs 394 is excess claimed.

The same has been paid through DRC-03 dated 26-11-2020. DRC-03 is attached as reference.

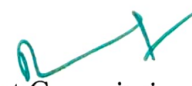
Under declaration of Ineligible ITC:

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.

In the said para, specific clause under which input tax credit shall not be available is not mentioned. However, without prejudice to above we would like to provide that we have not claimed insurance from Future General India insurance company as provided in the annexure to the notice.

Observations and conclusion of the assessing authority:

As seen from the records it is noticed that the Tax proposed in this notice has been already discussed in the Audit taken up in ARN: AD360524017885U and issued a notice in DRC 01 vide this office ARN No. ZD360524050606E dated 27-05-2024. Hence the **Tax proposed in this notice is hereby withdrawn.**


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. : ZD360824085964P

Date : 22/08/2024

To

GSTIN/ID : 36ACQFS2044C1Z7

Name : SUMMIT SALES LLP

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

Tax period : APR 2019 - MAR 2020

F.Y. : 2019-2020

SCN/Statement Reference No. : ZD361121006339S

Date : 12/11/2021

Act/ Rules Provisions :	
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 : UPENDER REDDY BOPPIDI

Designation : Assistant Commissioner

Jurisdiction : M.G.ROAD -

S.D.ROAD:Begumpet:Telangana