

GOVERNMENT OF TELANGANA
COMMERCIAL TAXES DEPARTMENT

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

GSTIN: 36AADCM5906D2ZO

Date: 27-02-2025

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 HOUSING PRIVATE LIMITED (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. 08-05-2024.
2. Joint Commissioner (ST), Begumpet Division, Hyderabad Audit Authorization in Ref No. BGPT-DIVN/STO-II/33/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. ZD361124013274V dt. 13-11-2024.
4. M/s. Modi Housing Private Limited, Reply filed in DRC-06, dt. 03-12-2024 & dt. 27-02-2025.
5. Personal hearing notice issued vide Ref. No. ZD3601250278110, dt. 18-01-2025.

M/s. MODI HOUSING PRIVATE LIMITED, located at 2nd Floor, 5-4-187/ 3 and 4, Soham Mansion, M G Road, Secunderabad, 500003 are a registered taxpayer under the provisions of GST Act, 2017 with GSTIN 36AADCM5906D2ZO 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 995411) Construction services of single dwelling or multi dwelling or multi-storied residential buildings, (995413) Construction services of industrial buildings such as buildings used for production activities (used for assembly line activities), workshops, storage buildings and other similar industrial buildings, (997212) Rental or leasing services involving own or leased non-residential property

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 09-05-2024 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. 24-05-2024 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 failed to produce the records called for till this date. On due examination of 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) Input Tax on Inward Supplies :-

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

CGST	Rs. 1,51,086.00
SGST	Rs. 1,51,086.00
Total Input Tax	Rs. 3,02,172.00

The taxpayer has failed to produce the relevant records (so maintained under Rule 56) and failed to fulfill the documentary requirements and conditions as laid down under Sections 16 and 155 of CGST Act, 2017, read with Rule 36 of CGST Rules, 2017. Since, the taxpayer failed to prove the eligibility and genuineness and legality of their claim of Input Tax Credit by producing the required documentary evidence, it is hereby proposed to reject their claim of Input Tax Credit of Rs. 3,02,172/-.

While bringing forward to the notice of the taxpayer about the above excess claimed ITC amounting to Rs. 3,02,172/- (i.e. Rs. 1,51,086/- towards CGST and Rs 1,51,086/- 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.

2) Output Tax on Outward Supplies :-

The Tax Payer reported Output Turnover and Taxes in GSTR 3B and GSTR 09 Returns filed by them for the year 2020-21 as under:

Particulars	Turnover	CGST	SGST
Exempted, Nil Rated, Non-GST supplies	152308421	0	0
Output Turnover Taxable @18%	925352	83280	83280
Total Reported	153233773	83280	83280

A) The Tax Payer claimed Exemption on the Output Turnover of Rs. 15,23,08,421.00 in the GSTR3B / GSTR 9 Returns filed by them, but they have failed to file documentary evidence 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
Turnover Reported as Exempted Supply Proposed to Tax in the absence of documentary evidence	152308421	13707758	13707758	27415516

While bringing forward to the notice of the taxpayer about the above Shortly reported Output Tax amounting to Rs. 2,74,15,516/- (i.e., Rs. 1,37,07,758/- towards CGST and Rs.1,37,07,758/- 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.

B) As seen from the Financial Statement (Profit and Loss Account) compared with the Output Taxes reported in GSTR 3B / GSTR 9 the following variations were noticed in Output Turnovers and Taxes Reported.

Particulars	Turnover	CGST Proposed @ 9%	SGST Proposed @ 9%	Total Output Tax Proposed
Output Turnover as per Financial Statements (Profit and Loss Account)	175754604			
Less: Output Turnover Reported	153233773			
Short Reported Output Turnover Now Proposed to Tax @ 18%	22520831	2026875	2026875	4053750

While bringing forward to the notice of the taxpayer about the above Short reported Output Tax amounting to Rs. 40,53,750/- (i.e., Rs.20,26,875/- towards CGST and Rs. 20,26,875/- 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.

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	Wrong claim of Input Tax	151086	151086	302172
2A	Turnover Reported as Exempted Supply Proposed to Tax in absence of documentary evidences	13707758	13707758	27415516

2B	Short Reported Output Tax proposed compared with Financial Statements (Profit and Loss Account) and GSTR 3B / GSTR 9	2026875	2026875	4053750
Total Tax Due to the Department		15885719	15885719	31771438

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 9, 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 9	2020-21	28-02-2022	21-03-2022	21	2100
GSTR 9C	2020-21	28-02-2022	21-03-2022	21	2100
GSTR 1	April, 2020	11-05-2020	22-09-2020	134	13400
GSTR 1	May, 2020	11-06-2020	14-09-2020	95	9500
GSTR 1	June, 2020	11-07-2020	22-09-2020	73	7300
GSTR 1	July, 2020	11-08-2020	22-09-2020	42	4200
GSTR 1	Aug, 2020	11-09-2020	10-11-2020	60	6000
GSTR 1	Sept, 2020	11-10-2020	23-11-2020	43	4300
GSTR 1	Oct, 2020	11-11-2020	27-11-2020	16	1600
GSTR 1	Nov, 2020	11-12-2020	23-01-2021	43	4300
GSTR 1	Dec, 2020	11-01-2021	22-03-2021	70	7000
GSTR 1	Jan, 2021	11-02-2021	27-04-2021	75	7500
GSTR 1	Feb, 2021	11-03-2021	11-05-2021	61	6100
GSTR 1	Mar, 2021	11-04-2021	30-06-2021	80	8000
	Total				83400

While bringing forward to the notice of the taxpayer about the above Late Fee calculated for belated filing of Form GSTR-amounting to Rs.83,400/- (i.e., Rs.41,700/- towards CGST and Rs.41,700/- 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.

In addition to above, the following punitive measures will be taken up while passing final orders.

A) As per Section 73 read with Rule 122 of CGST Act, 2017, a Penalty as required on the tax due will be levied at the time of assessment proceedings without any further notice.

B) As per Section 50 of CGST Act, 2017 the legitimate Interest @18% PA will be levied on the excess claim of Input Tax at the time of assessment proceedings without any further notice.

Thus, the total Tax, Penalty and Interest for the period from April 2020 to March 2021 is proposed in addition to the Taxes reported as under:

S. No.	Act	Tax	Interest	Penalty	Late Fee	Total
1	CGST	15885719	10008003	1588572	41700	27523994
2	SGST	15885719	10008003	1588572	41700	27523994
3	TOTAL	31771438	20016006	3177144	83400	55047988

The registered tax payer may therefore pay the tax 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, failing which orders as deemed fit will be passed without any further correspondence in the matter.

Accordingly a notice in DRC-01 has been issued vide Reference No. ZD361124013274V, Dated.13-11-2024, and requested to file their objections.

In receipt of the notice the Tax Payer filed their reply in DRC 06 , dated 03-12-2024 and the same is considered as under:

Para 1:-Wrong Claim of Input Tax

In this para whole of the ITC Claimed in the financial year 2020-21 has been disallowed on the ground of non-submission of books of accounts.

TaxHead/ Description	CGST	SGST	TotalInput Tax
ITC6A(as per GSTR9)	1,51,086	1,51,086	3,02,172

It is submitted that the actual ITC claimed by the noticee during financial year 2020-21 is Rs.32,829/-post reversal. In this regard extract of Table 6A of GSTR-9 and Table 7I of GSTR-9is provided here under: -

Pt. III	Details of ITC for the financial year					
Sr.No	Description	Type	Central Tax(₹)	State Tax / UT Tax(₹)	Integrated Tax(₹)	Cess(₹)
	1	2	3	4	5	6
6	Details of ITC availed during the financial year					
A	Total amount of input tax credit availed through FORM GSTR-3B (sum total of Table 4A of FORM GSTR-3B)		1,51,085.95	1,51,085.95	0.00	0.00

Pt. III	Details of ITC for the financial year				
Sr.No	Description	Central Tax(₹)	State Tax / UT Tax(₹)	Integrated Tax(₹)	Cess(₹)
	1	2	3	4	5
7	Details of ITC Reversed and Ineligible ITC for the financial year				
A	As per Rule 37	0.00	0.00	0.00	0.00
B	As per Rule 39	0.00	0.00	0.00	0.00
C	As per Rule 42	0.00	0.00	0.00	0.00
D	As per Rule 43	0.00	0.00	0.00	0.00
E	As per section 17(5)	0.00	0.00	0.00	0.00
F	Reversal of TRAN-1 credit	0.00	0.00		
G	Reversal of TRAN-2 credit	0.00	0.00		
H1	Reversal due clerical error	1,18,257.00	1,18,257.00	0.00	0.00
I	Total ITC Reversed (Sum of A to H above)	1,18,257.00	1,18,257.00	0.00	0.00
J	Net ITC Available for Utilization (60 - 7I)	32,828.95	32,828.95	0.00	0.00

Examination of the tables provided above, it is clearly established that notice had claimed net ITC amounting to Rs.32,829/- A detailed breakup of such amount is given as **Annexure 1**.

Noticee submits that it had fulfilled eligibility criteria for availing such input tax credit (ITC) and the conditions which are required to be fulfilled for the said purpose are elaborated here in section 16 of the CGST Act, 2017 which are summarized as under; -

“Section 16. Eligibility and conditions for taking input tax credit.

- 1) Every registered person shall, subject to such conditions and restrictions as may be prescribed and, in the manner, specified in section 49, be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person.
- 2) Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless, —
 - (a) He is in possession of a **tax invoice** or debit note issued by a supplier registered under this Act, or such other taxpaying documents as may be prescribed;
 - (b) He has **received the goods or services** or both.

Explanation. —For the purposes of this clause, it shall be deemed that the registered person has received the goods where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise;

- (c) subject to the provisions of section 41, the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilization of input tax credit admissible in respect of the said supply; and
- (d) he has furnished the return under section 39;

Provided that where the goods against an invoice are received in lots or instalments, the registered person shall be entitled to take credit upon receipt of the last lot or instalment:

Provided further that where a recipient fails to pay to the supplier of goods or services or both, other than the supplies on which tax is payable on reverse charge basis, the amount towards the value of supply along with tax payable thereon within a period of one hundred and eighty days from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be added to his output tax liability, along with interest thereon, in such manner as may be prescribed: Provided also that the recipient shall be entitled to avail of the credit of input tax on payment made by him of the amount towards the value of supply of goods or services or both along with tax payable thereon.

- 3) Where the registered person has claimed depreciation on the tax component of the cost of capital goods and plant and machinery under the provisions of the Income-tax Act, 1961, the input tax credit on the said tax component shall not be allowed.

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- 4) A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the thirtieth day of November following

the end of financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier”

Analysis of the eligibility criteria as per facts and circumstances of the present case;-

- i. Only Registered person will be eligible to take credit of ITC paid on inward supplies of goods or service or both, which are used in the course or furtherance of business. If a person is not a registered person or is a registered person but has not used the supply of goods or services or both in the course or furtherance of business, he will not be entitled to claim ITC- In the present case inputs used in course or furtherance of business.
- ii. As per subsection (2) of section 16, four conditions need to be fulfilled which are:
 - i. Possession of tax invoice, debit note or such other taxpaying document which includes invoice issued by Input Service Distributer (ISD) and bill of entry as prescribed under Customs Act, 1962- The noticee is in possession of proper and valid tax invoice. Sample Purchase invoices from each supplier are attached as Annexure 2.
 - ii. Goods or services have been received. – In our case, goods have been received by the noticee vide proper invoices and duly accounted for in the books of account of the noticee.
 - iii. Tax on supply is actually paid to the Govt. – The suppliers have duly furnished their returns that are GSTR-1 for the relevant period. The referred inputs tax invoices are duly reflected in GSTR-2A of the noticee which are auto populated from GST Portal. Such GSTR 2A report is attached as Annexure 3.
 - iv. The recipient shall furnish the return under section 39 – Month wise summary of ITC claimed in GSTR-3B, such report is attached as Annexure 4.
- iii. The recipient shall make the payment for the supply of taxable goods or services or both within a period of 180 days. Payment for both value for goods or services and tax thereon shall be paid within a period of 180 days from the date of issue of invoice by the supplier. If the payment is not made within the stipulated time, ITC which was availed by the recipient at the time of receipt of inward supply shall be reversed along with interest at applicable rates. ITC can be availed when the payment for the value of supply and tax thereon, is made in at a future date. – Payment of taxable value along applicable taxes has been made to the supplier before expiry of 180 days. To substantiate, noticee here with submits its purchase books, party wise ledgers and bank Statement for the period 2020-21 are attached as Annexure 1, 5 & 6 respectively.

Noticee submits that, it is clear that all conditions for claiming input tax credit as prescribed under Section 16 has been complied by the noticee and thus demand on input tax credit raised by the department is invalid and illegal and thus liable to be quashed.

Observations and conclusion of the assessing authority

The claim of the Taxpayer has been verified and noticed that, even though they have Input Tax on their Inputs they have reversal the ITC of CGST- Rs. 118257/- & SGST- Rs. 118257/- in the month of April, 2020 and March, 2021 GSTR-3B respectively and same has also

reported in the GSTR-9. Further the tax payer have availed eligible Input Tax credit of CGST-Rs.32,829/- & SGST-32,829/-for the year 2020-21 and same have been verified with documentary evidence i.e. invoice copies and found in order. Therefore, the tax proposed on the account of Input Tax on Inward Supplies is hereby dropped.

Para2:-Turnover Reported as Exempted Supply Proposed to Tax in the absence of documentary evidence.

This para proposed tax @ 18% on exempt turnover of Rs. 15,23,08,421/- reported in the financial year 2020-21 for non-submission of documentary evidence.

Particulars	Turnover	CGST Proposed @ 9%	SGST Proposed @ 9%	Total Output Tax Proposed
Turnover Reported as Exempted Supply Proposed to Tax in the absence of Documentary evidence	15,23,08,421	1,37,07,758	1,37,07,758	2,74,15,516

Firstly notice submits detailed break up of such exempt turnover reported in GST returns.

Particulars	Amount	Nature
Sale of Flat	72,26,512	Non-GST Supply
Sale of Land	2,00,00,000	Non-GST Supply
Interest on Fixed Deposits	6,56,445	Exempt
Interest on IT refund	8,891	Exempt
Revenue Recognized	12,44,16,573	Non-GST Supply
Total	15,23,08,421	

On examination of table provided above it can be arrived at two components forming part of such exempt turnover.

- i. Exempt turnover:-Turnover exempt by the Government by exercising its power under Section11 vide Notification No.12/2017- Central Tax(Rate), dated 28th June, 2017.
- ii. Non-GST Turnover:-Turnover out side the preview of GSTu/s7 read with Schedule III.

Explanation (i) Exempted Turnover:

A relevant extract of such Section and Notification is provided here under:-

Section11. 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 livable 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, Section, 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 sale or purchase of foreign currency amongst banks or authorised dealers of foreign exchange or amongst banks and such dealers.	Nil	Nil

From above explanation it can be established that interest on fixed deposit amounting to Rs. 6,56,445/- and interest on income tax refund amounting to Rs.8,891/-pertains to exempted supply. Therefore, no tax shall be levied or collected for the same.

Explanation to(ii) non-GST supply:-

A relevant extract of such Section and schedule is provided here under:-

Section 7(2)

Notwithstanding anything contained in sub-section (1),

(a) Activities or transactions specified in **Schedule III**; or

(b) Such activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council, shall be treated neither as a supply of goods nor a supply of services.

Extract of Schedule III

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

From above explanation it can be established that Sale of land amounting to Rs.2,00,00,000/-shall be constituted as non-GST supply. Therefore, no tax shall be levied or collected for the same and sale deed is attached as **Annexure 7**.

Further, according to clause (b) of para 5 of schedule II, the sale of flat amounting to Rs.72,26,512/- shall be constituted as non- GST supply. To substantiate, extract of such clause is provided below for your ready reference. Additionally, completion certificate of such flat is attached in **Annexure 8**.

Clause (b) of paragraph 5 of schedule II

The following shall be treated as supply of services, namely:-

(a) Renting of immovable property;

(b) 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.

In consideration of submissions made above, it is requested that all such further proceedings under this matter shall be dropped.

Observations and conclusion of the assessing authority

The taxpayer's reply and documentary evidence has been examined and findings discussed as under.

a) Sale of Flat:

The taxpayer has submitted a copy of the sale deed of Flat vide document number 2372/2021, dated 22/03/2021 registered at S.R.O., Kapra. Further, the taxpayer has stated the flat was sold to the vendee after obtaining the Occupation certificate. Further, they quoted clause (b) of para 5 of Schedule II of GST Act, 2017 and requested that all such further proceedings under this matter shall be dropped..

As per clause b of serial number 5 of Schedule II of the CGST Act, 2017 "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."

In view of the above documentary evidence submitted by the taxpayer, it is known as that the taxpayer was sold flat after issuing the occupation certificate. Therefore, the taxpayer's opinion for the turnover of Rs.72,26,512/- of sale of Flat which is a Non-GST supply and should not attract GST is to be acceptable.

b) Sale of Land:

The tax payer has submitted a copy of the sale of land details vide sale deed document number 1589/2021, dated 25/02/2021 registered at S.R.O., Shamirpet. The same has been verified and found that the taxpayer has sold the land situated at Koltur village, Muduchinthalapally Mandal, Medchal- Malkajgiri District to Vital Therapeutics Private Limited for the sale consideration value of Rs.2,00,00,000/-

As per Sl no. (5) of Schedule III of the Central Goods and Services Tax Act, 2017, 'sale of land' is neither a supply of goods nor a supply of services, therefore, the sale of land does not attract GST.

In view of the above, the documentary evidence submitted by the taxpayer, it is known as that the above land sold by the taxpayer does not attract GST. Therefore, the taxpayer's opinion of the turnover of Rs.2,00,00,00/- belonging to the sale of land is non-GST supply and does not attract GST is to be acceptable.

Interest income on Fixed Deposits and income of IT Refund

As per 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 dealer” the rate of tax to be levied is Nil.

As verified the tax payer reply with reference to the Annual financial statements and found that the income of Rs. 6,56,445/- belonging to the Interest on fixed deposits and the income of Rs. 8,891/- belonging to interest on IT Refund is comes under the HSN heading 9971 and the rate of tax to be levied is Nil.

Revenue Recognized:

Tax payer replied that towards Revenue Recognized of Rs 12,44,16,573/- as Non-GST Supply it is submitted that noticee is in the business of sale of plotted lands and the revenue amounting to Rs 12,44,16,573/- pertains to sale of land. As per provisions of Section 7(2) read with schedule III, sale of land is to be treated as non-gst supply.

A relevant extract of such Section and schedule is provided here under: -

Section 7(2)

Notwithstanding anything contained in sub-section (1),

- (a) activities or transactions specified in **Schedule III**; or
- (b) such activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council, shall be treated neither as a supply of goods nor a supply of services.

Extract of Schedule III

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

It is further submitted, the Central Board of Indirect Tax through its Circular vide no. 177/09/2022 TRU dated 3rd August 2022 in its point no. 14 has provided the following clarification:

- “14. Whether sale of land after levelling, laying down of drainage lines etc., is taxable under GST
- 14.1. Representation has been received requesting for clarification regarding applicability of GST on sale of land after levelling, laying down of drainage lines etc.
- 14.2 As per Sl no. (5) of Schedule III of the Central Goods and Services Tax Act, 2017, ‘sale of land’ is neither a supply of goods nor a supply of services, therefore, sale of land does not attract GST.
- 14.3 Land may be sold either as it is or after some development such as levelling, laying down of drainage lines, water lines, electricity lines, etc. It is clarified that sale of such

developed land is also sale of land and is covered by Sr. No. 5 of Schedule III of the Central Goods and Services Tax Act, 2017 and accordingly does not attract GST. “

In pursuance to above submissions it is requested that the Revenue Recognized amounting to Rs 12,44,16,573/- be treated as Non-GST supply.

The noticee recognizes revenue in its Financial Statements and for Income Tax purposes based on the Percentage of Completion Method, as mandated by the applicable accounting standards in India. Kindly refer to the notes to the Financial Statements, which are reproduced below:

f. Revenue Recognition:

Revenue from property development activity which are in substance similar to delivery of goods in recognized when all significant risks and rewards of ownership in the land and / or building are transferred to the customer and a reasonable expectation of collection of the sale consideration from the customer exists.

Revenue from these property development activities which have the same economic substance as that of a construction contract s recognized based on the ‘Percentage of Completion method’(POC).

Details of the manner of the revenue recognized is already submitted. To substantiate that the revenue recognized is purely from sale of land, we have submitted 10 sample sale deeds vide our reply dated 09-01-2025.

As verified the tax payer reply it is noticed the tax payer has sold the plots to the individual buyers after development the plot such as levelling, laying down of drainage lines, water lines, electricity lines, etc. as part of these the tax payer recognized the revenue of Rs. 12,44,16,573/- in the books of accounts for the year 2020-21 and same has verified with annual financial statement, independent audit report and sale deed copies submitted by the tax payer and found in order. Therefore, the tax payers submission of the above revenue recognized to be treated as Non- GST supply is acceptable.

Based on the documents and records furnished by the tax payer the tax proposed on the account the tax proposed on the Exemption claimed on the Output Turnover of Rs. 15,23,08,421.00 in the GSTR3B / GSTR 9 Returns filed by them is hereby dropped.

Para3:Short Reported Output Tax proposed compared with Financial Statements (Profit and Loss Account) and GSTR 3B/ GSTR 9.

This Para points out to a difference in turnover as per financials and turnover declared in GSTR-9 returns.

S.No.	Particulars	Table No.	Amount
1.	Taxable value as per financials	Table 5A	17,57,54,604
2.	Taxable Value as per GSTR-9	Table 5P	15,32,33,773
	Difference(2-1)		2,25,20,831

Particulars	Amount
Revenue-Services Charges	1,44,000
Revenue-Hoarding Rent-Exempt	90,000
Share of Profit from LLPs	2,19,79,237
Share of Income tax refund	3,02,957
Bad Debts	4,087
Total	2,25,20,281

In this regard reference to definition of aggregate turnover of section 2(6) of CGST Act, 2017 and Extract of Advance Rulings, Karnataka, Anil Kumar Agrawal, is as under: -

aggregate turnover" means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis), exempt supplies, exports of goods or services or both and inter-State supplies of persons having the same Permanent Account Number, to be computed on all India basis but excludes central tax, State tax, Union territory tax, integrated tax and cess; Total 2,25,20,281

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

“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.”

On examination of section 2(6) and extract of authority for advance rulings, Karnataka, it is clear that such income from firms and LLP are not supply.

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

Sl. No	(Tariff)	Description of Services	Rate (%)	Condition
27	Heading9971	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 authorised dealers of foreign exchange or amongst banks and such dealers.	Nil	Nil

Hence interest on IT refund is exempted by government vide Notification No.12/2017-CentralTax (Rate), dated 28th June, 2017.

Further, with regards to income from hoarding income, it is submitted that notice has two separate verticals.

- i. Silver Oak Villas LLP having GSTN:-36ADBFS3288A2Z7
- ii. Modi Housing Private Limited having GSTN:-36AADCM5906D2ZO

Noticee had inadvertently recorded hoarding rent paid by Silver Oak Villas LLP to Modi Housing Private Limited as income received and also recorded such amount as expenses. Since, such supply is made between two verticals of same entity, it does not amount to supply according to section 7.

In support of such submissions, noticee here by submits bank statements of two verticals showing such transactions as **Annexure 6** & summary of all such payments as **Annexure 9**.

Revenue-Services Charges: Rs. 1,44,000/-

The taxpayer has not furnished any documentary evidence in the matter. Therefore, in the absence of documentary evidence, it is confirmed the tax of Rs.25290/-(CGST- Rs. 12,960 and SGST- Rs.12,960 each) on the turnover of Rs.1,44,000/- belongs to the revenue from services charges.

Revenue-Hoarding Rent-Exempt: Rs. 90,000/-

The taxpayer's reply about revenue on Hoarding rent is verified that the firms Silver Oak Villas LLP & Modi Housing Private Limited were distinct taxpayers and Hoarding rent received by the Mody Housing property is taxable under CGST Act,2017. Therefore, it is confirmed the tax of Rs.16,200 (CGST- Rs. 8,100 and SGST- Rs.8,100 each)on the turnover of Rs.90,000/- belongs to the revenue from hoarding rent.

Share of Profit from LLPs: Rs. 2,19,79,237

The taxpayer has received income as a share of profit: Rs. 2,19,79,237 from their associate LLPs(llp wise statement copy enclosed). In this regard, the taxpayer has replied by quoting the Advance ruling of Karnataka and stated that the income received as share of profit is not supply.

As verified the taxpayer reply with reference to the advance ruling of Karnataka state no. KAR ADRG 30/2020, dated 04-05-2020 in the para number 7.7 Advance ruling authority stated “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”. Therefore, the taxpayer's opinion of the amount so received of Rs.2,19,79,237 is not a supply is to be acceptable and treated as not under purview of GST.

Share of Income tax refund and Bad debts

The reply filed by the taxpayer is examined with reference to Annual financial statement and found that the taxpayer received a share of income tax refund of Rs. 3,02,957/- from their partnership/ LLP firms and income reported as bad debt of Rs.4087 and same are not taxable under GST.

Further the tax payer have not submit the any clarification for the value of turnover of Rs 600/- (Rs. 22520831/-- Rs. 22520281/-). Therefore, in the absence of documentary evidence it is confirmed to liable to pay the tax of Rs. 54/- under CGST & Rs. 54 under SGST.

Summery on the tax liability confirmed on Short Reported Output Tax proposed compared with Financial Statements (Profit and Loss Account) and GSTR 3B/ GSTR 9 is shown under.

Sl.No.	Particulars	Amount	CGST	SGST	Total
1	Revenue-Services Charges	1,44,000	12960	12960	25920
2	Revenue-Hoarding Rent-Exempt	90,000	8100	8100	16200
3	differential income	600	54	54	108
	Total	2,34,600	21114	21114	42228

Para4:-Late fees regarding filing of GSTR-9, GSTR-9C and GSTR-1.

This Para points out late fees regarding filing of GSTR-9, GSTR-9C and GSTR-1.

Nature of return	Period	Due Date of Filing	Date of Filing Return	No. of Days Delayed	Late Fee @ Rs.100 per day
GSTR 9	2020-21	28-02-2022	21-03-2022	21	2100
GSTR 9C	2020-21	28-02-2022	21-03-2022	21	2100
GSTR 1	April, 2020	11-05-2020	22-09-2020	134	13400
GSTR 1	May, 2020	11-06-2020	14-09-2020	95	9500
GSTR 1	June, 2020	11-07-2020	22-09-2020	73	7300
GSTR 1	July, 2020	11-08-2020	22-09-2020	42	4200
GSTR 1	Aug, 2020	11-09-2020	10-11-2020	60	6000
GSTR 1	Sept, 2020	11-10-2020	23-11-2020	43	4300
GSTR 1	Oct, 2020	11-11-2020	27-11-2020	16	1600
GSTR 1	Nov, 2020	11-12-2020	23-01-2021	43	4300
GSTR 1	Dec, 2020	11-01-2021	22-03-2021	70	7000
GSTR 1	Jan, 2021	11-02-2021	27-04-2021	75	7500
GSTR 1	Feb, 2021	11-03-2021	11-05-2021	61	6100
GSTR 1	Mar, 2021	11-04-2021	30-06-2021	80	8000
	Total				83400

It is submitted that the adjudicating officer had wrongly imposed late fee @100 per day. Such imposition of late fee @100 per day is in consideration of **notification no.4/2018** which waives off all such late fee in excess of Rs.25/- per day and in excess of Rs. 10/- per day where there are no outward supplies for any month/quarter in FORM GSTR-1 by the due date under section 47 of the said Act. Therefore, such notification is provided here under for your ready reference: -

Extract of Notification no.4/2018

In exercise of the powers conferred by section 128 of the Central Goods and Services Tax Act, 2017 (12of2017) (here after in this notification referred to as the said Act), the Central Government, on the recommendations of the Council, here by waives the amount of late fee payable by any registered person for failure to furnish the details of outward supplies for any month/quarter in FORM GSTR-1 by the due date under section 47 of the said Act, which is in excess of an amount of twenty-five rupees for every day during which such failure continues:

Provided that where there are no outward supplies in any month/ quarter, the amount of late fee payable by such registered person for failure to furnish the said details by the due date under section 47 of the said Act shall stand waived to the extent which is in excess of an amount of ten rupees for every day during which such failure continues.

Therefore, revised late fees for delay in filing of GSTR1 is recomputed in table1below:-

Nature of return	Period	Due Date of Filing	Date of Filing Return	No. of Days Delayed	Late Fee @ Rs.100 per day
GSTR 9	2020-21	28-02-2022	21-03-2022	21	2100
GSTR 9C	2020-21	28-02-2022	21-03-2022	21	2100
GSTR 1	April, 2020	11-05-2020	22-09-2020	134	2680
GSTR 1	May, 2020	11-06-2020	14-09-2020	95	1900
GSTR 1	June, 2020	11-07-2020	22-09-2020	73	1460
GSTR 1	July, 2020	11-08-2020	22-09-2020	42	840
GSTR 1	Aug, 2020	11-09-2020	10-11-2020	60	1200
GSTR 1	Sept, 2020	11-10-2020	23-11-2020	43	2150
GSTR 1	Oct, 2020	11-11-2020	27-11-2020	16	800
GSTR 1	Nov, 2020	11-12-2020	23-01-2021	43	2150
GSTR 1	Dec, 2020	11-01-2021	22-03-2021	70	3500
GSTR 1	Jan, 2021	11-02-2021	27-04-2021	75	3750
GSTR 1	Feb, 2021	11-03-2021	11-05-2021	61	3050
GSTR 1	Mar, 2021	11-04-2021	30-06-2021	80	4000
	Total				31680

The Total Late fee is amounting to Rs.31,680 (i.e.CGST-Rs.15,840 and SGST-Rs.15,840).

The recomputed late fees is paid through Form DRC-03 Vide AD360125004275I dated:09/01/2025 DRC-03 is attached as **Annexure 10**.

Hence, it is therefore requested to drop all further proceedings in this regard.

As verified the tax payer reply and found tenable and the tax payer has also paid the admitted Late fee through DRC-03 and the same have been verified and found in order. Therefore, the net tax to be paid on the account of Late fees regarding the delay filing of GSTR-9, GSTR-9C and GSTR-1 is Rs. Nil

Summary:

Annexure with details for the above proposals are already sent with show cause notice. The total tax payable on account of the above mentioned and discussed deficiencies after giving credit to the payments made in cash and ITC adjusted is arrived as follows

Statement of Commutation of Liability

1. Tax

Sl. No.	Particulars	Amount	CGST	SGST	Total
1	Revenue-Services Charges	1,44,000	12960	12960	25920
2	Revenue-Hoarding Rent-Exempt	90,000	8100	8100	16200
3	differential income	600	54	54	108
	Total	2,34,600	21114	21114	42228

2. Interest

The tax payer has failed to pay the tax within the period prescribed in the notice. Hence, the tax payer has to pay the interest @18% on net liability under section 50 of CGST act as under

ACT	Tax in DRC-07	Interest calculated date from	Interest calculated date to	No of days delay	Interest @18%
CGST	21114	01-04-2021	27-02-2025	1428	15075
SGST	21114	01-04-2021	27-02-2025	1428	15075
Total	42228				30150

3. Penalty:

The sub-section 9 read with sub-section 8 of Section 73 of the TGST Act, 2017 makes it clear that the tax payer is liable for penalty of ten percent of the tax or ten thousand rupees whichever is higher if the tax is not paid within (30) days from the date of initiation of the assessment proceedings.

The tax payer has not paid the tax determined above within the stipulated time and is therefore liable for a penalty of Rs. 10,000/- under SGST Act and penalty of Rs.10,000/- under CGST is hereby confirmed.

ABSTRACT

	Tax	Interest	Penalty	Fees	Total
CGST	21114	15075	10000	0	46189
SGST	21114	15075	10000	0	46189
Total	42228	30150	20000	0	92378

The tax payer is also directed to pay the above determined taxes and penalty within (30) days of receipt of this Assessment Order/ Summery Assessment Order in Form GST DRC-07.

Note: An appeal against this order lies before the Appellate Joint Commissioner (ST), Hyderabad Rural Division, Hyderabad within (90) days from the date of receipt of this Order.

SRINIVAS

REDDY MUPPA

Digitally signed by
SRINIVAS REDDY MUPPA
Date: 2025.02.27
19:14:30 +05'30'

STATE TAX OFFICER-II, (F.A.C),
M.G.ROAD-S.D.ROADCIRCLE.

To,
M/s. MODI HOUSING PRIVATE LIMITED,
2ndFloor, 5-4-187/3 and 4, Soham Mansion,
M G Road, Secunderabad, 500003

Office of : State Tax Officer

Jurisdiction : M.G.ROAD - S.D.ROAD:Begumpet:Telangana, State/UT : Telangana

Reference No. : ZD3602250865266

Date : 27/02/2025

To

GSTIN/ID : 36AADCM5906D2ZO

Name : Modi Housing Private Limited

Address : 5 4 187 3 and 4, 2nd floor, Soham Mansion, M G Road, Secunderabad, Hyderabad, Telangana, 500003

SCN/Statement Reference No. : ZD361124013274V

Date : 13/11/2024

Tax Period : APR 2020 - MAR 2021

F.Y. : 2020-2021

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 :-

(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 2020	MAR 2021	CGST	NA	21,114.00	15,075.00	10,000.00	0.00	0.00	46,189.00
2	0	0.00	APR 2020	MAR 2021	SGST	NA	21,114.00	15,075.00	10,000.00	0.00	0.00	46,189.00
Total							42,228.00	30,150.00	20,000.00	0.00	0.00	92,378.00

You are hereby directed to make the payment by 27/03/2025 failing which proceedings shall be initiated against you to recover the outstanding dues.

Signature

Name : SRINIVAS REDDY MUPPA

Designation : State Tax Officer

Jurisdiction : M.G.ROAD -

S.D.ROAD: Begumpet:Telangana

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

Reference No. : ZD3602250865266

Date : 27/02/2025

1. Tax Period :- APR 2020 - MAR 2021

2. Issues involved :- other income

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 2020	MAR 2021	CGST	NA	21,114.00	15,075.00	10,000.00	0.00	0.00	46,189.00
2	0	0.00	APR 2020	MAR 2021	SGST	NA	21,114.00	15,075.00	10,000.00	0.00	0.00	46,189.00
Total							42,228.00	30,150.00	20,000.00	0.00	0.00	92,378.00

You are hereby directed to make the payment by 27/03/2025 failing which proceedings shall be initiated against you to recover the outstanding dues.

Signature

Name : SRINIVAS REDDY MUPPA

Designation : State Tax Officer

Jurisdiction : M.G.ROAD -

S.D.ROAD: Begumpet:Telangana

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