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14. Accordingly, I pass the following orders.

ORDER

The appeal is allowed partially to the extent of Rs.5,15,478/- being the tax adjusted and rest of the impugned order is upheld.



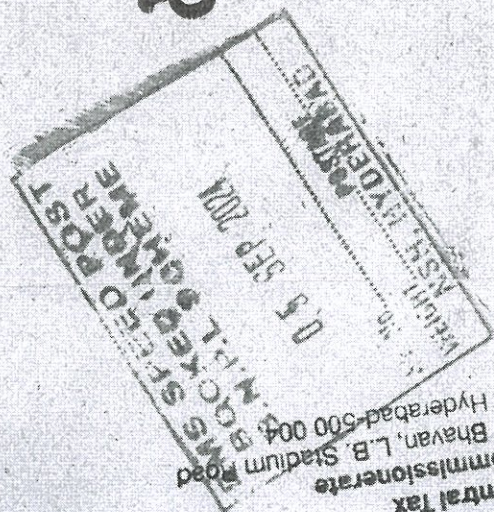
To,
M/s. Nilgiri Estates,
5-4-187/3, 2nd Floor, Soham Mansion,
M.G. Road, Secunderabad,
Telangana – 500 003.

Copy submitted to the Chief Commissioner of Customs & Central Tax, Hyderabad Zone, Hyderabad.

1. The Commissioner of Central Tax, Secunderabad CGST Commissionerate, Hyderabad.
2. The Additional Commissioner of Central Tax, Secunderabad CGST Commissionerate, Hyderabad.
3. Master Copy/Office Copy.

आयुक्त/COMMISSIONER

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Office of the Commissioner of
Customs & Central Tax
Appeals-II Commissionerate
7th Floor, GST Bhavan, L.B. Stadium Road
Basheerbagh, Hyderabad-500 004.

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Appeals-II Commissionerate
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Basheerbagh, Hyderabad-500 004.



**OFFICE OF THE COMMISSIONER OF CENTRAL TAXES & CUSTOMS
AUDIT - II COMMISSIONERATE**

केंद्रीय कर और सीमा शुल्क आयुक्त का कार्यालय, लेखापरीक्षा -द्वितीय आयुक्तालय
1-98/B 20,21-Sanvi Yamuna Pride, Krithika Lay Out, Madhapur, Hyderabad-500081
१-९८/बी,२०,२१ -सान्वी यमुना प्राइड, कृत्तिका ले आउट, माधपुर, हैदराबाद - ५०००८१

C.No. V/Audit-II/C-I/28/2021-22/Gr-15

दिनांक Date: .04.2023

SCN SI No. 06/2023-24

DIN: 20230556YS000000B958

SHOW CAUSE NOTICE/ कारण बताओ नोटिस

Sub: GST-Audit- Short payment of GST due to adopting wrong method of valuation, Short payment of tax due to difference in tax rate, Short payment of GST on comparison of Tax liabilities declared in GSTR-1 and GSTR-3B, Excess availment of ITC in GSTR 3B on comparison with GSTR 2A, Non-reversal of ITC on receipt of Credit Notes, Short payment of Interest towards late payment of tax, Non-payment of GST under RCM as per Section 9(4) of CGST Act,2017 on Rent paid to Unregistered person and Irregular availment of Input Tax Credit [Section 17(5)] during the period F.Y. 2017-18, 2018-19 & 2019-20 by M/s. Nilgiri Estates Secunderabad, GSTN 36AAHFN0766F1ZA -Issuance of Show Cause Notice under section 73/74 of CGST Act,2017 - Reg.

M/s. Nilgiri Estates, 5-4-187/3, 2nd Floor, Soham Mansion, M.G. Road, Secunderabad, Telangana - 500003 (hereinafter referred as 'the assessee' or 'the taxpayer') having GSTN 36AAHFN0766F1ZA are engaged in the Construction of Residential Complexes & Works Contract Services falling under the SAC code 9954.

2. During GST Audit of the books of the accounts of the assessee conducted in the month of September,2022, covering the period July 2017 to March 2020, the following discrepancies were noticed;

(I)- Short payment of GST due to adopting wrong method of valuation:

During the course of audit, on verifying the payment of tax towards the amount received for sale of constructed buildings to customers, it is found that in the project, the taxpayer has applied the value of land arbitrarily i.e. approximately half of the total sale value and reduced the same from the total sale value for arriving the taxable value instead of the same to be taken as one third of the total amount charged for supply in terms of the Notification No.11/2017-Central Tax(Rate) dt.28.06.2017. By not applying the proper method of valuation the taxpayer has short paid the tax of Rs. Rs.1,21,41,750/- (CGST- Rs.60,70,875/- and SGST Rs.60,70,875/-) during the period starting from July,2017 onwards. The details are given in the Annexure-I attached.

(A)- Statutory provisions-

(a)- Section 9. Levy and collection.-

(1) Subject to the provisions of sub-section (2), there shall be levied a tax called the central goods and services tax on all intra-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 and at such rates, not exceeding twenty per cent., as may be notified by the Government on the

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recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person.

(b)-

Notification No. 11/2017-Central Tax (Rate)

New Delhi, the 28th June, 2017

G.S.R.....(E).- In exercise of the powers conferred by sub-section (1) of section 9, sub-section (1) of section 11, sub-section (5) of section 15 and sub-section (1) of section 16 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, and on being satisfied that it is necessary in the public interest so to do, hereby notifies that the central tax, on the intra-State supply of services of description as specified in column (3) of the Table below, falling under Chapter, Section or Heading of scheme of classification of services as specified in column (2), shall be levied at the rate as specified in the corresponding entry in column (4), subject to the conditions as specified in the corresponding entry in column (5) of the said Table:-

Table

Sl No.	Chapter, Section or Heading	Description of Service	Rate (per cent.)	Condition
(1)	(2)	(3)	(4)	(5)
1	Chapter 99	All Services		
2	Section 5	Construction Services		
3	Heading 9954 (Construction services)	(i) 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. (Provisions of paragraph 2 of this notification shall apply for valuation of this service)	9	-
		(ii) composite supply of works contract as defined in clause 119 of section 2 of Central Goods and Services Tax Act, 2017.	9	-
		(iii) construction services other than (i) and (ii) above.	9	-

2. In case of supply of service specified in column (3) of the entry at item (i) against serial no. 3 of the Table above, involving transfer of property in land or undivided share of land, as the case may be, **the value of supply of service and goods portion in such supply shall be equivalent to the total amount charged for such supply less the value of land or undivided share of land, as the case may be, and the value of land or undivided share of land, as the case may be, in such supply shall be deemed to be one third of the total amount charged for such supply.**

Explanation .- For the purposes of paragraph 2, "total amount" means the sum total of,-

- (a) consideration charged for aforesaid service; and
- (b) amount charged for transfer of land or undivided share of land, as the case may be.

(c)- As per the Notification No.11/2017-Central Tax (Rate) dated 28.06.2017 cited above, GST is payable on the service of construction of building or civil structure at the rate of 9% and the value of supply of service shall be two third of the total amount charged for service including transfer of land or undivided share of land.

Contraventions-

(B). In view of the statutory provisions above it is found that by not following the method for valuation provided in the notification no. 11/2017-Central Tax (Rate) dated 28.06.2017 as one third of the total value as the value of land, the taxpayer arbitrarily declared approximately half of the total value as the value of land, the taxpayer

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contravened the provisions of Section 9 of CGST Act, 2017 read with Notification No.11/2017-Central Tax (Rate) dated 28.06.2017 and short paid the tax of Rs.1,21,41,750/- (CGST- Rs.60,70,875/- and SGST Rs.60,70,875/-) on the differential value.

(C). Since the taxpayer has not paid the short paid tax amount of Rs.1,21,41,750/- therefore the discrepancy is brought to notice of them vide Spot Memo dated 21.09.2022 vide DIN 20220956YS000041414A. Further, the taxpayer is again communicated regarding the discrepancy vide Final Audit Report No.518/2022-23 dated 04.11.2022 and DRC 01A vide C.No.V/Audit-II/C-1/28/2021-22/Gr-15 dt.21.03.2023 issued under the provisions of Section 73/74 of CGST Act, 2017 read with Rule 142(1A) of CGST Rules, 2017 demanding the short paid tax amount of Rs.1,21,41,750/- for the period F.Y. 2017-18 (from July, 2017) to March, 2020. The taxpayer did not submit any reply or document evidencing the payment of tax towards the short paid tax of Rs.1,21,41,750/- for the period F.Y. 2017-18 (from July, 2017) to March, 2020. Since the taxpayer has not paid the short paid tax of Rs.1,21,41,750/- hence, the same is liable to be recovered in terms of Section 74 of CGST Act, 2017 along with interest payable under the provisions of Section 50 of CGST Act, 2017.

As the taxpayer has deliberately avoided to pay tax on two third of total amount received for sale of constructed building and declared less value of taxable services which are liable to GST in their periodical returns filed with the Department with an intention to evade payment of GST, it appears that the taxpayer is liable for penal action in terms of the provisions of Section 122(2)(b) read with Section 74(1) of CGST Act, 2017.

(II) - Short payment of tax due to difference in tax rate-

(A). During the course of audit, on verifying the returns it is observed that during the period F.Y. 2017-18 (From July, 2017 to March, 2018) the taxpayer has paid tax at the rate of 12% instead of 18% specified in Notification No.11/2017 CT (Rate) dt.28.06.2017 including CGST and SGST which caused a short payment of Rs.19,82,815/- including CGST of Rs.9,91,407/- and SGST of Rs.9,91,407/- for the period F.Y. 2017-18 (From July, 2017 to March, 2018). The details are given in the Annexure-II attached herewith.

(B). Statutory Provisions:-

Statutory provisions of Section 9 read with Notification No. 11/2017 CT (Rate) dt.28.06.2017 as discussed supra.

Contraventions-

(C). In view of the statutory provisions above it is found that by adopting incorrect rate of tax of 12% (CGST- 6% and SGST- Rs.6%) instead of total 18% (CGST-9% and SGST- 9%) provided in the notification no. 11/2017-Central Tax (Rate) dated 28.06.2017, the taxpayer has contravened the provisions of Section 9 of CGST Act, 2017 read with Notification No.11/2017-Central Tax (Rate) dated 28.06.2017 and short paid the tax of Rs.19,82,815/- including CGST of Rs.9,91,407/- and SGST of Rs.9,91,407/- during the period of F.Y. 2017-18 (From July, 2017 to March, 2018).

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(D). Since the taxpayer has not paid the short paid tax amount of Rs.19,82,815/- therefore the discrepancy is brought to notice of them vide Spot Memo dated 21.09.2022 vide DIN 20220956YS000041414A. Further, the taxpayer is again communicated regarding the discrepancy vide Final Audit Report No.518/2022-23 dated 04.11.2022 and DRC 01A vide C.No.V/Audit-II/C-1/28/2021-22/Gr-15 dt.21.03.2023 issued under the provisions of Section 73/74 of CGST Act,2017 read with Rule 142(1A) of CGST Rules,2017 demanding the short paid tax amount of Rs.19,82,815/- for the period F.Y. 2017-18 (from July,2017 to March, 2018). The taxpayer did not submit any reply or document evidencing the payment of tax towards the short paid tax of Rs.19,82,815/- for the period F.Y. 2017-18 (from July,2017 to March, 2018). Since the taxpayer has not paid the short paid tax of Rs.19,82,815/- hence, the same is liable to be recovered in terms of Section 74 of CGST Act, 2017 along with interest payable under the provisions of Section 50 of CGST Act,2017.

As the taxpayer has deliberately adopted incorrect lesser rate of tax to avoided to pay tax in their periodical returns filed with the Department with an intention to evade payment of GST, it appears that the taxpayer is liable for penal action in terms of the provisions of Section 122(2)(b) read with Section 74(1) of CGST Act, 2017.

(III)- Short payment of GST on comparison of Tax liabilities declared in GSTR-1 and GSTR-3B :

(A)- During the course of audit, on comparison of tax liability declared in GSTR-1 with GSTR-3B it is observed that there is short payment of total tax of Rs.27,16,554/- (IGST- Rs.0/-, CGST- Rs.13,58,277/- and SGST Rs.13,58,277/-) during the period of F.Y.2018-19. The details are given hereunder.

Amount in Rs.

Period	GSTR-1 Details			GSTR-3B details			Tax short paid (GSTR 1- GSTR 3B)			
	IGST	CGST	SGST	IGST	CGST	SGST	IGST	CGST	SGST	Total
June,18	0	50,580	50,580	0	0	0	0	50,580	50,580	1,01,160
March,19	0	22,00,571	22,00,571	0	8,92,874	8,92,874	0	13,07,697	13,07,697	26,15,394
TOTAL	0	22,51,151	22,51,151	0	8,92,874	8,92,874	0	13,58,277	13,58,277	27,16,554

As given in the table above, the tax paid in the monthly GSTR 3B returns filed under Section 39 of the CGST Act,2017 is comparatively less than the same declared in the monthly details of outward supplies furnished under Section 37 of CGST Act,2017 for the same periods.

(B)- Statutory provisions-

a). The provisions of **Section 37 of the CGST Act,2017** for Furnishing details of outward supplies are as hereunder-

(1) Every registered person, other than an Input Service Distributor, a non-resident taxable person and a person paying tax under the provisions of section 10 or section 51 or section 52, shall furnish, electronically, in such form and manner as may be prescribed, the details of outward supplies of goods or services or both effected during a tax period on or before the tenth day of the month succeeding the said tax period and such details shall be communicated to the recipient of the said supplies within such time and in such manner as may be prescribed:

b). The provisions of **Section 39 of CGST Act,2017** (Furnishing of

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returns) stipulates that-

(1) 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, 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, in such form and manner, and within such time, as may be prescribed:

(7) Every registered person who is required to furnish a return under sub-section (1), other than the person referred to in the proviso thereto, or sub-section (3) or sub-section (5), shall pay to the Government the tax due as per such return not later than the last date on which he is required to furnish such return:

c). As per the provisions of **Section 49 of the CGST Act, 2017** for payment of tax, interest, penalty and other amounts.-

(8) Every taxable person shall discharge his tax and other dues under this Act or the rules made thereunder in the following order, namely:-

(a) self-assessed tax, and other dues related to returns of previous tax periods;

(b) self-assessed tax, and other dues related to the return of the current tax period;

(c) any other amount payable under this Act or the rules made thereunder including the demand determined under section 73 or section 74.

(C). Contraventions-

From the above, it appears that by short payment of tax of Rs.27,16,554/- in the GSTR-3B Return in spite of declaring excess tax liability in GSTR 1 outward supplies details of months June, 2018 and March, 2019, the Tax Payer has contravened the provisions of the Section 39(1); 39(7) & 49 of the CGST Act, 2017.

(D). Since the taxpayer has not paid the differential tax amount of Rs.27,16,554/- therefore the discrepancy is brought to notice of them vide Spot Memo dated 21.09.2022 vide DIN 20220956YS000041414A. Further, the taxpayer is again communicated regarding the discrepancy vide Final Audit Report No.518/2022-23 dated 04.11.2022 and DRC 01A vide C.No.V/Audit-II/C-1/28/2021-22/Gr-15 dt.21.03.2023 issued under the provisions of Section 73/74 of CGST Act, 2017 read with Rule 142(1A) of CGST Rules, 2017 demanding the short paid tax amount of Rs.27,16,554/-. The taxpayer did not submit any reply or document evidencing the payment of the short paid tax. The short paid tax of Rs.27,16,554/- is liable to be recovered in terms of Section 73 of CGST Act, 2017 along with interest payable under the provisions of Section 50 of CGST Act, 2017 and penalty as applicable in terms of the Provisions of Section 122(2)(a) read with Section 73 of CGST Act, 2017.

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(IV): Excess availment of ITC in GSTR 3B on comparison with GSTR 2A :-

(A). During the course of audit, on verification of records, it is observed that the taxpayer has availed excess input tax credit to the tune of **Rs.38,58,144/- (IGST- Rs.3,77,768/-, CGST- Rs.17,40,188/- & SGST - Rs.17,40,188/-)** during the period of FY 2017-18, 2018-19 and 2019-20. The details are given in the table hereunder;

Month	As per table 4A of GSTR 3B (Other than RCM)				As per GSTR 2A returns downloaded (Invoices issued by suppliers for the month)				Excess ITC availed in 3B than the tax paid invoices are available in 2A			
	IGST	CGST	SGST	CESS	IGST	CGST	SGST	CESS	IGST	CGST	SGST	CESS
Sept,17	22137	1151479	1151479	0	0	1311594	1311594	0	22137	Nil	Nil	Nil
Oct,17	0	646063	646063	0	22138	638165	638165	0	Nil	7898	7898	Nil
Nov,17	22137	529971	529971	0	0	597919	597919	0	22137	Nil	Nil	Nil
Dec,17	0	503698	503698	0	0	418059	418059	0	Nil	85639	85639	Nil
Feb,18	0	1510854	1510854	0	0	1249408	1249408	0	Nil	261446	261446	Nil
Mar,18	0	1340960	1340960	0	0	1089850	1089850	0	Nil	251110	251110	Nil
2017-18									44274	606093	606093	Nil
May,18	46328	685194	685194	0	49286	621064	621064	0	Nil	64130	64130	Nil
July,18	165461	397651	397651	0	12981	513067	513067	0	152480	Nil	Nil	Nil
Aug,18	11758	1262839	1262839	0	11758	1010147	1010147	0	Nil	252692	252692	Nil
Sept,18	65220	847235	847235	0	0	410681	410681	0	65220	436554	436554	Nil
Oct,18	0	454507	454507	0	16978	381575	381575	0	Nil	72932	72932	Nil
Nov,18	0	612948	612948	0	0	603697	603697	0	Nil	9251	9251	Nil
Dec,18	0	745118	745118	0	16301	717898	717898	0	Nil	27220	27220	Nil
Jan,19	0	447003	447003	0	201	439771	439771	0	Nil	7232	7232	Nil
Mar,19	0	737473	737473	0	0	674798	674798	0	Nil	62675	62675	Nil
2018-19									217700	932685	932685	
July,19	107866	456392	456392	0	0	426735	426735	0	107866	29657	29657	Nil
Sept,19	0	284359	284359	0	0	235008	235008	0	Nil	49351	49351	Nil
Oct,19	0	328904	328904	0	7928	311323	311323	0	Nil	17581	17581	Nil
Nov,19	7928	194439	194439	0	0	199840	199840	0	7928	Nil	Nil	Nil
Dec,19	0	406008	406008	0	0	341968	341968	0	Nil	64040	64040	Nil
Feb,20	0	287026	287026	0	0	246245	246245	0	Nil	40781	40781	Nil
2019-20									115794	201410	201410	Nil
Grand Total=38,58,144									377768	1740188	1740188	Nil

In view of the table above, the excess input tax credit availed is irregular in terms of Section 16(2) (c) of the CGST Act, 2017 as the taxes involved thereon are not paid by the respective suppliers.

(B) Statutory Provisions:--

The statutory provisions to avail input tax credit are stipulated in the Section 41, Section 16 of CGST Act, 2017 and Rule 36 of CGST Rules, 2017. Section 41 provides that the input tax credit shall be credited to the Electronic Credit Ledger provisionally whereas every registered person shall be entitled to take credit of input tax if it qualifies the conditions and restrictions laid down. The statutory provisions of Section 41 of CGST Act, 2017 are reproduced hereunder in details;

(a). Section 41. Claim of input tax credit and provisional acceptance thereof.

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(1) Every registered person shall, subject to such conditions and restrictions as may be prescribed, be entitled to take the credit of eligible input tax, as self-assessed, in his return and such amount shall be credited on a provisional basis to his electronic credit ledger.

(2) The credit of input tax availed by a registered person under sub-section (1) in respect of such supplies of goods or services or both, the tax payable whereon has not been paid by the supplier, shall be reversed along with applicable interest, by the said person in such manner as may be prescribed:

The conditions and restrictions are stipulated under Sections 16, 17, 18 etc. of CGST Act, 2017 and Rules such as Rule 36 to 45 etc. of CGST Rules, 2017. Requisite provisions of Section 16 of CGST Act, 2017 and Rule 36 of CGST Rules, 2017 are reproduced hereunder;

(b). Section 16 of the CGST Act, 2017 - 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 tax paying documents as may be prescribed;

(b) he has received the goods or services or both.

(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 utilisation of input tax credit admissible in respect of the said supply; and

(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 due date of furnishing of the return under section 39 for the month of September following the end of financial year to which such invoice or invoice relating to such debit note pertains or furnishing of the relevant annual return, whichever is earlier.

(c). Rule 36 of CGST Rules 2017 - Documentary requirements and conditions for claiming input tax credit-

(1) The input tax credit shall be availed by a registered person, including the Input Service Distributor, on the basis of any of the following documents, namely-

(a) an invoice issued by the supplier of goods or services or both in accordance with the provisions of section 31;

(b) an invoice issued in accordance with the provisions of clause (f) of sub-section (3) of section 31, subject to the payment of tax;

(c) a debit note issued by a supplier in accordance with the provisions of section 34;

(d) a bill of entry or any similar document prescribed under the Customs Act, 1962 or rules made thereunder for the assessment of integrated tax on imports;

(e) an Input Service Distributor invoice or Input Service Distributor credit note or any document issued by an Input Service Distributor in accordance with the provisions of sub-rule (1) of rule 54.

(2) Input tax credit shall be availed by a registered person only if all the applicable particulars as specified in the provisions of Chapter VI are contained in the said document, and the relevant information, as contained in the said document, is furnished in FORM GSTR-2 by such person:

(C)- As discussed above, in terms of the provisions of Section 16(2)(c) of CGST Act, 2017 and Rule 36 (1)(b) of CGST Rules, 2017, to avail ITC against invoices being in possession of a recipient of supply, it is also mandatory to be the tax i.e. GST involved therein paid. Thus the ITC availed by a recipient is subject to payment of tax by the supplier in terms of the provisions of Section 39 of CGST Act, 2017 read with Rule 61 of

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CGST Rules, 2017. Further the details of outward supplies of Goods or Services or both are to be furnished in Form GSTR 1 in terms of Section 37 of CGST Act, 2017 read with Rule 59 of CGST Rules, 2017. Further the form and manner for ascertaining the details of inward supplies are also stipulated in the provisions of Section 38 of CGST Act, 2017 read with Rule 60 of CGST Rules, 2017. The statutory provisions above are reproduced hereunder;

(a). Section 37. Furnishing details of outward supplies -

(1) Every registered person, other than an Input Service Distributor, a non-resident taxable person and a person paying tax under the provisions of section 10 or section 51 or section 52, shall furnish, electronically ¹[subject to such conditions and restrictions and] in such form and manner as may be prescribed, the details of outward supplies of goods or services or both effected during a tax period on or before the tenth day of the month succeeding the said tax period and such details ²[shall, subject to such conditions and restrictions, within such time and in such manner as may be prescribed, be communicated to the recipient of the said supplies];

(b). Rule 59. Form and manner of furnishing details of outward supplies-

(1) Every registered person, other than a person referred to in section 14 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), required to furnish the details of outward supplies of goods or services or both under section 37, shall furnish such details in **FORM GSTR-1** for the month or the quarter, as the case may be, electronically through the common portal, either directly or through a Facilitation Centre as may be notified by the Commissioner.

(c). Section 39. Furnishing of returns-

(1) 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, 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, in such form and manner, and within such time, as may be prescribed:

Provided that the Government may, on the recommendations of the Council, notify certain class of registered persons who shall furnish a return for every quarter or part thereof, subject to such conditions and restrictions as may be specified therein.

(d). Rule 61. Form and manner of furnishing of return -

(1) Every registered person other than a person referred to in section 14 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017) or an Input Service Distributor or a non-resident taxable person or a person paying tax under section 10 or section 51 or, as the case may be, under section 52 shall furnish a return in **FORM GSTR-3B**, electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner, as specified under -

(e). Section 38. Communication of details of inward supplies and input tax credit-

(1) The details of outward supplies furnished by the registered persons under sub-section (1) of section 37 and of such other supplies as may be prescribed, and an auto-generated statement containing the details of input tax credit shall be made available electronically to the recipients of such supplies in such form and manner, within such time, and subject to such conditions and restrictions as may be prescribed.

(2) The auto-generated statement under sub-section (1) shall consist of—

(a) details of inward supplies in respect of which credit of input tax may be available to the recipient; and

(f). Rule 60. Form and manner of ascertaining details of inward supplies.-

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(1) The details of outward supplies furnished by the supplier in **FORM GSTR-1** or using the IFF shall be made available electronically to the concerned registered persons (recipients) in **Part A** of **FORM GSTR-2A**, in **FORM GSTR-4A** and in **FORM GSTR-6A** through the common portal, as the case may be.

(D)- Contravention: -

On examination of the facts in view of the statutory provisions discussed above it is found that there is an excess availment of ITC of **Rs.38,58,144/- (IGST- Rs.3,77,768/-, CGST- Rs.17,40,188/- & SGST - Rs.17,40,188/-) involving input tax credit of IGST of Rs.44,274/-, CGST- Rs.6,06,093/- & SGST- Rs.6,06,093/-** in F.Y. 2017-18, IGST of Rs.2,17,700/-, CGST of Rs.9,32,685/- and SGST Rs.9,32,685/- in F.Y. 2018-19 and IGST of Rs.1,15,794/-, CGST- Rs.2,01,410/- and SGST of Rs.2,01,410/- in F.Y. 2019-20 as given in details in Table above. By availing irregular input tax credit of Rs.38,58,144/- during the period F.Y. 2017-18 to 2019-20 the taxpayer has contravened the provision of Section 16, 41, 39 of CGST Act, 2017 and Rule 36, 39 and 60 of CGST Rules 2017.

(E)- Since the taxpayer has not paid the tax equal to irregular availed Input Tax Credit of Rs.38,58,144/- therefore the discrepancy is brought to notice of them vide Spot Memo dated 21.09.2022 vide DIN 20220956YS000041414A. Further, the taxpayer is again communicated regarding the discrepancy vide Final Audit Report No.518/2022-23 dated 04.11.2022 and DRC 01A vide C.No.V/Audit-II/C-1/28/2021-22/Gr-15 dt.21.03.2023 issued under the provisions of Section 73 of CGST Act,2017 read with Rule 142(1A) of CGST Rules,2017 demanding the reversal or payment of tax equal to irregular availed Input Tax Credit of Rs.38,58,144/-. The taxpayer did not submit any reply or document evidencing the reversal or payment of tax equal to irregular input tax credit availed. Since the taxpayer has not paid or reversed the irregular availed Input Tax Credit, the same is liable to be recovered in terms of Section 73 of CGST Act, 2017 along with interest payable under the provisions of Section 50 of CGST Act,2017 and penalty as applicable in terms of the Provisions of Section 122(2)(a) read with Section 73 of CGST Act,2017.

(V) : Non-reversal of ITC on receipt of Credit Notes:-

(A). During the course of audit, on verification of records, it is observed that the taxpayer has received Credit Notes amounting of **Rs.1,69,159/- (IGST Rs.0/-, CGST- Rs.84,580/- and SGST -Rs.84,580/-)** GSTR 2A returns in the period F.Y.2017-18, 2018-19 and F.Y.2019-20 as detailed in the annexure-III attached herewith and table given hereunder, where the input tax credit availed has to be reversed as per the provisions of the Section 34 of the CGST Act,2017.

Amount in Rs.

Period	Value	IGST	CGST	SGST	Total
2017-18	108012	0	6802	6802	13603
2018-19	60846	0	5245	5245	10490
2019-20	805923	0	72533	72533	145066
TOTAL	974781	0	84580	84580	169159

As per the table given above, the taxpayer has availed input tax credit of Rs.1,69,159/- including Rs.13,603/- (CGST -Rs.6,802/- and SGST- Rs.6,802/-) in the

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period F.Y. 2017-18 (from July,2017 to March,2018), Rs.10,490/- (CGST -Rs.5,245/- and SGST- Rs.5,245/-) during the year F.Y. 2018-19 and Rs.1,45,066/- (CGST- Rs.72,533/-, SGST- Rs.72,533/-) during the year 2019-20. In terms of the provisions of Sec.34(2) read with Sec.16 of the CGST Act, 2017, wherever such credit notes have been issued by the suppliers, relevant portion of input tax credit involved in such credit notes, is required to be reversed by the recipient taxpayer. The relevant portion of Sec.34(2) and Sec.16 of the CGST Act 2017 reads as under;

(B) Statutory Provisions:

“Section 34. Credit and debit notes.-

(1) Where one or more tax invoices have been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to exceed the taxable value or tax payable in respect of such supply, or where the goods supplied are returned by the recipient, or where goods or services or both supplied are found to be deficient, the registered person, who has supplied such goods or services or both, may issue to the recipient 2 [one or more credit notes for supplies made in a financial year] containing such particulars as may be prescribed .

*(2) Any registered person who issues a credit note in relation to a supply of goods or services or both shall declare the details of such credit note in the return for the month during which such credit note has been issued but not later than [the thirtieth day of November] following the end of the financial year in which such supply was made, or the date of furnishing of the relevant annual return, whichever is earlier, **and the tax liability shall be adjusted** in such manner as may be prescribed:*

Provided that no reduction in output tax liability of the supplier shall be permitted, if the incidence of tax and interest on such supply has been passed on to any other person.

The statutory provisions of Section 16 of the CGST Act,2017 are discussed above.

(C). In view of the above where any credit note is issued under Sec.34 (2) of the CGST Act, 2017, the output tax liability is reduced by the supplier as per the procedure prescribed under the law subject to the proviso. Here it appears that by not reversing the input tax credit equal to the amount of credit notes received, the taxpayer has not followed the procedure prescribed under Sec.34 and Section 16 of the CGST Act, 2017. Where the suppliers have issued the credit notes reducing their tax liability the taxpayer is not eligible to avail the input tax credit of such tax amount involved in the credit notes and they have to reverse the input tax credit availed to the extent the credit notes is issued by the suppliers.

Contraventions:-

(D) From the foregoing, it appears that after issuing the credit notes the supplier has adjusted the tax liability towards the invoices involved, whereas the recipient taxpayer has failed to reverse the input tax credit of Rs.1,69,159/- (IGST Rs.0/-, CGST- Rs.84,580/- and SGST -Rs.84,580/-) availed in their GSTR 3B returns in F.Y.2017-18 (from July,2017), 2018-19 & 2019-20 as prescribed under Section 16 of the CGST Act 2017 read with Sec.34(2) of the CGST Act, 2017. By irregularly availing input tax credit of Rs.1,69,159/- in the period F.Y. 2017-18 (from July,2017), 2018-19 & 2019-20 and not reversing the same the taxpayer has contravened the provisions of Section 16 of CGST Act,2017 and Section 34 of CGST Act,2017 and therefore the same is liable to be recovered along with interest and penalty as applicable in terms of Section 73 of CGST Act,2017.

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(E) Since the taxpayer has not paid the tax equal to irregular availed Input Tax Credit of Rs.1,69,159/- therefore the discrepancy is brought to notice of the taxpayer vide Spot Memo dated 21.09.2022 vide DIN 20220956YS000041414A. Further, the taxpayer is again communicated regarding the discrepancy vide Final Audit Report No.518/2022-23 dated 04.11.2022 and DRC 01A vide C.No.V/Audit-II/C-1/28/2021-22/Gr-15 dt.21.03.2023 issued under the provisions of Section 73 of CGST Act,2017 read with Rule 142(1A) of CGST Rules,2017 demanding the reversal or payment of tax equal to irregular availed Input Tax Credit of Rs.1,69,159/-. The taxpayer did not submit any reply or document evidencing the payment of the irregular input tax credit availed. Since the taxpayer has not paid or reversed the irregular availed Input Tax Credit, the same is liable to be recovered in terms of Section 73 of CGST Act, 2017 along with interest payable under the provisions of Section 50 of CGST Act,2017 and penalty as applicable in terms of the Provisions of Section 122(2)(a) read with Section 73 of CGST Act,2017.

(VI): Short payment of Interest towards late payment of tax :

(A). During the course of audit, on verification of records, it is observed that there is delay in filing of GSTR-3B return of the month of August,2017 in F.Y. 2017-18 which resulted in delayed payment of tax causing liability of Interest payable thereon. The details are given in the table given hereunder;

Amount in Rs.

Period	Tax paid in cash in IGST	Tax paid in cash in CGST	Tax paid in cash in SGST	No of days delayed	Interest on CGST	Interest on SGST	Total
2017-18 (Aug,17)	0	60040	60040	24	710	710	1420
TOTAL					710	710	1420

As given above, the taxpayer is liable to pay total interest @18% (on cash portion) which works out to **Rs.1,420/- (CGST- Rs.710/- and SGST- Rs.710/-)** for the F.Y. 2017-18 in terms of Section 50 (1) of the CGST Act, 2017.

(B)- Statutory Provisions:-

The method of payment of tax has been stipulated under Section 39, 49 and 50 of CGST Act,2017 read with Rule 61 of the CGST Rules,2017, as are reproduced hereunder;

Section 49. Payment of tax, interest, penalty and other amounts.-

(3) The amount available in the electronic cash ledger may be used for making any payment towards tax, interest, penalty, fees or any other amount payable under the provisions of this Act or the rules made thereunder in such manner and subject to such conditions and within such time as may be prescribed.

The provisions of Section 50 of CGST Act,2017 are as follows;

(1) Every person who is liable to pay tax in accordance with the provisions of this Act or the rules made thereunder, but fails to pay the tax or any part thereof to the Government within the period prescribed, shall for the period for which the tax or any part thereof remains unpaid, pay, on his own, interest at such rate, not exceeding eighteen per cent., as may be notified by the Government on the recommendations of the Council:

Provided that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions

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of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period, shall be levied on that portion of the tax that is paid by debiting the electronic cash ledger.

As per **Notification No. 13/2017 – Central Tax Dt.28.06.2017**, the rate of interest towards Section 50(1) is 18% and towards Section 50 (3) is 24%.

All other provisions are discussed supra.

The above provisions infer that every registered person other than specified persons, shall for every calender month furnish a GSTR 3B return declaring the tax particulars and shall pay the tax as per the return by debiting the electronic cash or electronic credit ledger by the due date of furnishing return. Further in case of delay in payment of tax, interest at the rate of 18% is payable towards the tax amount paid by debiting the electronic cash ledger.

Contraventions-

(C)- Here, as per the GSTR 3B returns, the taxpayer has paid the tax delayed at the time of filing GSTR 3B returns. However they have not paid the interest amount payable thereon in terms of Section 50 of CGST Act,2017. By not paying the interest on delayed payment of tax of Rs.1,420/- as given in detail in the table above during the period F.Y. 2017-18, the taxpayer has contravened the provisions of Section 39(7) and Section 50 of CGST Act,2017.

(D)- The non payment of interest of Rs.1,420/- is brought to notice of the taxpayer vide Spot Memo dated 21.09.2022 vide DIN 20220956YS000041414A. Further, the taxpayer is again communicated regarding the discrepancy vide Final Audit Report No.518/2022-23 dated 04.11.2022 and DRC 01A vide C.No.V/Audit-II/C-1/28/2021-22/Gr-15 dt.21.03.2023 issued under the provisions of Section 73 of CGST Act,2017 read with Rule 142(1A) of CGST Rules,2017 demanding the interest amount of Rs.1,420/-. The taxpayer agreed to pay but not submitted any documentary evidencing towards the payment of the interest. Since the taxpayer has not paid the interest on delayed paid taxes, the same is liable to be recovered in terms of Section 73 of CGST Act, 2017 read with Section 50 of CGST Act,2017 along with penalty as applicable in terms of the Provisions of Section 122(2)(a) read with Section 73 of CGST Act,2017.

(VII): Non-payment of GST under RCM as per Section 9(4) of CGST Act,2017 on Rent and Hamali paid to Unregistered person:-

(A). During the course of audit, on verification of Books of Account, it is observed that, the taxpayer has not paid GST under RCM on Rent paid during July, 2017 to October,2017 in terms of Section 9(4) of CGST Act,2017 in respect of the expenses made towards unregistered persons as detailed below;

(i) GST on Rent under RCM-

Period	Value	CGST	SGST	Total
Sept.2017	16823	1514	1514	3028
Oct,2017	8412	757	757	1514
TOTAL	25235	2271	2271	4542

(ii) GST on Hamali Charges paid under RCM-

Period	Value	CGST	SGST	Total
Sept.2017	6926	623	623	1246
Oct,2017	3463	312	312	624
TOTAL	10389	935	935	1870
Grand Total	35624	3206	3206	6412

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In terms of Section 9(4) of the CGST Act, 2017 read with Notification No. 8/2017-Central Tax (Rate), dated 28.06.2017 as amended, GST is payable under Reverse Charge Mechanism (RCM) by the registered person in respect of supply of goods or services or both received from an unregistered person (where the aggregate value of such supplies of Goods or Service or both received by a registered person from any or all the suppliers who is or are not registered exceeds Rs.5,000/- in a day). Accordingly, GST is payable under Reverse Charge Mechanism (RCM) by the recipient of service in respect of the expenses made such as rent paid on receiving the service of renting of property from an unregistered person which is classified under SAC 997212 as per the scheme of classification of services under GST and attracts GST @ 18% vide Notification No.11/2017- Central Tax (Rate), dated 28.06.2017. Further, the support services such as Hamali services received from unregistered persons are also taxable at the rate of 18% in terms of Notification No. 11/2017- Central Tax (Rate), dated 28.06.2017 vide entry no.23 for SAC Code 9985.

(B)- Statutory provisions-

(a)- Section 9. Levy and collection.-

(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.]

Notification No. 11/2017-Central Tax (Rate)

New Delhi, the 28th June, 2017

G.S.R.....(E).- In exercise of the powers conferred by sub-section (1) of section 9, sub-section (1) of section 11, sub-section (5) of section 15 and sub-section (1) of section 16 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, and on being satisfied that it is necessary in the public interest so to do, hereby notifies that the central tax, on the intra-State supply of services of description as specified in column (3) of the Table below, falling under Chapter, Section or Heading of scheme of classification of services as specified in column (2), shall be levied at the rate as specified in the corresponding entry in column (4), subject to the conditions as specified in the corresponding entry in column (5) of the said Table:-

Table

Sl No	Ch./Section or Heading	Description of Service	Rate (%)	Condition
(1)	(2)	3	(4)	(5)
16	Heading 9972	Real estate services.	9	-
	Heading 9985 (Support services)	(i) Supply of tour operators services. <i>Explanation.</i> -"tour operator" means any person engaged in the business of planning, scheduling, organizing, arranging tours (which may include arrangements for accommodation, sightseeing or other similar services) by any mode of transport, and includes any person engaged in the business of operating tours.	2.5	1. Provided that credit of input tax charged on goods and services used in supplying the service has not been taken [Please refer to <i>Explanation</i> no. (iv)] The bill issued for supply of this service indicates that it is inclusive of charges of accommodation and transportation required for such a tour and the amount charged in the bill is the gross amount charged for such a tour including the charges of accommodation and transportation required for such a tour.

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	(ii) Support services other than (i) above	9	-
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Contraventions-

(C)- In view of the statutory provisions above, it appears that by not paying tax of Rs.6,412/- towards expenses made on supplies received from unregistered persons during the period from July,2017 to 12th October,2017, the Tax Payer has contravened the provisions of the Section 9(4) of the CGST Act, 2017.

(D)- The non payment of tax of Rs.6,412/- is brought to notice of the taxpayer vide Spot Memo dated 21.09.2022 vide DIN 20220956YS000041414A. Further, the taxpayer is again communicated regarding the discrepancy vide Final Audit Report No.518/2022-23 dated 04.11.2022 and DRC 01A vide C.No.V/Audit-II/C-1/28/2021-22/Gr-15 dt.21.03.2023 issued under the provisions of Section 73 of CGST Act,2017 read with Rule 142(1A) of CGST Rules,2017 demanding the tax amount of Rs.6,412/-. The taxpayer agreed to pay but not submitted any documentary evidencing towards the payment of the tax amount. Since the taxpayer has not paid the tax along with applicable interest, the same is liable to be recovered in terms of Section 73 of CGST Act, 2017 read with Section 50 of CGST Act,2017 along with penalty as applicable in terms of the Provisions of Section 122(2)(a) read with Section 73 of CGST Act,2017.

(VIII)- Irregular availment of Input Tax Credit [Section 17(5)]:-

(A)- During the course of audit, on verification of records, it is observed that the taxpayer has availed ineligible input tax credit for a total amount of **Rs.88,320/- including CGST – Rs.44,160/- and SGST- Rs.44,160/-** towards certain invoices where availment of input tax credit is inadmissible as per the Section 17 (5) of the CGST Act, 2017 for the period of F.Y. 2017-18, 2018-19 and 2019-20.

Service Category	Period	Value	IGST	CGST	SGST	Total
Car Rent Charges	2017-18	29,684	0	2,672	2,672	5,344
	2018-19	2,45,502	0	22,095	22,095	44,190
	2019-20	1,85,500	0	16,695	16,695	33,390
Medical Reimbursement	2019-20	29,982	0	2,698	2,698	5,396
Total		4,90,668	0	44,160	44,160	88,320

Basing on the nature of supply involved, it is found the taxpayer has availed input tax credit on supplies used in personal consumption such as medical expenditure and Car rent expenses. Since the input tax credit on such supplies falls under the category of blocked credit under Section 17(5) of CGST Act,2017, the availment of such input tax credit is found irregular and the same is liable to be recovered.

(B)- statutory Provisins:**Section 17 (5) of CGST Act, 2017 :**

17(5) Notwithstanding anything contained in sub-section (1) of section 16 and sub-section (1) of section 18, input tax credit shall not be available in respect of the following, namely:—

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(a) [motor vehicles for transportation of persons having approved seating capacity of not more than thirteen persons (including the driver), except when they are used for making the following taxable supplies, namely:—

- (A) further supply of such motor vehicles; or
- (B) transportation of passengers; or
- (C) imparting training on driving such motor vehicles;
- (aa) vessels and aircraft except when they are used—
- (i) for making the following taxable supplies, namely:—

- (A) further supply of such vessels or aircraft; or (
- B) transportation of passengers; or
- (C) imparting training on navigating such vessels; or
- (D) imparting training on flying such aircraft;
- (ii) for transportation of goods;

(ab) services of general insurance, servicing, repair and maintenance in so far as they relate to motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa):

Provided that the input tax credit in respect of such services shall be available—

(i) where the motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) are used for the purposes specified therein;

(ii) where received by a taxable person engaged—

(I) in the manufacture of such motor vehicles, vessels or aircraft; or

(II) in the supply of general insurance services in respect of such motor vessels or aircraft insured by him;

(b) [the following supply of goods or services or both—

(i) food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, leasing, renting or hiring of motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) except when used for the purposes specified therein, life insurance and health insurance:

Provided that the input tax credit in respect of such goods or services or both shall be available where an inward supply of such goods or services or both is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply;

(ii) membership of a club, health and fitness centre; and

(iii) travel benefits extended to employees on vacation such as leave or home travel concession:

(iv) Provided that the input tax credit in respect of such goods or services or both shall be available, where it is obligatory for an employer to provide the same to its employees under any law for the time being in force

(c) works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service;

(d) goods or services or both received by a taxable person for construction of an immovable property (other than plant or machinery) on his own account including when such goods or services or both are used in the course or furtherance of business.

Explanation.—For the purposes of clauses (c) and (d), the expression —construction includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalisation, to the said immovable property;

(e) goods or services or both on which tax has been paid under section 10;

(f) goods or services or both received by a non-resident taxable person except on goods imported by him;

(g) goods or services or both used for personal consumption;

(h) goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples; and

(i) any tax paid in accordance with the provisions of sections 74, 129 and 130.

Contravention: -

(C)- On examination of the facts of the taxpayer in view of the statutory provisions discussed above it is found that by availing input tax credit of Rs.88,320/- towards expenditure made for personal consumption and hiring of motor vehicles during the period F.Y. 2017-18 to 2019-20 the taxpayer has contravened the provisions of Section 17(5) of CGST Act, 2017 and the same is irregular.

(D)- Since the taxpayer has not paid the tax equal to irregular availed Input Tax Credit of Rs.88,320/- therefore the discrepancy is brought to notice of them vide Spot Memo dated 21.09.2022 vide DIN 20220956YS000041414A. Further, the taxpayer is again communicated regarding the discrepancy vide Final Audit Report No.518/2022-23 dated 04.11.2022 and DRC 01A vide C.No.V/Audit-II/C-1/28/2021-22/Gr-15 dt.21.03.2023 issued under the provisions of Section 73/74 of CGST Act,2017 read with Rule 142(1A) of CGST Rules,2017 demanding the reversal or payment of tax equal to irregular availed Input Tax Credit of **Rs.88,320/-**. The taxpayer did not submit any reply or document evidencing the payment of tax towards the short payment in the both

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of the months. Since the taxpayer has not paid or reversed the irregular availed Input Tax Credit, the same is liable to be recovered in terms of Section 74 of CGST Act, 2017 along with interest payable under the provisions of Section 50 of CGST Act, 2017.

(E)- As the taxpayer has deliberately availed input tax credit in contravention of the provisions of Section 17(5) ibid during the period July 2017 to March 2020 as detailed hereinabove and mis-stated the eligible input tax credit in their Electronic credit ledger and GSTR-3 B Returns during the period July 2017 to March 2020 concerning the above ineligible input tax credit on the said input/input services with intention to evade payment of GST in cash, it appears the tax payer is liable for penal action in terms of the provisions of Section 122(2)(b) read with Section 74(1) of CGST Act, 2017.

3- The statutory provisions of demand of tax or ITC erroneously availed and utilized for any reason other than fraud and willful statement are given in Section 73 of the CGST Act, 2017 which stipulates that;

Section 73. Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason other than fraud or any willful-misstatement or suppression of facts-

(1) Where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised for any reason, other than the reason of fraud or any wilful-misstatement or suppression of facts to evade tax, he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under section 50 and a penalty leviable under the provisions of this Act or the rules made thereunder.

(2) The proper officer shall issue the notice under sub-section (1) at least three months prior to the time limit specified in sub-section (10) for issuance of order.

(3) Where a notice has been issued for any period under sub-section (1), the proper officer may serve a statement, containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for such periods other than those covered under sub-section (1), on the person chargeable with tax.

(4) The service of such statement shall be deemed to be service of notice on such person under sub-section (1), subject to the condition that the grounds relied upon for such tax periods other than those covered under sub-section (1) are the same as are mentioned in the earlier notice.

(5) The person chargeable with tax may, before service of notice under subsection (1) or, as the case may be, the statement under sub-section (3), pay the amount of tax along with interest payable thereon under section 50 on the basis of his own ascertainment of such tax or the tax as ascertained by the proper officer and inform the proper officer in writing of such payment.

(6) The proper officer, on receipt of such information, shall not serve any notice under sub-section (1) or, as the case may be, the statement under sub-section (3), in respect of the tax so paid or any penalty payable under the provisions of this Act or the rules made thereunder.

(7) Where the proper officer is of the opinion that the amount paid under sub-section (5) falls short of the amount actually payable, he shall proceed to issue the notice as provided for in sub-section (1) in respect of such amount which falls short of the amount actually payable.

(8) Where any person chargeable with tax under sub-section (1) or sub-section (3) pays the said tax along with interest payable under section 50 within thirty days of issue of show cause notice, no penalty shall be payable and all proceedings in respect of the said notice shall be deemed to be concluded.

(9) The proper officer shall, after considering the representation, if any, made by person chargeable with tax, determine the amount of tax, interest and a penalty equivalent to ten per cent. of tax or ten thousand rupees, whichever is higher, due from such person and issue an order.

(10) The proper officer shall issue the order under sub-section (9) within three years from the due date for furnishing of annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within three years from the date of erroneous refund.

(11) Notwithstanding anything contained in sub-section (6) or sub-section (8), penalty under sub-section (9) shall be payable where any amount of self-assessed tax or any amount collected as tax has not been paid within a period of thirty days from the due date of payment of such tax.

Section 74. Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised by reason of fraud or any willful-misstatement or suppression of facts.-

(1) Where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded or where input tax credit has been wrongly availed or utilised by reason of fraud, or any wilful-misstatement or suppression of facts to evade tax, he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom

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the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under section 50 and a penalty equivalent to the tax specified in the notice.

(2) The proper officer shall issue the notice under sub-section (1) at least six months prior to the time limit specified in sub-section (10) for issuance of order.

(3) Where a notice has been issued for any period under sub-section (1), the proper officer may serve a statement, containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for such periods other than those covered under sub-section (1), on the person chargeable with tax.

(4) The service of statement under sub-section (3) shall be deemed to be service of notice under sub-section (1) of section 73, subject to the condition that the grounds relied upon in the said statement, except the ground of fraud, or any wilful-misstatement or suppression of facts to evade tax, for periods other than those covered under subsection (1) are the same as are mentioned in the earlier notice.

(5) The person chargeable with tax may, before service of notice under sub-section (1), pay the amount of tax along with interest payable under section 50 and a penalty equivalent to fifteen per cent. of such tax on the basis of his own ascertainment of such tax or the tax as ascertained by the proper officer and inform the proper officer in writing of such payment.

(6) The proper officer, on receipt of such information, shall not serve any notice under sub-section (1), in respect of the tax so paid or any penalty payable under the provisions of this Act or the rules made thereunder.

(7) Where the proper officer is of the opinion that the amount paid under sub-section (5) falls short of the amount actually payable, he shall proceed to issue the notice as provided for in sub-section (1) in respect of such amount which falls short of the amount actually payable.

(8) Where any person chargeable with tax under sub-section (1) pays the said tax along with interest payable under section 50 and a penalty equivalent to twenty-five per cent. of such tax within thirty days of issue of the notice, all proceedings in respect of the said notice shall be deemed to be concluded.

(9) The proper officer shall, after considering the representation, if any, made by the person chargeable with tax, determine the amount of tax, interest and penalty due from such person and issue an order.

(10) The proper officer shall issue the order under sub-section (9) within a period of five years from the due date for furnishing of annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within five years from the date of erroneous refund.

(11) Where any person served with an order issued under sub-section (9) pays the tax along with interest payable thereon under section 50 and a penalty equivalent to fifty per cent. of such tax within thirty days of communication of the order, all proceedings in respect of the said notice shall be deemed to be concluded.

Explanation 1.- For the purposes of section 73 and this section,-

(i) the expression "all proceedings in respect of the said notice" shall not include proceedings under section 132;

(ii) where the notice under the same proceedings is issued to the main person liable to pay tax and some other persons, and such proceedings against the main person have been concluded under section 73 or section 74, the proceedings against all the persons liable to pay penalty under [sections 122 and 125] are deemed to be concluded.

Explanation 2.- For the purposes of this Act, the expression "suppression" shall mean non-declaration of facts or information which a taxable person is required to declare in the return, statement, report or any other document furnished under this Act or the rules made thereunder, or failure to furnish any information on being asked for, in writing, by the proper officer.

The provisions of Section 50 of CGST Act, 2017 are as follows;

(1) Every person who is liable to pay tax in accordance with the provisions of this Act or the rules made thereunder, but fails to pay the tax or any part thereof to the Government within the period prescribed, shall for the period for which the tax or any part thereof remains unpaid, pay, on his own, interest at such rate, not exceeding eighteen per cent., as may be notified by the Government on the recommendations of the Council:

Provided that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period, shall be levied on that portion of the tax that is paid by debiting the electronic cash ledger.

(2) The interest under sub-section (1) shall be calculated, in such manner as may be prescribed, from the day succeeding the day on which such tax was due to be paid.

(3) Where the input tax credit has been wrongly availed and utilised, the registered person shall pay interest on such input tax credit wrongly availed and utilised, at such rate not exceeding twenty-four per cent. as may be notified by the Government, on the recommendations of the Council, and the interest shall be calculated, in such manner as may be prescribed].

As per **Notification No. 13/2017 – Central Tax Dt.28.06.2017**, the rate of interest towards Section 50(1) is 18% and towards Section 50 (3) is 24%.

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4- As per the provisions above "Where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded or where input tax credit has been wrongly availed or utilised for any reason other than the fraud or any wilful-misstatement or suppression of facts to evade tax, he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under section 50 and a penalty equivalent to ten per cent of tax or ten thousand rupees whichever is higher read with the provisions of Sub section (8) above.

5- Further as per 6 (1) of Telangana GST Act,2017, 'Without prejudice to the provisions of this Act, the officers appointed under the Central Goods and Services Tax Act are authorised to be the proper officers for the purposes of this Act, subject to such conditions as the Government shall, on the recommendations of the Council, by notification, specify'.

6- In terms of Section 125 of the CGST Act, 2017 any person, who contravenes any of the provisions of the CGST Act, 2017 or any Rules made thereunder for which no penalty is separately provided for in CGST/Telangna GST Act,2017, shall be liable to a penalty which may extend up to Rs.25,000/-.

7- In the instant case, as discussed above, it appears that the amount of tax involved is not less than Rs.5,000/- and is not qualified to consider as a 'minor breach' of tax regulations or procedural requirements as envisaged under Section 126 of the CGST Act, 2017 and so the Tax Payer is liable for imposing penalty upon him after giving him an opportunity of being heard.

Demand-

8- In view of the foregoing, M/s. Nilgiri Estates GSTN 36AAHFN0766F1ZA, are hereby required to show cause to the Additional/ Joint Commissioner of Central Tax, Secunderabad GST Commissionerate, Hyderabad as to why:-

- (i) The tax amount of **Rs.1,21,41,750/- (Rupees One Crore Twenty One Lakh Forty One Thousand Seven Hundred and Fifty only) (CGST- Rs.60,70,875/- and SGST -Rs.60,70,875/-)** short paid during the period F.Y. 2017-18 to F.Y. 2019-20 should not be demanded from the taxpayer under Section 74(1) of the CGST Act,2017 and TSGST Act,2017;
- (ii) Interest payable in terms of Section 50 of the CGST Act, 2017 and TSGST Act, 2017 should not be demanded on the tax amount mentioned in para 8(i) above;
- (iii) Penalty equal to the tax amount demanded in para 8(i), should not be imposed on them in terms of Section 74 (1) of the CGST Act, 2017 read Section 122(2)(b) of CGST Act,2017 and TSGST Act,2017;
- (iv) The tax amount of **Rs.19,82,815/- (Rupees Nineteen Lakh Eighty Two Thousand Eight Hundred and Fifteen only) (CGST- Rs.9,91,407.5/- and SGST -Rs.9,91,407.5/-)** short paid during the period F.Y. 2017-18

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should not be demanded from the taxpayer under Section 74 of the CGST Act, 2017 and TSGST Act, 2017;

- (v) Interest payable in terms of Section 50 of the CGST Act, 2017 and TSGST Act, 2017 should not be demanded on the tax amount mentioned in para 8(iv) above;
- (vi) Penalty equal to the tax amount demanded in para 8(iv), should not be imposed on them in terms of Section 74(1) of the CGST Act, 2017 read Section 122(2)(b) of CGST Act, 2017 and TSGST Act, 2017;
- (vii) The tax amount of **Rs.27,16,554/- (Rupees Twenty Seven Lakh Sixteen Thousand Five Hundred and Fifty Four only) (CGST- Rs.13,58,277/- and SGST -Rs.13,58,277/-)** short paid during the period F.Y. 2018-19 should not be demanded from the taxpayer under Section 73(1) of the CGST Act, 2017 and TSGST Act, 2017;
- (viii) Interest payable in terms of Section 50 of the CGST Act, 2017 and TSGST Act, 2017 should not be demanded on the tax amount mentioned in para 8(vii) above;
- (ix) Penalty should not be imposed on them in terms of Section 73 of the CGST Act, 2017 read Section 122(2)(a) of CGST Act, 2017 and TSGST Act, 2017 towards the tax amount demanded in para 8(vii);
- (x) the tax amount equal to Input Tax Credit of **Rs.38,58,144/- (Rupees Thirty Eight Lakh Fifty Eight Thousand One Hundred and Forty Four only/- (IGST Rs.3,77,768/-, CGST- Rs.17,40,188/- and SGST - Rs.17,40,188/-)** being the ineligible input tax credit tax wrongly availed by the taxpayer during the period F.Y. 2017-18 (July, 2017 to March, 2018), F.Y. 2018-19 and F.Y. 2019-20 should not be demanded from them under Section 73(1) of the CGST Act, 2017 read with Section 20 of IGST Act, 2017 and TSGST Act, 2017
- (xi) Interest payable in terms of Section 50 of the CGST Act, 2017 read with Section 20 of IGST Act, 2017 and TSGST Act, 2017 should not be demanded on the tax amount mentioned in para 8(x) above;
- (xii) Penalty should not be imposed on them in terms of Section 73 of the CGST Act, 2017 read Section 122(2)(a) of CGST Act, 2017 and Section 20 of IGST Act, 2017 and TSGST Act, 2017 towards the tax amount demanded in para 8(x);
- (xiii) the tax amount equal to Input Tax Credit of **Rs.1,69,160/- (Rupees One Lakh Sixty Nine Thousand One Hundred and Sixty only/- (CGST - Rs.84,580/- and SGST- Rs.84,580/-)** towards credit notes received during the period F.Y. 2017-18 (July, 2017 to March, 2018), F.Y. 2018-19 and F.Y. 2019-20 should not be demanded from them under Section 73(1) of the CGST Act, 2017 read with Section 20 of IGST Act, 2017 and TSGST Act, 2017;;
- (xiv) Interest payable in terms of Section 50 of the CGST Act, 2017 read with Section 20 of IGST Act, 2017 and TSGST Act, 2017 should not be demanded on the tax amount mentioned in para 8(xiii) above;
- (xv) Penalty should not be imposed on them in terms of Section 73 of the CGST Act, 2017 read Section 122(2)(a) of CGST Act, 2017 and Section 20 of IGST Act, 2017 and TSGST Act, 2017 towards the tax amount demanded in para 8(xiii);

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- (xvi) Interest amount of **Rs.1,420/- (Rupees One Thousand Four Hundred and Twenty Only) (CGST- Rs.710/- and SGST- Rs.710/-)** payable on late payment of tax in cash in terms of Section 50 of the CGST Act, 2017 and TSGST Act, 2017 as discussed in para 2(VI) should not be demanded in terms of Section 50(1) of CGST Act,2017;
- (xvii) the tax amount of **Rs.6,412/- (Rupees Six Thousand Four Hundred and Twelve only) (CGST-Rs. 3,206/- and SGST- Rs.3,206/-)** short paid by the taxpayer under RCM during the period F.Y.2017-18 (July,2017 to March,2018) should not be demanded from them under Section 73(1) of the CGST Act,2017 and TSGST Act,2017;
- (xviii) Interest payable in terms of Section 50 of the CGST Act, 2017 and TSGST Act, 2017 should not be demanded on the tax amount mentioned in para 8(xvii) above;
- (xix) Penalty should not be imposed on them in terms of Section 73 of the CGST Act, 2017 read Section 122(2)(a) of CGST Act,2017 and TSGST Act,2017 towards the tax amount demanded in para 8(xvii);
- (xx) the tax amount equal to Input Tax Credit of **Rs.88,320/- (Rupees Eighty Eight Thousand Three Hundred and Twenty only/- (CGST - Rs.44,160/- and SGST- Rs.44,160/-)** being the ineligible input tax credit (blocked credit) wrongly availed by the taxpayer during the period F.Y.2017-18 (July,2017 to March,2018), F.Y. 2018-19 and F.Y. 2019-20 should not be demanded from them under Section 74(1) of the CGST Act,2017 and TSGST Act,2017;
- (xxi) Interest payable in terms of Section 50 of the CGST Act, 2017 and TSGST Act, 2017 should not be demanded on the tax amount mentioned in para 8(xx) above;
- (xxii) Penalty equal to the tax amount demanded in para 8(xx) should not be imposed on them in terms of Section 74(1) of the CGST Act, 2017 read with Section 122(2)(b) of CGST Act,2017 and TSGST Act,2017;
- (xxiii) Penalty of Rs.25,000/- (Rupees Twenty Five Thousand Only) should not be imposed on them under Section 125 CGST Act, 2017 and also Rs.25,000/- in terms of section 125 of the Telangana GST Act, 2017 read with Section 6(1) of the Telangana State Goods and Services Tax Act, 2017, for contravention of the above detailed provisions of the CGST Act, 2017.

9- M/s. Nilgiri Estates, is further directed to produce at the time of showing cause, all the evidence upon which they intend to rely in support of their defence. They are also required to state in their reply to the notice whether they wish to be heard in person before the case is adjudicated.

10- It may also be noted that as per the provisions of Section 73 (8) where any person chargeable with tax under sub-section (1) pays the said tax along with interest payable under section 50 within thirty days of issue of show cause notice, no penalty shall be payable and all proceedings in respect of the said notice shall be deemed to be concluded. The proper officer shall, after considering the representation, if any, made by person chargeable with tax, determine the amount of tax, interest and penalty equivalent to ten per cent of tax or ten thousand rupees whichever is higher, due from such person and issue an order. Further, as per the provisions of Section 74 (8) where any person chargeable with tax under sub-section (1) pays the said tax along with interest payable under section 50 and a penalty equivalent to twenty-five per cent. of

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such tax within thirty days of issue of the notice, all proceedings in respect of the said notice shall be deemed to be concluded.

11- If no cause is shown against the action proposed to be taken as mentioned above within 30 days from the date of receipt of this notice or if they do not appear before the adjudication authority, when the case is posted for personal hearing, the case will be decided ex-parte on the basis of evidence available on record.

12- This notice is issued without prejudice to any other or any further action that may be or has already been initiated against M/s. Nilgiri Estates either under CGST Act, 2017 or Rules made there under as amended or under any other law for the time being in force and enforceable in India.

13- Reliance for issue of this notice is placed on the followings:-

- (i) Copy of Final Audit Report No.518/2022-23 dated 04.11.2022;
- (ii) DRC 01 A- C.No.V/Audit-II/C-1/28/2021-22/Gr-15 dt.21.03.2023;
- (iii) Monthly & Annual Returns of the taxpayer;
- (iv) ITC Ledger of the taxpayer;
- (v) Annexure-I, II & III.

Signed by Nalkurthi

Sailaja Kumari

Date: 19-05-2023 12:40:00

Reason: Approved

एन. शैलजा कुमारी/ N. SAILAJA KUMARI

अपर आयुक्त /Additional Commissioner

लेखापरीक्षा -द्वितीय आयुक्तालय /Audit-II Commissionerate

To

M/s. Nilgiri Estates

**5-4-187/3, 2nd Floor, Soham Mansion, M.G. Road, Secunderabad,
Telangana - 500003**

(Through Email)

Copy to

- 1-** The Additional/ Joint Commissioner of Central Tax, Hqrs Office, 7th Floor, Basheerbagh, Secunderabad CGST Commissionerate, Hyderabad. **(Adjudicating Authority)**
- 2-** The Deputy/Assistant Commissioner of Central Tax, Secunderabad CGST Division, Secunderabad Commissionerate, Hyderabad.
- 3-** The Assistant Commissioner of Central Tax, MIS Audit Circle-I, Audit II Commissionerate Hyderabad.
- 4-** Superintendent of Central Taxes, Ramgopalpet-II Range, Secunderabad Division, Hyderabad.



H N A & Co LLP
Chartered Accountants

(Formerly known as Hiregange & Associates LLP)

Date: 31.07.2023

To

**The Additional/Joint Commissioner of Central Tax,
Secunderabad GST Commissionerate,
GST Bhavan, 7th Floor,
L.B Stadium Road, Basheerbagh,
Hyderabad, Telangana-500004.**

Dear Sir,

Sub: Filing of Reply to Show Cause Notice in Form GST DRC - 06.

Ref: SCN No. 06/2023-24 vide DIN: 20230556YS000000B958 dated 19.05.2023
pertaining to **M/s. Nilgiri Estates.**

1. We have been authorized by M/s. Nilgiri Estates to submit a reply to the above referred SCN No. 06/2023-24 dated 19.05.2023 and represent before your good office and to do necessary correspondence in the above referred matter. A copy of authorization is attached to the SCN reply.
2. In this regard, we are herewith submitting the reply to the SCN along with authorization letter and other annexures referred to in the reply.

We shall be glad to provide any other information in this regard. Kindly acknowledge receipt of the reply and post the hearing at the earliest.

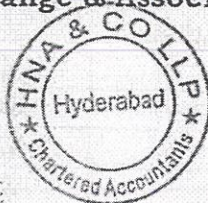
Thanking You,

Yours faithfully,

For M/s. H N A & Co. LLP

(Formerly known as Hiregange & Associates LLP)
Chartered Accountants

K. Lakshman Kumar
CA Lakshman Kumar K
Partner



4th Floor, West Block, Srida Anushka Pride, R.No. 12, Banjara Hills, Hyderabad,
Telangana - 500 034. INDIA.

040 2331 8128, 3516 2881

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FORM GST DRC - 06

(See rule 142(4))

Reply to the Show Cause Notice

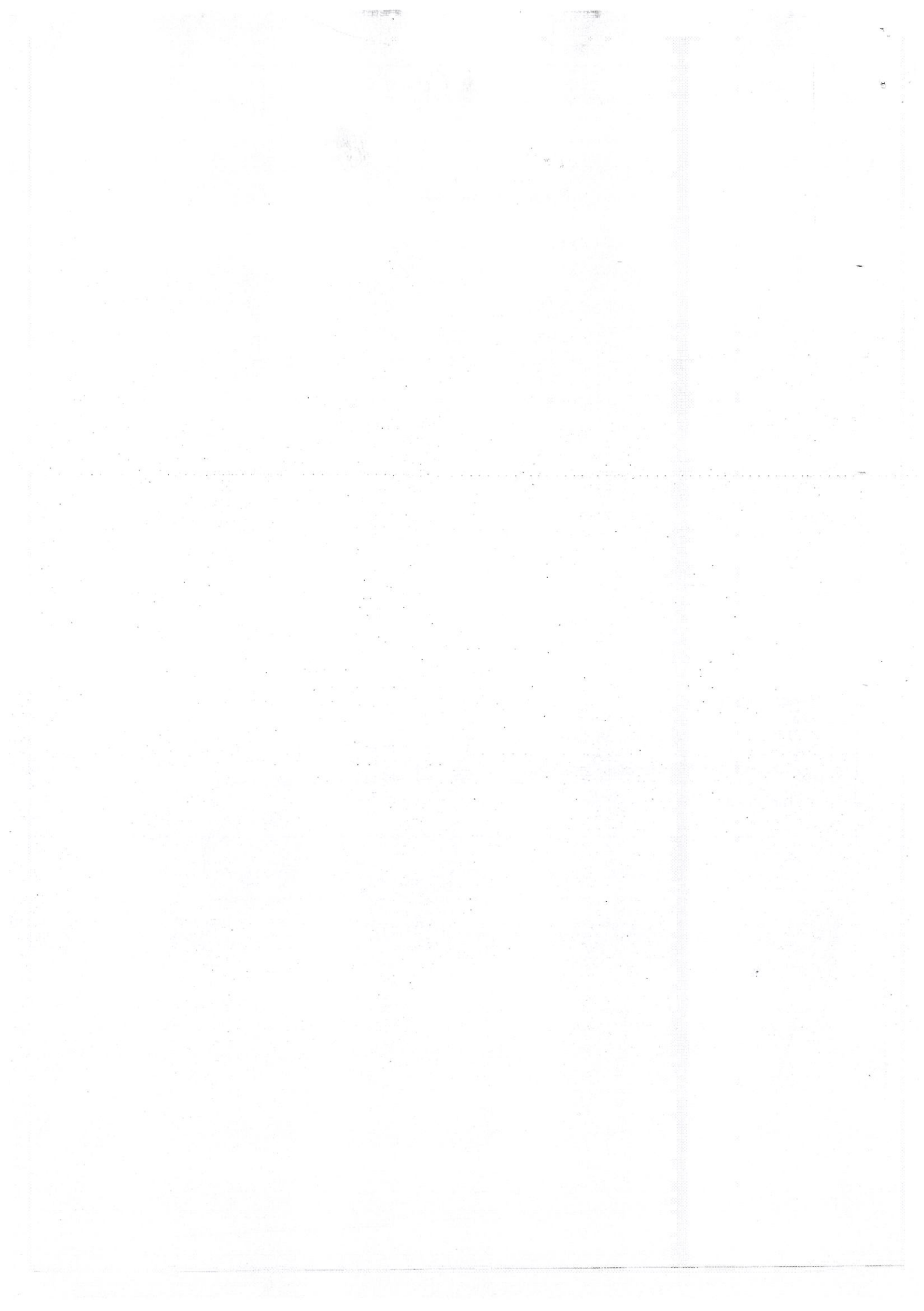
1. GSTIN	36AAHPN0766F1ZA	
2. Name	M/s Nilgiri estates	
3. Details of Show Cause Notice	SCN No. 06/2023-24 vide DIN :20230556YS000000B958	Date of issue: 19.05.2023
4. Financial Year	2017-18 to 2019-20	
5. Reply		
Given as Annexure A		
5. Documents uploaded: YES		
7. Option for personal hearing	Yes- Required	☐ No

8. Verification -

I 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



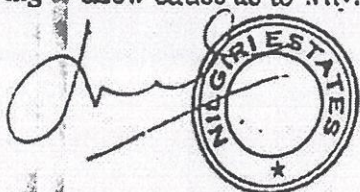


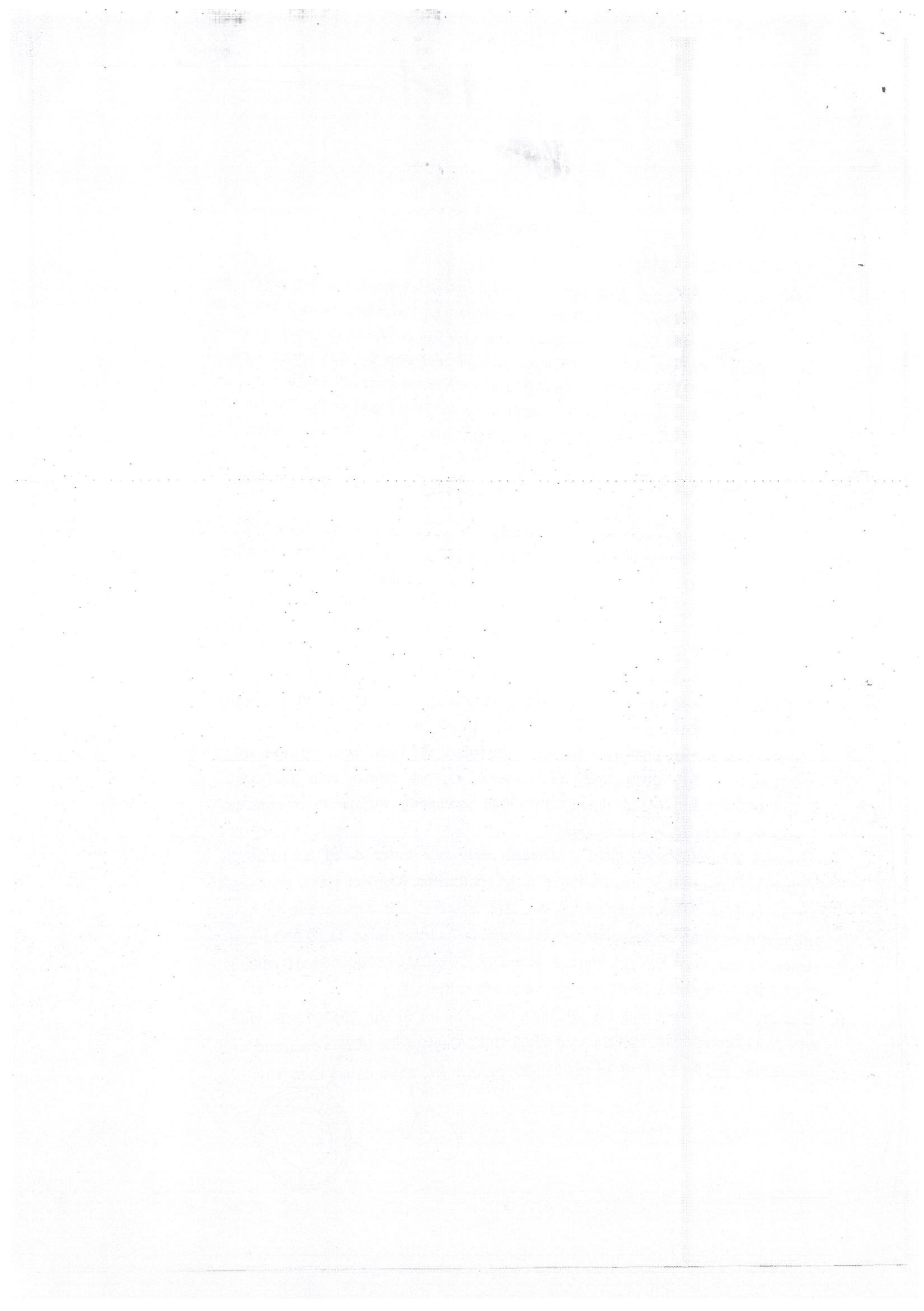
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ANNEXURE A

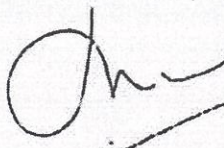
FACTS OF THE CASE:

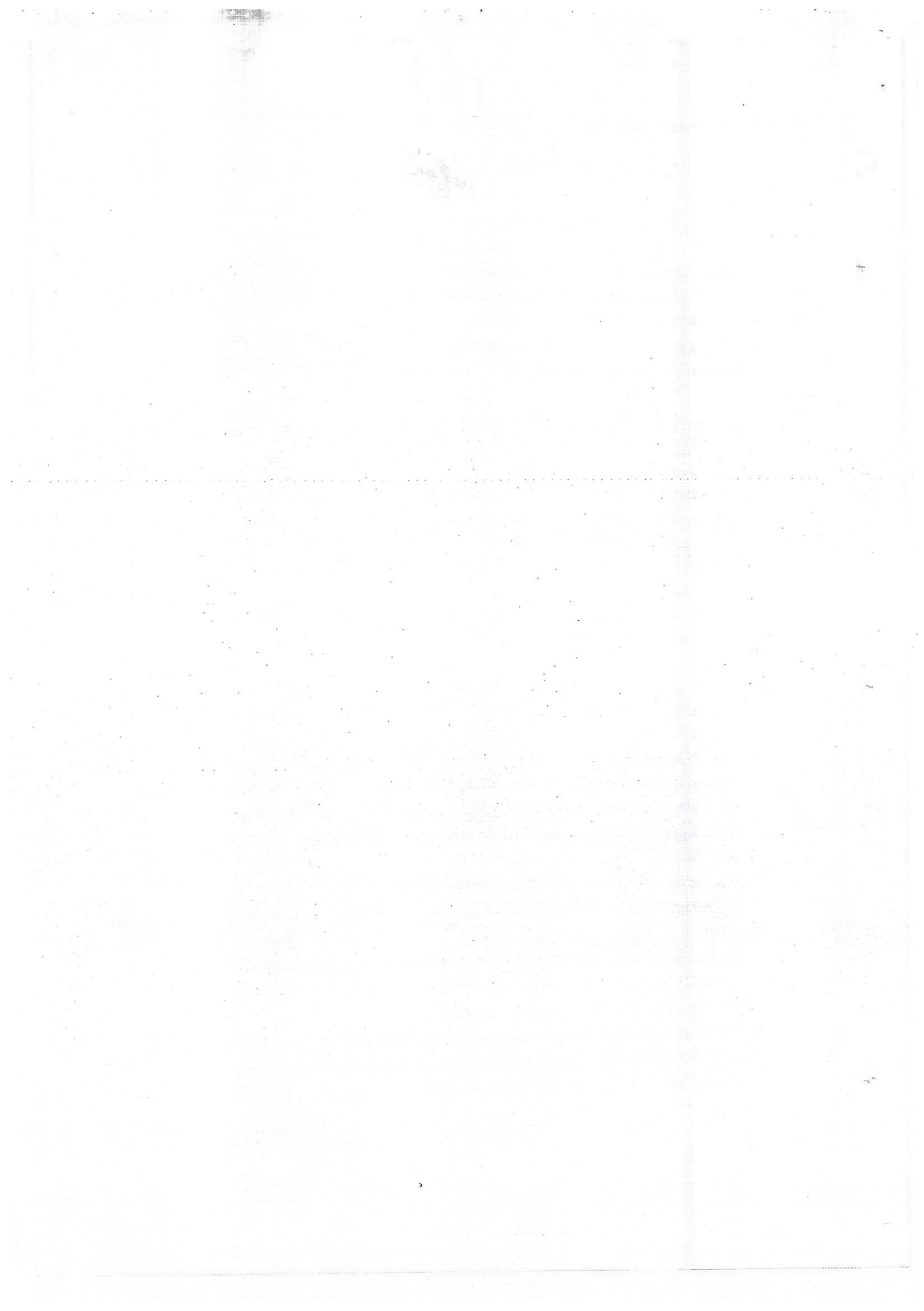
- A. M/s. Nilgiri Estates (hereinafter referred as "Noticee") located at 5-4-187/3, 2nd Floor, Soham Mansion, M.G.Road, Secunderabad, Telangana-500003 *inter alia* engaged in the business of Construction of Villas & Works Contract Services falling under the SAC code 9954 and is registered with the Goods and Service Tax Department vide GSTIN 36AAHFN0766F1ZA in the state of Telangana.
- B. Noticee is the owner of the land situated at Ac. 10-06 gts., is Sy. No. 100/2, Rampally Village, Keesara Mandal, Medchal, Malkajgiri District and during the subject period, Noticee is engaged in construction of villas in the project, by name and style viz., 'Nilgiri Estate' and have been selling the same to various customers.
- C. Since the transaction involves sale of land and provision of construction service, Noticee has discharged the GST on the value of construction services and have not paid any GST on value of land as the same is out of the purview of GST.
- D. While entering into agreement with the customers, the Noticee has clearly mentioned the value towards the land and the value towards construction services. Therefore, the Noticee has paid the GST on construction services which is in compliance with CGST Act, 2017 and there is no short payment of GST.
- E. Noticee has disclosed the above referred details in their monthly returns and have also filed the Annual Returns for the period FY 2017-18 to 2019-20.
- F. Subsequently, the GST department has conducted the audit for the period July 2017 to March 2019 and have issued a Spot memo vide DIN No. 20220956YS000041414A dated 21.09.2022 intimating various discrepancies with regards to non-payment of GST.
- G. In this regard, Noticee filed a detailed reply vide letter dated 31.10.2022 clarifying the discrepancies as stated in the spot memo. (Copy of spot memo and letter is enclosed as Annexure-II & III). However, the department did not consider the submissions made by the Noticee in its letter dated 31.10.2022 and issued Form GST DRC-01 Part A vide DIN 20230356YS0000666A1F dated 21.03.2023 (Copy of DRC-01 is enclosed as Annexure-IV).
- H. Consequently, Noticee was issued Show Cause Notice Sl No. 06/2023-24 vide DIN 20230556YS000000B958 dated 19.05.2023 (Copy of the SCN is enclosed as Annexure-I) for FY 2017-18 to 2019-20, requiring to show cause as to why: -





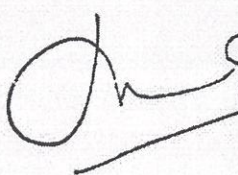
- i. The tax amount of Rs.1,21,41,750/- (Rupees One Crore Twenty One Lakh Forty One Thousand Seven Hundred and Fifty only) (CGSTRs.60,70,875/- and SGST -Rs.60,70,875/-) short paid during the period F.Y. 2017-18 to F.Y. 2019-20 should not be demanded from the taxpayer under Section 74(1) of the CGST Act,2017 and TSGST Act,2017;
- ii. Interest payable in terms of Section 50 of the CGST Act, 2017 and TSGST Act, 2017 should not be demanded on the tax amount mentioned in para 8(ii) above;
- iii. Penalty equal to the tax amount demanded in para 8(i), should not be imposed on them in terms of Section 74 (1) of the CGST Act, 2017 read Section 122(2)(b) of CGST Act,2017 and TSGST Act,2017;
- iv. The tax amount of Rs.19,82,815/- (Rupees Nineteen Lakh Eighty Two Thousand Eight Hundred and Fifteen only) (CGST- Rs.9,91,407.5/- and SGST -Rs.9,91,407.5/-) short paid during the period F.Y. 2017-18 should not be demanded from the taxpayer under Section 74 of the CGST Act,2017 and TSGST Act,2017;
- v. Interest payable in terms of Section 50 of the CGST Act, 2017 and TSGST Act, 2017 should not be demanded on the tax amount mentioned in para 8(iv) above;
- vi. Penalty equal to the tax amount demanded in para 8(iv), should not be imposed on them in terms of Section 74(1) of the CGST Act, 2017 read Section 122(2)(b) of CGST Act,2017 and TSGST Act,2017;
- vii. The tax amount of Rs.27,16,554/- (Rupees Twenty Seven Lakh Sixteen Thousand Five Hundred and Fifty Four only) (CGST- Rs.13,58,277/- and SGST -Rs.13,58,277/-) short paid during the period F.Y. 2018-19 should not be demanded from the taxpayer under Section 73(1) of the CGST Act,2017 and TSGST Act,2017;
- viii. Interest payable in terms of Section 50 of the CGST Act, 2017 and TSGST Act, 2017 should not be demanded on the tax amount mentioned in para 8(vii) above;
- ix. Penalty should not be imposed on them in terms of Section 73 of the CGST Act, 2017 read Section 122(2)(a) of CGST Act,2017 and TSGST Act,2017 towards the tax amount demanded in para 8(vii);
- x. the tax amount equal to Input Tax Credit of Rs.38,58,144/- (Rupees Thirty Eight Lakh Fifty Eight Thousand One Hundred and Forty Four only/- (CGST -Rs.3,77,768/-, CGST- Rs.17,40,188/- and SGST - Rs.17,40,188/-) being the

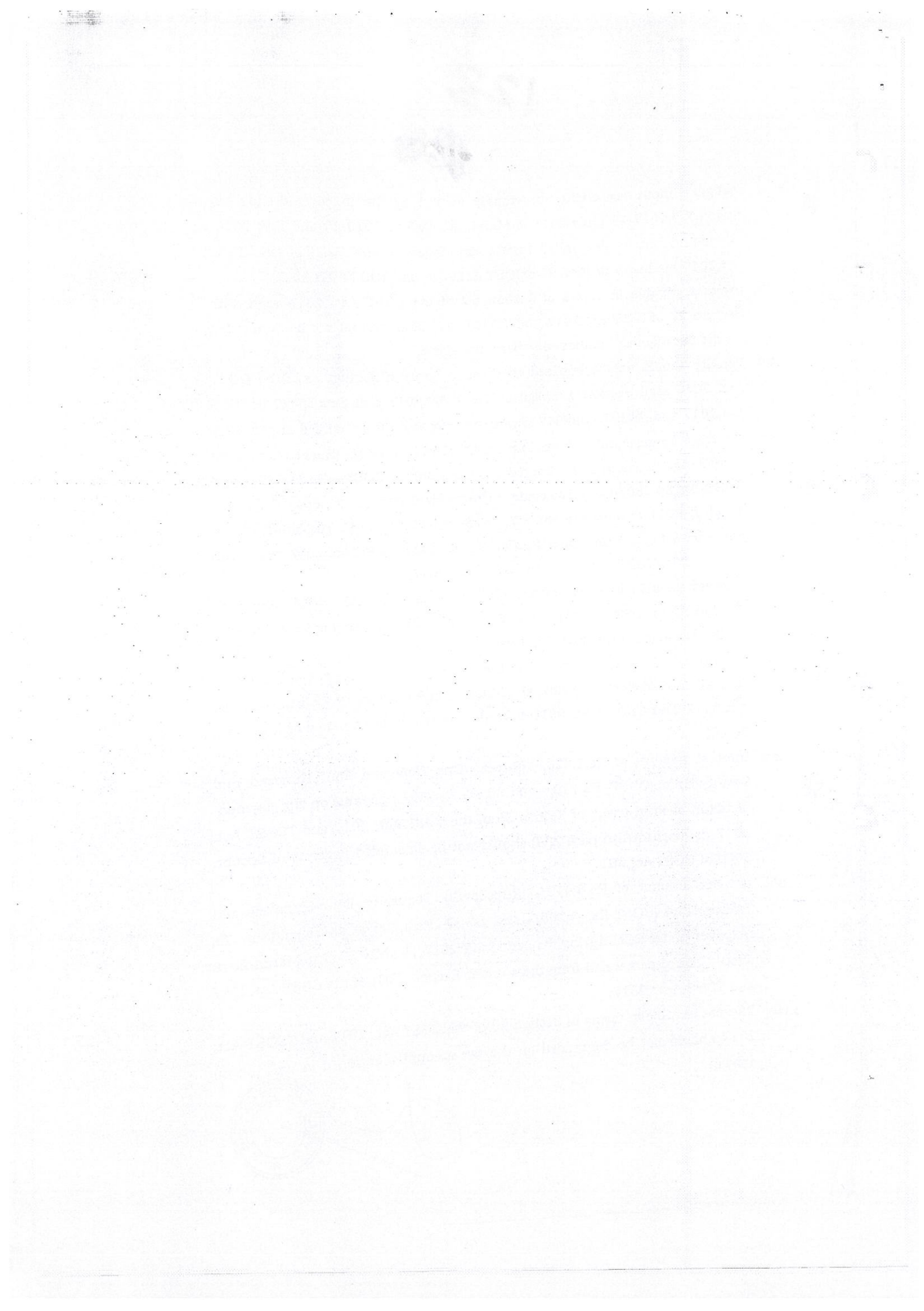


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- ineligible input tax credit tax wrongly availed by the taxpayer during the period F.Y.2017-18 (July,2017 to March,2018), F.Y. 2018-19 and F.Y. 2019-20 should not be demanded from them under Section 73(1) of the CGST Act,2017 read with Section 20 of IGST Act,2017 and TSGST Act,2017
- xi. Interest payable in terms of Section 50 of the CGST Act, 2017 read with Section 20 of IGST Act,2017 and TSGST Act, 2017 should not be demanded on the tax amount mentioned in para 8(x) above;
- xii. Penalty should not be imposed on them in terms of Section 73 of the CGST Act, 2017 read Section 122(2)(a) of CGST Act,2017 and Section 20 of IGST Act,2017 and TSGST Act,2017 towards the tax amount demanded in para 8(x);
- xiii. the tax amount equal to Input Tax Credit of Rs.1,69,160/- (Rupees One Lakh Sixty Nine Thousand One Hundred and Sixty only/- (CGST - Rs.84,580/- and SGST- Rs.84,580/-) towards credit notes received during the period F.Y.2017-18 (July,2017 to March,2018), F.Y. 2018-19 and F.Y. 2019-20 should not be demanded from them under Section 73(1) of the CGST Act,2017 read with Section 20 of IGST Act,2017 and TSGST Act,2017;
- xiv. Interest payable in terms of Section 50 of the CGST Act, 2017 read with Section 20 of IGST Act,2017 and TSGST Act, 2017 should not be demanded on the tax amount mentioned in para 8(xiii) above;
- xv. Penalty should not be imposed on them in terms of Section 73 of the CGST Act, 2017 read Section 122(2)(a) of CGST Act,2017 and Section 20 of IGST Act,2017 and TSGST Act,2017 towards the tax amount demanded in para 8(xiii);
- xvi. Interest amount of Rs.1,420/- (Rupees One Thousand Four Hundred and Twenty Only) (CGST- Rs.710/- and SGST- Rs.710/-) payable on late payment of tax in cash in terms of Section 50 of the CGST Act, 2017 and TSGST Act, 2017 as discussed in para 2(VI) should not be demanded in terms of Section 50(1) of CGST Act,2017;
- xvii. the tax amount of Rs.6,412/- (Rupees Six Thousand Four Hundred and Twelve only) (CGST-Rs. 3,206/- and SGST- Rs.3,206/-) short paid by the taxpayer under RCM during the period F.Y.2017-18 (July,2017 to March,2018) should not be demanded from them under Section 73(1) of the CGST Act,2017 and TSGST Act,2017;
- xviii. Interest payable in terms of Section 50 of the CGST Act, 2017 and TSGST Act, 2017 should not be demanded on the tax amount mentioned in para 8(xvii) above;



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- xix. Penalty should not be imposed on them in terms of Section 73 of the CGST Act, 2017 read Section 122(2)(a) of CGST Act, 2017 and TSGST Act, 2017 towards the tax amount demanded in para 8(xvii);
- xx. the tax amount equal to Input Tax Credit of Rs.88,320/- (Rupees Eighty Eight Thousand Three Hundred and Twenty only/- (CGST - Rs.44,160/- and SGST- Rs.44,160/-) being the ineligible input tax credit (blocked credit) wrongly availed by the taxpayer during the period F.Y.2017-18 (July,2017 to March,2018), F.Y. 2018-19 and F.Y. 2019-20 should not be demanded from them under Section 74(1) of the CGST Act, 2017 and TSGST Act, 2017;
- xxi. Interest payable in terms of Section 50 of the CGST Act, 2017 and TSGST Act, 2017 should not be demanded on the tax amount mentioned in para 8(xx) above;
- xxii. Penalty equal to the tax amount demanded in para 8(xx) should not be imposed on them in terms of Section 74(1) of the CGST Act, 2017 read with Section 122(2)(b) of CGST Act, 2017 and TSGST Act, 2017;
- xxiii. Penalty of Rs.25,000/- (Rupees Twenty Five Thousand Only) should not be imposed on them under Section 125 CGST Act, 2017 and also Rs.25,000/- in terms of section 125 of the Telangana GST Act, 2017 read with Section 6(1) of the Telangana State Goods and Services Tax Act, 2017, for contravention of the above detailed provisions of the CGST Act, 2017.
- I. Noticee herein below makes the below submissions in response to the allegations and propositions made in the impugned SCN which are independent and without prejudice to one another;




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O/C Annexure - 111

**H N A & Co LLP**
Chartered Accountants

(Formerly known as Hiregange & Associates LLP)

Date: 29.08.2023

To
The Additional Commissioner of Central Tax,
Secunderabad Commissionerate,
4th Floor, GST Bhavan,
L.B. Stadium Road, Basheerbagh,
Hyderabad-500004.

Sub: Additional Submissions to Show Cause Notice reply dated 31.07.2023.

Ref:

- Personal hearing attended on 14.08.2023
- Reply to Show Cause Notice in DRC-06 dated 31.07.2023.
- Show Cause Notice no. 06/2023-24 dated 19.05.2023 for the period 2017-18 to 2019-20 pertaining to M/s. Nilagiri Estates

1. We are authorized to represent the above-referred entity and are in receipt of the above referred Show Cause Notice requiring us to submit a reply. Accordingly, we submitted a reply on 31.07.2023 and we have attended the personal hearing on 14.08.2023. During the course of hearing, we have requested some time to submit additional information.
2. We would like to bring to your notice that we are in receipt of the spot memo dated 21.09.2022 for which we have given a detailed explanation through the reply dated 30.09.2022. While issuing the Final Audit Report, the reply given to the spot memo is not at all considered and issued the above Final Audit Report dated 04.11.2022. The fact of not considering the explanations given in the spot memo was brought out by us in the reply against the FAR dated 26.11.2022. (Copy of FAR dated 04.11.2022 and reply to the FAR dated 26.11.2022 are enclosed as Annexure 5).

3. In this regard, we would like to bring to your notice that we have already discharged certain proposed amounts even before the issuance of SCN and certain demands after issuance of SCN which is mentioned in the below table:

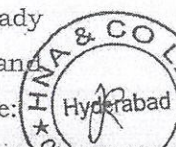
4th Floor, West Block, Srida Anushka Pride, R.No. 12, Banjara Hills, Hyderabad,
Telangana - 500 034. INDIA.

040 2331 8128, 3516 2881

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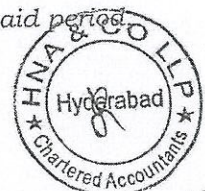
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Para No.	Demand Amount	Actual difference and paid amount	DRC-03 date	Paid through	Section
1	1,21,41,750/-	Disputed	NA	NA	74
2	19,82,815/-	5,89,131/-	09.08.2019 & 15.06.2020	Credit Ledger	74
3	27,16,554/-	5,15,480/-	09.08.2019	Credit Ledger	73
4	38,58,144/-	17,78,059/-	NA	NA	73
5	1,69,159/-	1,69,159/-	31.07.2023	Credit Ledger	73
6	1,420/-	1,420/-	31.07.2023	Cash Ledger	73
7	6,412/-	6,412/-	31.07.2023	Cash Ledger	73
8	88,320/-	88,320/-	07.01.2020	Credit ledger	74

4. With respect to interest on already paid demands, we would like to submit that we have sufficient credit ledger balance carry forwarding throughout the disputed period and have discharged the same through Electronic Credit ledger. Hence, we are of the bona fide belief that we are not liable to discharge the interest under Section 50 of CGST Act, 2017 in accordance with first proviso to Section 50(1) which provides that interest is applicable only on the liability which was discharged through Electronic Cash ledger. as stated in the below extract:

(1)'Every person who is **liable to pay tax** in accordance with the provisions of this Act or the Rules made thereunder, but failed to **pay the tax or any part thereof to the Government within the period prescribed, shall for the period for which the tax or any part thereof remains unpaid**, pay on his own, interest at such rate, not exceeding eighteen per cent., as may be notified by the Government on the recommendations of the Council'

1[Provided that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period



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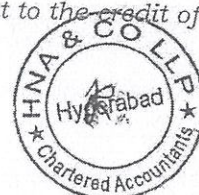
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shall be levied on that portion of the tax that is paid by debiting the electronic cash ledger.]

(2) the interest under sub-section (1) shall be calculated, in such manner as may be prescribed, from the day succeeding the day on which such tax was due to be paid

(3) A taxable person who makes an undue or excess claim of input tax credit under sub-section (10) of section 42 or undue or excess reduction in output tax liability under sub-section (10) of section 43, shall pay interest on such undue or excess claim or on such undue or excess reduction, as the case may be, at such rate not exceeding twenty-four per cent., as may be notified by the Government on the recommendations of the Council.

5. We submit that inference can be placed on proviso of sub-section (1) of section 50 for interest which is not liable to be paid if the tax is discharged through utilization Electronic Credit Ledger. We would like to submit that we have paid the taxes even before the issuance of show cause notice. Hence, the proposal of SCN demanding the interest is not correct and the same needs to be dropped. Since we have paid the taxes before issuance of notice, there is no requirement to issuance notice under Section 73 and we request you to drop the same.
6. We further submit that reliance is made on the judicial decisions for non-payment of interest for late payment of tax:
 - a. The Hon'ble High Court of Madras in the case of Refex Industries Vs AC of CGST 2020-TIOL-382-HC-MAD-GST held that interest is applicable only on liability payable through cash. Therefore, it is clear that interest is applicable only on GST paid through cash but not on payment made through ITC.
 - b. The Hon'ble High Court of Madras in the case of M/s. Voltech O And M Services Private Ltd. Versus Superintendent Of GST 2023 (2) TMI 722 - MADRAS HIGH COURT it was decided that "The learned judges have held in clear terms that Section 50 of the GST Act can be applied demanding interest only in cases of belated cash payment towards GST, but not on input tax credit available all the while with the department to the credit of the assessee."



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7. We also submit that section 50(3) of the CGST Act, 2017 was amended with retrospective effect from 01.07.2017 (vide section 111 of Finance Act, 2022) as notified through Notification No. 09/2022-CT dated 05.07.2022 to declare that interest is liable only on the portion of ITC utilized and no interest is liable on the mere availment of ITC. The amended provision reads as under:

"(3) Where the input tax credit has been wrongly availed and utilised, the registered person shall pay interest on such input tax credit wrongly availed and utilised, at such rate not exceeding twenty-four per cent. as may be notified by the Government, on the recommendations of the Council, and the interest shall be calculated, in such manner as may be prescribed."

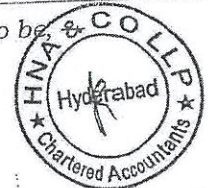
Thus, it is clear that interest is not applicable on availment of ITC per se but the utilization of ITC.

8. Further, Rule 88B of CGST Rules, 2017 was introduced with effect from the 1st July, 2017, vide Notification No. 14/2022-Central tax dated 05.07.2022 stating the manner of calculating interest on the wrongly utilised ITC wherein it was clearly provided that ITC said to be utilised only when the closing balance of ITC falls below the amount of wrongful ITC. The relevant extracts are given below:

"(3) In case, where interest is payable on the amount of input tax credit wrongly availed and utilised, starting for the period from the date of utilisation of such wrongly availed input tax credit till the date of reversal of such credit or payment of tax in respect of such amount, at such rate as may be notified under said sub-section (3) of section 50.

Explanation.—For the purposes of this sub-rule, —(1)input tax credit wrongly availed shall be construed to have been utilised, when the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed, and the extent of such utilisation of input tax credit shall be the amount by which the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed.

(2) the date of utilisation of such input tax credit shall be taken to be,



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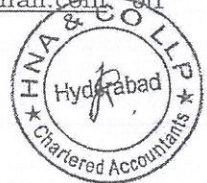
(a) the date, on which the return is due to be furnished under section 39 or the actual date of filing of the said return, whichever is earlier, if the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed, on account of payment of tax through the said return; or

(b) the date of debit in the electronic credit ledger when the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed, in all other cases.;

In the instant case, the interest is not applicable during the period as the closing balance of ITC is higher than the alleged wrongful ITC. Hence, we request to consider the payment of tax liability through the DRC-03 for the paras 5 and 8 and drop interest on the same. (Copy of Electronic credit ledger is enclosed as **Annexure 1**).

9. With respect to demand raised for the difference between GSTR-1 vs GSTR-3B, we have given a summary of the difference in our above reply dated 31.07.2023. However, to evidence the summary given, we are herewith enclosing the GSTR-1 and GSTR-3B monthly filed return for the period 2017-18 to 2019-20 for your reference as **Annexure 2** (Since the returns are running into hundreds of pages, we have shared the same through E-mail to adjudication3@gmail.com on 29.08.2023). Further, we have also discharged the tax liability for the balance difference through DRC-03 dated 09.08.2019 and therefore, we request you to consider the same and drop the proceedings on this regard.

10. Further, for the difference between GSTR-2A vs GSTR-3B as mentioned in para-4 of the SCN, we have given the summary of difference of Rs. 17,78,059/- for the period 2017-18 to 2019-20. To evidence the same, we are herewith enclosing the copies of updated GSTR-2A for the period 2017-18 to 2019-20 as **Annexure 3** (Since the GSTR-2A for different years are running into hundreds of pages, we have shared the same through E-mail to adjudication3@gmail.com on 29.08.2023).



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11. With respect to the Para-1 of the above referred SCN related to land deduction, we have already given the detailed explanation in the reply dated 31.07.2023. In this regard, we are herewith enclosing sample copies of the Agreement of Sale, Sale Deed and Agreement of Construction as **Annexure 4**. We would like to submit that the Agreement of Construction clearly mentions the value towards land and value towards construction. Therefore, we request your good self to consider the same and drop the impugned notice to that extent.

We shall be glad to furnish any further information/clarification required in this regard. Kindly acknowledge receipt of the above and do the needful.

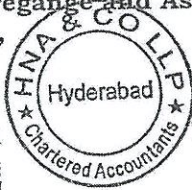
Thanking you,

Yours Truly

For M/s. H N A & Co. LLP,

(Formerly known as Hiregange and Associates LLP),
Chartered Accountants,

R. Lakshman Kumar
CA Lakshman Kumar K
Partner



Enclosures:

- i. Electronic credit ledger for the period 2017-18 to till date
- ii. GSTR-1 and GSTR-3B monthly filed return for the period 2017-18 to 2019-20 (Since the returns are running into hundreds of pages, we have shared the same through E-mail to adjudication3@gmail.com on 29.08.2023)
- iii. Updated GSTR-2A for the period 2017-18 to 2019-20 (Since the GSTR-2A for different years are running into hundreds of pages, we have shared the same through E-mail to adjudication3@gmail.com on 29.08.2023)
- iv. Sample copies of Agreement of sale, sale deed and Agreement for construction which specifically mentions the land value separately.
- v. Copy of FAR dated 04.11.2022 and reply to the FAR dated 26.11.2022

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**CENTRAL BOARD OF INDIRECT TAXES
AND CUSTOMS**

GOODS AND SERVICES TAX AUDIT MANUAL 2019

GSTAM-2019

Directorate General of Audit

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audit is granted by Commissioner, the fact of such grant of extension by Commissioner is to be intimated to the registered person.

5.13 Apprising the registered person of irregularities noticed and ascertaining his view point

It is important that the auditor discusses all the objections with the registered person before preparing draft audit report. The registered person should have the opportunity to know the objections and to offer clarifications with supporting documents. This process will resolve potential disputes at an early stage and avoid unnecessary litigation.

5.14 The ultimate aim of conducting an audit is to increase the level of tax compliance of registered person. Therefore, no audit can be considered to be complete unless the auditor has made all efforts to ensure maximum recovery of short levy before leaving the premises of the registered person. As the Audit system adopts a transparent methodology, it is necessary that all the audit objections noticed by the Audit Group are conveyed to the registered person with a view to ascertain his point of view before preparing the Draft Audit Report. Accordingly, the audit objections should be intimated in writing to the registered person, clearly stating that the same is not in the nature of any show cause notice and is only a part of participative and fact-finding audit scheme under which even the preliminary and tentative audit observations are being shared with the registered person for ascertaining his point of view. Where satisfactory explanation or evidence is submitted to the auditor, the findings should be revised as necessary after placing the same before Circle DC/ AC and obtaining his approval. However, if a response from the registered person is not forthcoming, draft audit paras should be prepared on the basis of available records after citing the lack of cooperation on part of the registered person, in the Audit Report.

5.15 It is the auditor's responsibility to explain all the objections to the registered person and to make all attempts to resolve any disagreements before those are finalised. It is also the auditor's responsibility to make

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P/V

[3411]

HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD
TUESDAY, THE TWENTY SECOND DAY OF OCTOBER
TWO THOUSAND AND TWENTY FOUR

:PRESENT:

THE HONOURABLE SRI JUSTICE SUJOY PAUL
AND

THE HONOURABLE SRI JUSTICE NAMAVARAPU RAJESHWAR RAO
WRIT PETITION NOs: 20369 AND 11449 OF 2024

W.P.No.20369 of 2024

Between:

M/s Cauvery Iron and Steel India Limited,

Corporate Office:

8-2-120/84/1/1/A, Unit Nio.- 1, 4th Floor, Vamshiram's Jyoti Valencia, Road
No.- 2, Banjara Hills, Hyderabad - 500 034, Telangana.

Factory:

Survey No.- 650A to 656A, Khajapur Village, Shankarampet (R) Mandal,
Medak District - 502 248, Telangana. Represented by its Director, Mr. Ashok
Kumar Gupta, S/o Late Mr. Satyapal Gupta.

...Petitioner

AND

1. The Assistant Commissioner of Central Tax, Sangareddy CGST Division, Medchal GST Commissionerate, Plot No.328, S.S.R., Arcade, Mathrusri Nagar, Miyapur, Hyderabad – 500 049, Telangana
2. The Deputy Commissioner (Audit), Circle-VII, Audit - II Commissionerate, O/o. the Commissioner of Central Tax, 1-98/B/20, 21, Sanvi Yamuna Pride, Krithika Layout, Madhapur, Hitech City, Hyderabad – 500 081, Telangana.
3. Union of India, Represented by its Principal Secretary, Government of India, Ministry of Finance, 3rd Floor, Jeevan Deep Building, Sansad Marg, New Delhi – 110 001.
4. Central Board of Indirect Taxes and Customs, GST Policy Wing, Government of India, Ministry of Finance, New Delhi, Represented by its Commissioner (GST).

...Respondent

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ, Order or Direction, declaring that the Order in-Original No.64/2024-25-GST-ADJN-SGRDIV, dated 29.04.2024 passed by the 1st Respondent, under the provisions of the Central Goods and Services Tax Act, 2017, for the tax period 2018 - 19, as arbitrary, bad non-est in law, barred by limitation, without jurisdiction, vague and bereft valid reasons, after holding that;-

- a. the Notification No.09/2023 - Central Tax dated 31.03.2023 issued by the 4th Respondent, i.e., the Central Board of Indirect Taxes and Customs, New Delhi, extending the limitation from 31.12.2023 to 31.03.2024, for completion of adjudication under the provisions of the Central Goods and Services Tax Act, 2017, for the tax period 2018 - 19
- b. the Notification No.56/2023-Central Tax dated 28.12.2023 issued by 4th Respondent, i.e., the Central Board of Indirect Taxes and Customs, New Delhi, further extending the time limit from 31.03.2024 to 30.04.2024, for completion of adjudication under the provisions of the Central Goods and Services Tax Act, 2017, for the tax period 2018 - 19

as bad and are issued without any authority of law, being arbitrary, and ultra vires Sec. 73(10) and Section 168A of Central Goods and Services Tax Act, 2017, apart from being violative of articles 14, 19(1)(g) and 265 of the Constitution of India.

IA NO: 1 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to stay all further proceedings, including any recovery, pursuant to the Order-in-Original No.64/2024-25-GST-ADJN-SGRDIV, dated 29.04.2024, passed by the 1st Respondent, for the tax period 2018 - 19, under the provisions of the Central Goods and Services Tax Act, 2017, pending disposal of WP.No.20369 of 2024, on the file of the High Court.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and the order of the High Court dated: 06.08.2024 made in I.A.No.1 of 2024 and 10.09.2024 made herein and upon hearing the arguments of M/s. A.V.A. SIVA KARTIKEYA Advocate for the Petitioner, SRI. DOMINIC FERNANDES Advocate for the Respondent Nos.1, 2 and 4 and SRI. GADI PRAVEEN KUMAR (DEPUTY SOLICITOR GENERAL OF INDIA) Advocate for the Respondent No.3,

W.P.No.11449 of 2024

Between:

M/s. NJR Constructions Pvt. Ltd, Having its office at Plot No. 156/K, 2nd Floor, Swaraj Mansions, Srinagar Colony, Hyderabad – 500073, Represented by its Managing Director N. Janardhan Rao, S/o. Narayana, R/o. Hyderabad.

...Petitioner

AND

1. The Additional Commissioner Customs and Central Tax, Hyderabad GST Commissionerate Hyderabad.

2. The Principal Commissioner of Central Tax, Hyderabad GST Commissionerate GST Bhavan, LB Stadium Road, Basheerbagh, Hyderabad.
3. Assistant Commissioner of Central Tax, Circle- V, Hyderabad Audit-I Commissionerate H.No.3-4-118/1 NR, 1st floor, Elegant Maharaja, Ramanthapur, Hyderabad – 500013.
4. Assistant Commissioner of Central Tax Circle-IV, Hyderabad Audit-I Commissionerate H.No.3-4-118/1 NR, 1st floor, Elegant Maharaja, Ramanthapur, Hyderabad – 500013.
5. Commissioner of Central Tax and Customs, Hyderabad Audit – I Commissionerate H.No.3-4-118/1 NR, 1st floor, Elegant Maharaja, Ramanthapur, Hyderabad – 500013.
6. Union of India, Ministry of Finance, Represented by its Secretary, North Block, New Delhi – 110 001.
7. Central Board of Indirect Taxes and Customs, GST Policy Wing, New Delhi rep by its Commissioner.

...Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a writ, order, or direction more particularly in the nature of a Writ of Mandamus declaring the Order in Original bearing O.R. No. 123/2023-24-Adjn-(ADC)-HYD-GST dated 18-04-2024 by the Respondent No. 1 as being void illegal arbitrary, without jurisdiction, violative of Article 14 of the Constitution of India, Violative of Section 73(6) of the CGST Act, and the Notification No. 09/2023-C.T dated 31-03-2023 and Notification No. 56/2023 dated 28-12-2023 by the Respondent No. 7 which extended the time limit for passing the orders as being without authority of law and ultra vires to the provisions of section 73(10) of the GST Act 2017 and Section 168A of GST Act, 2017 and violative of articles 14, 19(1)(g) 21 and 265 of the Constitution of India and consequently set aside the same.

IA NO: 1 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to stay all proceedings including assessment and collection of tax pursuant to the Order in Original bearing O.R. No. 123/2023-24- Adjn-(ADC)-HYD-GST dated 18-04-2024 by the Respondent No.1, pending disposal of WP.No.11449 of 2024, on the file of the High Court.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and the order of the High Court dated: 29.04.2024, 02.07.2024 and 10.09.2024 made herein and upon hearing the arguments of M/s. M. NAGA DEEPAK Advocate for the Petitioner, SRI. DOMINIC FERNANDES Advocate for the Respondent Nos.1 to 5 and 7 and SRI. GADI PRAVEEN KUMAR (DEPUTY SOLICITOR GENERAL OF INDIA) Advocate for the Respondent No.6, the Court made the following.

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ORDER:

As prayed, three weeks' time is granted to file counter. Reply/rejoinder, if any, may be filed within two weeks therefrom.

List on 26.11.2024.

Interim relief granted, (if any), shall remain in operation till the next date of hearing.

//TRUE COPY//

Sd/-MOHD. ISMAIL
ASSISTANT REGISTRAR

SECTION OFFICER

To,

1. One CC to M/s. A.V.A. SIVA KARTIKEYA, Advocate [OPUC].
2. One CC to M/s. M. NAGA DEEPAK, Advocate [OPUC].
3. One CC to SRI. GADI PRAVEEN KUMAR (DEPUTY SOLICITOR GENERAL OF INDIA) Advocate [OPUC].
4. Two spare copies