

Form GST ASMT - 11

[See rule 99(2)]

Reply to notice issued under section 61 intimating discrepancies in the return

ARN: ZD360425032713J

Date: 25/04/2025

1. GSTIN	36ACQFS2044C1Z7		
2. Name	SUMMIT SALES LLP		
3. Detail of notice	Reference No.: ZD3606220094996	Date: 02/06/2022	
4. Tax Period	APR-2021 MAR-2022		
5. Reply to the discrepancies			
Reply in Form GST ASMT 11 vide reference number:-ZD3606220094996 dated :-02/06/2022 along with annexures.			

6. Amount Admitted And Paid, if Any :

Sr. No	Tax Period		Act	Tax (₹)	Interest (₹)	Others (₹)	Total (₹)
	From	To					
-NA-							

7. Verification :

I SOHAMMODI hereby solemnly affirm and declare that the information given hereinabove is true and correct to the best of my/our knowledge and belief and nothing has been concealed therefrom.

Signature of Authorized Signatory
Name: SOHAMMODI
Designation / Status: Designated
Partner
Date: 25/04/2025

Form GST ASMT 11

[See rule 99(2)]

Reply to the notice issued under section 61 intimating discrepancies in the return

1. GSTIN	36ACQFS2044C1Z7	
2. Name	Summit Sales LLP	
3. Details of the notice: Notice for intimating discrepancies in the return after scrutiny	ZD3606220094996	Date of issue: 02/06/2022
4. Financial Year	2021-22	
5. Reply to the discrepancies: Provided in Annexure to form ASMT-11		
Sr. No.	Discrepancy	Reply
1	Reconciliation of GSTR-01 with GSTR-3B	
2	A. ITC to be reversed on non-business transactions & exempt supplies B. Under declaration of Ineligible ITC	

6. Amount admitted and paid, if any

Act	Tax	Interest	Others	Total

7. Verification –

I, Soham Satish Modi hereby solemnly affirm and declare that the information given hereinabove is true and correct to the best of my knowledge and belief and nothing has been concealed therefrom.

Signature of Authorised Signatory

Name: Soham Satish Modi

Designation Status: - Partner

Reply to the Notice:

Summit Sales LLP (hereinafter referred as “noticee”) is engaged in trading of all construction related material and other business auxiliary services. They are registered with goods and services tax department vide GSTIN NO: 36ACQFS2044C1Z7. Noticee herein makes the below submissions.

Submissions

8. Noticee submits that they deny all the allegations made in Show Cause Notice (SCN) as they are not factually/legal correct.
9. Noticee submits that the provisions (including Rules, Notifications & Circulars issued thereunder) of both the CGST Act, 2017 and the Telangana GST Act, 2017 are the same except for certain provisions. Therefore, unless a mention is specifically made to any dissimilar provisions, a reference to the CGST Act, 2017 would also mean a reference to the same provision under the TGST Act, 2017. Similarly, the provisions of CGST Act, 2017 are adopted by IGST Act, 2017 thereby the reference to CGST provisions be considered for IGST purpose also, wherever arises.
10. The current notice in Form GST ASMT-10 points out the following discrepancies

Para No.	Description	CGST	SGST	Total
1.	Reconciliation of GSTR-01 with GSTR-3B	17,29,641	17,29,641	34,59,282
2.	Excess claim of ITC			
A.	ITC to be reversed on non-business transactions & exempt supplies	13,010	13,010	26,020
B.	Under declaration of Ineligible ITC	11,61,522	11,61,522	23,23,044
	Total	29,04,174	29,04,174	58,08,348

Para 1: - Reconciliation of GSTR-01 with GSTR-3B:

11. This para points out the under declaration of turnover in GSTR-3B in comparison with GSTR-1.

Particulars	CGST	SGST
Tax on Outward supplies declared in GSTR-01 for the FY.	1,70,70,448	1,70,70,448
Less: - Tax on Outward supplies arrived in GSTR-3B	1,53,40,807	1,53,40,807
Difference	17,29,641	17,29,641

12. It is submitted that the adjudicating authority had wrongly considered the tax liability discharged only upto February 2022 during the financial year 2021-22. Consequently, resulting in a difference between tax liability reported in GSTR-1 & Tax liability discharged in GSTR-3B returns.

13. In support of such submission, the tax liability & ITC comparison report as downloaded from the common portal is provided below for your ready reference.

Tax Period	Tax liability declared in GSTR-3B during the month [as per table 3.1(a)]			Tax liability declared in GSTR-1/IFF (other than reverse charge supply) during the month [as per table 4A, 4C, 5, 6C, 7, 9A, 9B, 9C, 10, 11]			Shortfall (-)/ Excess (+) in liability (GSTR-3B - GSTR-1/IFF)		
	IGST	CGST	SGST	IGST	CGST	SGST	IGST	CGST	SGST
Apr-21	-	15,56,716	15,56,716	-	15,56,716	15,56,716	-	-	-
May-21	-	14,60,488	14,60,488	-	14,58,347	14,58,347	-	2,141	2,141
Jun-21	-	15,69,314	15,69,314	-	15,69,314	15,69,314	-	-	-
Jul-21	-	22,84,901	22,84,901	-	22,84,901	22,84,901	-	-	-
Aug-21	-	10,22,667	10,22,667	-	10,22,667	10,22,667	-	-	-
Sep-21	-	11,75,853	11,75,853	-	11,75,853	11,75,853	-	-	-
Oct-21	-	12,09,320	12,09,320	-468	12,09,554	12,09,554	468	-234	-234
Nov-21	-	9,98,283	9,98,283	-	9,98,283	9,98,283	-	-	-
Dec-21	-	13,80,994	13,80,994	-	13,80,994	13,80,994	-	-	-
Jan-22	-	12,30,849	12,30,849	-	12,30,849	12,30,849	-	-	-
Feb-22	-	14,51,422	14,51,422	-	14,51,422	14,51,422	-	-	-
Mar-22	-	17,31,548	17,31,548	-	17,31,548	17,31,548	-	-	-
Total	-	1,70,72,355	1,70,72,355	-468	1,70,70,448	1,70,70,448	468	1,907	1,907

14. On examination of table provided above, it is evident that excess tax liability is discharged in GSTR-3B returns. In light of the same, it is humbly requested to drop all further proceedings in this regard.

Para 2A: - ITC to be reversed on non-business transactions & exempt supplies

15. This para points out that the noticee has not made apportionment of common ITC in accordance with the provisions laid down under Rule 42 and 43 read with Section 17 of the CGST Act, 2017 for the ITC claimed by it in GST returns.

S l	Issue	Table no. in GSTR-3B	Value of outward supply	CGST	SGST
1	Total supplies	3.1-3.1(D)	16,68,27,155	-	-
2	Exempt supplies	3.1(c)+3.1(e)	1,91,611	-	-
3	Proportion of common ITC which has to be reversed to the extent of exempt supply (2/1 above)		0.001148	-	-
4	Common input tax credit	4A+Tran 1+ Tran 2	-	1,13,33,055	1,13,33,055
5	ITC to be reversed	[S.No.2] / [S. No.1]X [S. No. 4]	-	13,010	13,010
6	ITC reversed as per GSTR 3B	4B (1)	-	0.00	0.00
7	Difference/Excess ITC claimed	S.No.5 (-) S. No.6	-	13,010	13,010

16. It is submitted that while adjudicating the matter, the authority has relied upon the exempt turnover reported in GSTR-3B returns. However, it is pertinent to highlight that as per Section 44 of the CGST Act, 2017, GSTR-9 (annual return) is a reconciliatory statement filed annually, which captures the consolidated and accurate figures for the entire financial year, after reconciling with books of accounts and periodic returns.

17. It is also submitted that the Hon'ble High Court of Madras, in the case of *Sri Shanmuga Hardwares Electricals v. State Tax Officer* [W.P. No. 2938 of 2023, dated 07.02.2023], held that the figures disclosed in GSTR-9 must be duly considered by the adjudicating authority, especially in cases of mismatch or clarification.

18. Accordingly, the correct figures for Exempt turnover as per GSTR-9 filed for the F.Y. 2021-22 is provided below as an extract and such GSTR-9 is attached as **Annexure 1**.

Pt. II	Details of Outward and inward supplies made during the financial year					
Sr.No	Nature of Supplies	Taxable Value(₹)	(Amount in ₹ in all tables)			
			Central Tax(₹)	State Tax / UT Tax(₹)	Integrated Tax(₹)	Cess(₹)
	1	2	3	4	5	6
5	Details of Outward supplies made during the financial year on which tax is not payable					
A	Zero rated supply (Export) without payment of tax	0.00				
B	Supply to SEZs without payment of tax	0.00				
C	Supplies on which tax is to be paid by the recipient on reverse charge	0.00				
D	Exempted	6,75,428.00				
E	Nil Rated	0.00				
F	Non-GST supply (includes 'no supply')	0.00				
G	Sub total (A to F above)	6,75,428.00				
H	Credit Notes issued in respect of transactions	0.00				
	specified in A to F above (-)					
I	Debit Notes issued in respect of transactions specified in A to F above (+)	0.00				
J	Supplies declared through Amendments (+)	0.00				
K	Supplies reduced through Amendments (-)	0.00				
L	Sub-Total (H to K above)	0.00				
M	Turnover on which tax is not to be paid (G + L above)	6,75,428.00				
N	Total Turnover (including advances) (4N + 5M - 4G above)	18,64,66,813.94	1,70,97,453.47	1,70,97,453.47	0.00	0.00

19. Therefore, it is submitted that the figures mentioned in GSTR-9, being final and reconciled with the audited financials, it may kindly be taken into consideration for adjudication of the case. Such audited financial Statement is attached as **Annexure 2**.

20. Further, the noticee submits a break up of exempted turnover in the table below.

Sl. No	Particulars	Amount	
1	Interest income	28,562	Explanation 1 to Rule 43
2	Forfeit Account	2,25,000	Not a supply
3	Round off	124	Not a supply
4	Prior Period items	6,560	Not a supply
5	Interest on FDR	1,60,747	Explanation 1 to Rule 43
6	Profit on sale of car	13,125	Supply
7	Share of Income tax refund	37,378	Not a supply
8	Exempt supply	2,04,056	Exempt supply
	Total	6,75,428	

21. Firstly, it is submitted that an amount of Rs.1,60,747/- pertains to income from Fixed deposits and interest income of Rs.28,562 received by the noticee during the financial year. In support of such submission an extract of Profit & Loss account of the noticee for the financial year 2021-22 is provided hereunder for your ready reference.

		31 March 2022	31 March 2021
17	Other income	28,562	-
(a)	Interest income	2,25,000	-
(b)	Forefit Account	-	2,82,62,427
(c)	Service charges	124	3,910
(d)	Rounded off	6,560	-24,371
(e)	Prior Period items	1,60,747	1,70,770
(f)	Interest on FDR	13,125	-
(g)	Profit on sale of car	37,378	-
(h)	Share of Income tax refund	4,71,495	3,67,73,461
	Total other income		

22. On examination of P&L account of the noticee it is evident that an amount of Rs1,60,747/- reported as exempted sales pertains to interest on fixed deposits and interest income of Rs.28,562.

23. Noticee submits that it is well clarified that according to Explanation 1 (b) of Rule 43(5) of CGST Rules, 2017 such income from interest on fixed deposits is excluded from aggregate value of exempt supplies while calculating the common ITC under Rule 42 & 43. An extract of such explanation is provided hereunder for your ready reference,

An Extract of Explanation 1 of Rule 43(5) of CGST Rules, 2017

“[1]. For the purposes of rule 42 and this rule, it is hereby clarified that the aggregate value of exempt supplies shall exclude: -

(a) Omitted

(b) the value of services by way of accepting deposits, extending loans or advances in so far as the consideration is represented by way of interest or discount, except in case of a banking company or a financial institution including a non-banking financial company, engaged in supplying services by way of accepting deposits, extending loans or advances; and

(c) Omitted

(d) the value of supply of Duty Credit Scrips specified in the notification of the Government of India, Ministry of Finance, Department of Revenue No. 35/2017-Central Tax (Rate), dated the 13th October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number GSR 1284(E), dated the 13th October, 2017.]”

24. Hence, in consideration of explanation to Rule 43 interest from deposits should be excluded from Common ITC.

25. Upon further examination of the Profit and Loss Account, rounding off amount of Rs.124, prior period items of Rs.6,560/- and the share of income tax refund of Rs.37,378 amounts to no supply in terms of section 7 of CGST Act,2017. An extract of Section 7 of the CGST Act, 2017 is provided below: -

*** Section 7. Scope of supply: -**

(1) For the purposes of this Act, the expression - "supply" includes-

(a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;

(b) import of services for a consideration whether or not in the course or furtherance of business; ²[and]

(c) the activities specified in [Schedule I](#), made or agreed to be made without a consideration; ³[****]

(d) Activities treated as supply under Schedule II.

26. Therefore, the rounding off amount, prior period items, and the share of income tax refund do not qualify as "supply" under Section 7 of the CGST Act, 2017.

27. Upon further examination of the Profit and Loss Account, it is observed that an amount of ₹2,25,000 pertains to forfeited income received as an advance deposit under an agreement to sell a flat. Since the agreement to sale did not materialize, the amount was forfeited. This transaction does not involve any actual supply of goods or services and therefore does not qualify as a "supply" under Section 7 of the CGST Act, 2017.

28. Further, Profit on sale of Car is Rs.13,125 and exempted sales of Rs.2,04,056 is considered a supply under the CGST Act, 2017 and the Input Tax Credit (ITC) must be reversed under Rule 42 and Rule 43 to determine the eligible ITC." Such reversal is computed as hereunder: -

	Particulars	Total	IGST	CGST	SGST	Cess
T	Total input tax involved on inputs and input services in a tax period	2,48,00,070	3,41,156	1,22,28,055	1,22,28,055	2,804
T1	Inputs and Input services intended to be used exclusively for the purposes other than business	-	-	-	-	-
T2	Inputs and Input services intended to be used exclusively for effecting exempt supplies	-	-	-	-	-
T3	Inputs and Input services on which credit is not available under sub-section (5) of section 17	-	-	-	-	-
C1	C1 = T- (T1+T2+T3)	2,48,00,070	3,41,156	1,22,28,055	1,22,28,055	2,804
T4	Input tax credit attributable to inputs and input services intended to be used exclusively for effecting supplies other than exempted but including zero rated supplies	2,43,37,136	2,81,847	1,20,26,243	1,20,26,243	2,804
C2	Common credit C2 = C1 - T4	4,62,934	59,309	2,01,812	2,01,812	-
D1	Input tax credit attributable towards exempt supplies D1= (E÷F) × C2	540				
E	The aggregate value of exempt supplies during the tax period	2,17,181				
F	Total turnover in the State of the registered person during the tax period	18,61,67,876				

29. Therefore, the amount of credit to be reversed as per Rule 42 & 43 of the CGST Act, 2017 is Rs.540/- (CGST-Rs. 270/- & SGST-Rs.270 /-). Such amount is reversed through Form GST DRC-03 vide: - AD360425017014J dated: -24/04/2025 and attached as **Annexure 3**.

Para 2B. Under declaration of Ineligible ITC.

30. This para points out that noticee has utilized blocked credits under section 17(5) of CGST Act, 2017.

S.No	Commodity/Service	HSN code	Table no. in GSTR-3B	SGST	CGST	Total
1	2	3	4	5	6	7
1	Interior designers	99832; 998391;		1156747.69	1156747.69	2313495.38
2	Accident & Health Insurance	997133;		3037.32	3037.32	6074.64
3	Motor Vehicle Insurance	997134;		1737.51	1737.51	3475.02
A	Total ineligible ITC u/s 17(5)	-		1161522.52	1161522.52	2323045.04
B	Ineligible ITC declared in GSTR-3B	-	4D.(1)	0.000	0.000	0.000
C	Difference/excess ITC claimed	-		1161522.52	1161522.52	2323045.04

31. In this regard, noticee submits that it has claimed no ITC on the supplies mentioned in the table above. In support of such submission, Tax Liability and ITC comparison report depicting such un-availed credit is provided hereunder for your ready reference.

Tax liability and ITC comparison report

Tax Period	ITC claimed in GSTR-3B during the month [as per table 4A (4) +4A (5)-4B (1)-4B (2)] *				ITC auto-drafted in GSTR-2B during the month [as per table B2B, B2BA, CDNR, CDNRA] (Excluding RCM supplies)				Shortfall (-) /Excess (+) in ITC (GSTR-3B - GSTR-2B)			
	IGST	CGST	SGST	CESS	IGST	CGST	SGST	CESS	IGST	CGST	SGST	CESS
Apr-21	-	15,15,339	15,15,339	-	10,690	19,04,351	19,04,351	-	-10,690	-3,89,012	-3,89,012	-
May-21	-	11,07,513	11,07,513	-	10,346	7,86,125	7,86,125	-	-10,346	3,21,388	3,21,388	-
Jun-21	13,923	11,85,475	11,85,475	-	11,769	10,28,557	10,28,557	-	2,154	1,56,918	1,56,918	-
Jul-21	59,465	11,03,647	11,03,647	-	61,901	11,58,859	11,58,859	-	-2,436	-55,212	-55,212	-
Aug-21	4,292	6,04,154	6,04,154	-	5,652	6,63,831	6,63,831	-	-1,360	-59,677	-59,677	-
Sep-21	15,040	9,31,592	9,31,592	-	4,893	9,85,067	9,85,067	-	10,147	-53,475	-53,475	-
Oct-21	5,122	9,59,675	9,59,675	2,804	24,874	15,59,405	15,59,405	2,804	-19,752	-5,99,730	-5,99,730	-
Nov-21	13,271	8,16,682	8,16,682	-	23,730	8,22,091	8,22,091	-	-10,459	-5,409	-5,409	-
Dec-21	4,876	11,12,808	11,12,808	-	38,966	7,82,969	7,82,969	-	-34,090	3,29,839	3,29,839	-
Jan-22	2,077	10,72,676	10,72,676	-	7,338	10,97,589	10,97,589	-	-5,261	-24,913	-24,913	-
Feb-22	2,76,554	8,94,971	8,94,971	-	1,83,722	8,44,784	8,44,784	-	92,832	50,187	50,187	-
Mar-22	1,389	9,78,308	9,78,308	-	4,620	7,65,909	7,65,909	-	-3,231	2,12,399	2,12,399	-
Total	3,96,009	1,22,82,840	1,22,82,840	2,804	3,88,500	1,23,99,538	1,23,99,538	2,804	7,509	-1,16,698	-1,16,698	-

32. On examination Tax liability and ITC comparison report provided above it can be established that noticee had not claimed any ineligible ITC under Section 17(5) of the CGST Act, 2017. Therefore, it requested that any further proceedings in this regard be dropped.

33. The noticee reserves the right to add, to withdraw, to correct, to change, to delete, to modify any submissions at the time of Personal Hearing in the Principal of Natural Justice.

34. The Noticee wishes to be heard in person before passing any order in this regard if the SCN is confirming totally or partially.

Summit Sales LLP

Partner