

# Villas Orchid LLP

Date: 01-07-2025

To,  
The Assistant Commissioner of Central Tax,  
Secunderabad GST Division, Salike senate,  
D. No: 2-4-416 & 417, Ramgopalpet,  
Secunderabad-500 003.

Dear Sir,

**Sub:** Initiation regarding payment of tax, where demand has confirmed in Order-in-Appeal.

**Ref:**

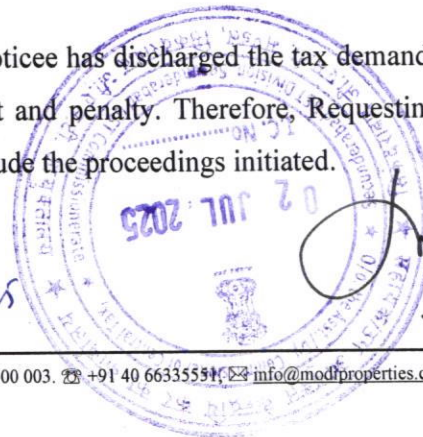
- Order-in-Appeal vide Ref. No. HYD-GST-SCAP2-1060-2024-25 dated 25-03-2025 dated pertaining to **M/s. Villa Orchids LLP** bearing GSTIN 36AANFG4817C1ZH.
- Order-in-Original vide OIO No. 25/2024-25 (GST-ADJN) dated 19-04-2024.

- We are in receipt of the above referred Order-in-Appeal vide Ref. No. HYD-GST-SCAP2-1060-2024-25 dated 25-03-2025 passed for FY 2018-19 demanding tax amount of Rs. 12,404/- and the penalty of Rs. 20,000/- (Rs. 10,000/- each under CGST and SGST).
- In this regard, we would like to submit that we have discharged the tax demanded in Order-in-Appeal along with interest and penalty through DRC-03 as stated below: Copy of DRC-03s and payment of pre-deposit is attached to the letter

| Sl. No. | Particulars                                                                                                               | Tax   |       | Interest |         | Penalty |        |
|---------|---------------------------------------------------------------------------------------------------------------------------|-------|-------|----------|---------|---------|--------|
|         |                                                                                                                           | CGST  | SGST  | CGST     | SGST    | CGST    | SGST   |
| A       | Demanded confirmed in above referred Order-in-Appeal                                                                      | 6,202 | 6,202 | -        | -       | 10,000  | 10,000 |
| B       | Adjusted from Pre-deposit made against the Order-in-Original through DRC-03 vide ARN No. AD3608240062580 dated 16-08-2024 | 5,813 | 5,813 | -        | -       | -       | -      |
| C       | Voluntary Payment through DRC-03 vide ARN No. AD360625020498W dated 24-06-2025                                            | 389   | 389   | 7,342    | 7,342   | 10,000  | 10,000 |
| D       | Short/(Excess) paid (A-B-C)                                                                                               | 0     | 0     | (7,342)  | (7,342) | 0       | 0      |

From the above, Noticee submits that Noticee has discharged the tax demanded in the above referred Order-in-Appeal along with applicable interest and penalty. Therefore, Requesting your good office to take the above payment into the record and conclude the proceedings initiated.

Received  
Tulav K  
01-07-2025



3. We humbly request your good office to consider the same and request you to drop the proceedings in this regard as penalty is paid.

We would be glad to provide any further information in this regard. Kindly, acknowledge this letter and please do the needful.

Thanking You,

Yours faithfully,

For M/s. Villa Orchids LLP

Authorised Signatory

Enclosure:

- a) Payment of Pre-deposit against the Order-in-Original through DRC-03 vide Ref. No. AD3608240062580 dated 16-08-2024.
- b) DRC-03 vide ARN No. AD360625020498W dated 24-06-2025.
- c) Order-in-Appeal vide Ref. No. HYD-GST-SCAP2-1060-2024-25 dated 25-03-2025.
- d) Order-in-Original vide OIO No. 25/2024-25 (GST-ADJN) dated 19-04-2024

**FORM GST DRC - 03**

[See rule 142(2)&142(3)]

**Intimation of payment made voluntarily or made against the show cause notice (SCN) or statement**

ARN :AD3608240062580

Date :16/08/2024

|         |                                                                                       |      |                 |          |          |                        |      |                   |          |                                |                                 |                     |
|---------|---------------------------------------------------------------------------------------|------|-----------------|----------|----------|------------------------|------|-------------------|----------|--------------------------------|---------------------------------|---------------------|
| 1.      | GSTIN                                                                                 |      |                 |          |          |                        |      | 36AANFG4817C1ZH   |          |                                |                                 |                     |
| 2.      | Name                                                                                  |      |                 |          |          |                        |      | VILLA ORCHIDS LLP |          |                                |                                 |                     |
| 3.      | Cause of Payment                                                                      |      |                 |          |          |                        |      | Others            |          |                                |                                 |                     |
| 4.      | Section under which voluntary payment is made                                         |      |                 |          |          |                        |      | Others            |          |                                |                                 |                     |
| 5.      | Details of show cause notice, if payment is made within 30 days of its issue          |      |                 |          |          |                        |      | Reference No:NA   |          |                                | Date Of issue:NA                |                     |
| 6.      | Financial Year                                                                        |      |                 |          |          |                        |      | 2018-2019         |          |                                |                                 |                     |
| 7.      | Details of payment made including interest and penalty, if applicable (Amount in Rs.) |      |                 |          |          |                        |      |                   |          |                                |                                 |                     |
| Sr. No. | Tax Period                                                                            | Act  | Place of supply | Tax/Cess | Interest | Penalty,if applicabl e | Fee  | Others            | Total    | Ledger utilised (Cash/credit ) | Debit entry no.                 | Date of debit entry |
| 1.      | APR 2018-MAR 2019                                                                     | CGST | Telangana       | 5,813.00 | 0.00     | 0.00                   | 0.00 | 0.00              | 5,813.00 | Cash/Credit                    | DC3608240043298/DI3608240044757 | 16/08/2024          |
| 2.      | APR 2018-MAR 2019                                                                     | SGST | Telangana       | 5,813.00 | 0.00     | 0.00                   | 0.00 | 0.00              | 5,813.00 | Cash/Credit                    | DC3608240043298/DI3608240044757 | 16/08/2024          |

8. Reasons, if any -

Pre- deposit payment @10% against Order dated 19/04/2024 passed for the FY 2018-19 vide DIN No. 20240456YO0000888FD5.

9. 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 Authorized Signatory

Name: SOHAM MODI

Designation: Designated Partner

Date: 16/08/2024

## FORM GST DRC - 03

[See rule 142(2)&amp;142(3)]

Intimation of payment made voluntarily or made against the show cause notice (SCN) or statement or intimation of tax ascertained through Form GST DRC-01A

ARN :AD360625020498W

Date :24/06/2025

|         |                                                                                       |      |                 |          |          |                           |                             |        |           |                                   |                 |                     |
|---------|---------------------------------------------------------------------------------------|------|-----------------|----------|----------|---------------------------|-----------------------------|--------|-----------|-----------------------------------|-----------------|---------------------|
| 1.      | GSTIN                                                                                 |      |                 |          |          |                           | 36AANFG4817C1ZH             |        |           |                                   |                 |                     |
| 2.      | Name                                                                                  |      |                 |          |          |                           | VILLA ORCHIDS LLP           |        |           |                                   |                 |                     |
| 3.      | Cause of Payment                                                                      |      |                 |          |          |                           | Others(Payment against OIA) |        |           |                                   |                 |                     |
| 4.      | Section under which voluntary payment is made                                         |      |                 |          |          |                           | Others                      |        |           |                                   |                 |                     |
| 5.      | Details of Others(Payment against OIA)                                                |      |                 |          |          |                           | Reference No:NA             |        |           | Date Of issue:NA                  |                 |                     |
| 6.      | Financial Year                                                                        |      |                 |          |          |                           | 2018-2019                   |        |           |                                   |                 |                     |
| 7.      | Details of payment made including interest and penalty, if applicable (Amount in Rs.) |      |                 |          |          |                           |                             |        |           |                                   |                 |                     |
| Sr. No. | Tax Period                                                                            | Act  | Place of supply | Tax/Cess | Interest | Penalty,if applicabl<br>e | Fee                         | Others | Total     | Ledger utilised<br>(Cash/credit ) | Debit entry no. | Date of debit entry |
| 1.      | APR 2018-MAR 2019                                                                     | CGST | Telangana       | 389.00   | 7,342.00 | 10,000.00                 | 0.00                        | 0.00   | 17,731.00 | Cash                              | DC3606250166015 | 24/06/2025          |
| 2.      | APR 2018-MAR 2019                                                                     | SGST | Telangana       | 389.00   | 7,342.00 | 10,000.00                 | 0.00                        | 0.00   | 17,731.00 | Cash                              | DC3606250166015 | 24/06/2025          |

## 8. Reasons, if any -

Payment of tax demanded along with interest and penalty in the Order-in-Appeal vide Ref. No. HYD-GST-SCAP2-1060-2024-25 dated 25-03-2025 by adjusting the tax amount from the pre-deposit made through DRC-03 vide Ref. No. AD3608240062580 dated 16-08-2024 amounting to Rs. 11,626/- Where the tax demanded in OIA is Rs. 12,404/-, where Rs. 11,626/- already paid (adjusted from pre-deposit amount) and the rest paid in this DRC-03 Rs. 778/- along with interest and penalty as applicable.

9. 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 Authorized Signatory

Name: SOHAM MODI

Designation: Designated Partner

Date: 24/06/2025



केन्द्रीय सीमा शुल्क एवं केन्द्रीय कर आयुक्त का कार्यालय (अपील्स-II)  
सातवातल, जी.एस.टी. भवन, एल.बी. स्टेडियम रोड, बशीरबाग, हैदराबाद, पिन - 500004

OFFICE OF THE COMMISSIONER OF CUSTOMS & CENTRAL TAX

APPEALS-II HYDERABAD COMMISSIONERATE

7th Floor, GST Bhavan, L.B. Stadium Road, Basheerbagh, Hyderabad, PIN-500004, Telangana State.

Ph: 040-23234219/ e-Mail: cgst.hydappeals2@gov.in

अपीलस Appeal No.337/2024(SC)GST

Order-in-Original No.25/2024-25 (GST/ADJN) dated 19.04.2024

DIN:20250156DN0000555C06

**अपील आदेश ORDER - IN - APPEAL No.HYD-GST-SC-AP2-1060-2024-25**

**तारीख Date:25.03.2025**

जारीकर्ता: श्रीमती वैशाली मल्होत्रा, भा.रा.से, आयुक्त(स्थानस्थ), केन्द्रीय कर व जी.एस.टी. (अपील्स-II)

**Passed by: Smt. Vaishali Malhotra, IRS, Commissioner (In-situ) of Customs & Central Tax (Appeals-II)**

### उद्देशिका / PREAMBLE

|    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|----|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. | जिस व्यक्ति को यह प्रति जारी की जाती है, उस व्यक्ति के निजी उपयोग के लिए निशुल्क दी जाती है।<br>This copy is granted free of cost for the private use of the person to whom it is issued.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 2. | इस आदेश से व्यक्ति कोई भी व्यक्ति, वस्तु एवं सेवा कर नियम, 2017 के नियम 110 के साथ पठित केन्द्रीय वस्तु एवं सेवा कर अधिनियम 2017 की धारा 112 (1) के तहत इलेक्ट्रॉनिक या अन्य माध्यम से, केन्द्रीय वस्तु एवं सेवा कर अधिनियम 2017 की धारा 109 के तहत गठित अपील न्यायाधिकरण के राज्य / क्षेत्र के क्षेत्राधिकार के खंड पीठ में उन मामलों में, जिनमें 'आपूर्ति की जगह', विवाद-ग्रस्त विषयों में से एक न हो, अपील दायर कर सकता है। जहां 'आपूर्ति की जगह' विवादित मामलों में से एक है, अपील, उपरोक्त धारा 109 के तहत गठित राष्ट्रीय / क्षेत्रीय खंडपीठ के समक्ष दायर की जाए जिस आदेश के विरुद्ध अपील दायर की जा रही है उसे अपीलकर्ता को संप्रतिष्ठ करने की तिथि से 3 (तीन) माह के अंदर अपील जीएसटी एपीएल-05 फॉर्म में दायर की जानी चाहिए। आदेश की एक प्रमाणित प्रति, यदि लागू हो तो नियम 110 (5) के अंतर्गत विहित शुल्क तथा अन्य संगत दस्तावेज संलग्न करते हुए, अपील पर नियम 26 के तहत विनिर्दिष्ट तरीके से हस्ताक्षर किए जाएं।<br>Any person aggrieved by this order, may under Section 112(1) of the Central Goods and Services Tax (CGST) Act 2017, read with Rule 110 of the CGST Rules, 2017; file an appeal electronically or otherwise, to the appropriate State / Area Bench of the Appellate Tribunal constituted under Sec 109 of the CGST Act 2017 in cases not involving 'place of supply' as one of the disputed issues. Where the 'place of supply' is one of the disputed issues, the appeal shall be filed with the National / Regional bench constituted under the said Sec 109. The appeal should be filed in Form GST APL-05 within 3(three) months from the date on which the order sought to be appealed against is communicated to the person preferring the appeal. The appeal shall be signed in the manner specified under Rule 26, enclosing a certified copy of the order, the prescribed fee under Rule 110(5) if applicable, and any other relevant documents. |
| 3. | वस्तु एवं सेवा कर नियम, 2017 के नियम 111 के साथ पठित केन्द्रीय वस्तु एवं सेवा कर अधिनियम 2017 की धारा 112 (3) के तहत आयुक्त द्वारा प्राधिकृत अधिकारी इलेक्ट्रॉनिक या अन्य माध्यम से, केन्द्रीय वस्तु एवं सेवा कर अधिनियम 2017 की धारा 109 के तहत गठित अपील न्यायाधिकरण के राज्य / क्षेत्र के क्षेत्राधिकार के खंड पीठ में उन मामलों में, जिनमें 'आपूर्ति की जगह' विवाद-ग्रस्त विषयों में से एक न हो, अपील दायर कर सकता है। जहां 'आपूर्ति की जगह' विवादित मामलों में से एक है, अपील, उपरोक्त धारा 109 के तहत गठित राष्ट्रीय / क्षेत्रीय खंडपीठ के समक्ष दायर की जाए जिस आदेश के विरुद्ध अपील दायर की जा रही है उसे जारी करने की तिथि से 6 (छह) माह के अंदर अपील जीएसटी एपीएल -07 फॉर्म में दायर की जानी चाहिए। अपील के साथ आदेश की प्रमाणित प्रति एवं अन्य संगत दस्तावेज संलग्न हो। विभागीय अपील के प्रत्याखेप, वस्तु एवं सेवा कर अधिनियम 2017 की धारा 112 (5) के साथ पठित नियम 110 (2) के अनुसार जीएसटी एपीएल -06 फॉर्म में इसके सम्प्रेषण के 45 दिनों के अंदर दायर किए जाएं और इस पर नियम 26 में विनिर्दिष्ट तरीके से हस्ताक्षर किए जाएं।<br>The officer authorized by the Commissioner under Sec 112(3) of the CGST Act 2017, read with Rule 111 of the CGST Rules, 2017; file an appeal electronically or otherwise, to the State / Area Bench of the Appellate Tribunal constituted under Sec 109 of the CGST Act 2017 in cases not involving 'place of supply' as one of the disputed issues. Where the 'place of supply' is one of the disputed issues, the appeal shall be filed with the National / Regional bench constituted under the said Sec 109. The appeal should be filed in Form GST APL-07 within 6 (six) months of the date of issuance of the disputed order. The appeal shall enclose a certified copy of the order, and any other relevant documents. The cross objections to the departmental appeal shall be filed                                             |

|          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|----------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|          | within 45 days of communicating it, in Form GST APL-06 in terms of Rule 110(2) read with Sec 112(5) of the CGST Act 2017 and signed in the manner specified in Rule 26.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|          | रेवेन्यू बार एसोसिएशन के मामले में मद्रास उच्च न्यायालय के आदेश के मद्देनकर अपीलार्थ न्यायाधिकरण का गठन नहीं किया गया है। v. भारत संघ और इसलिए अपील उस तारीख से तीन महीने के भीतर दायर नहीं की जा सकती जिस दिन आदेश के खिलाफ अपील की मांग की गई है। अधिनियम के उपरोक्त प्रावधान को प्रभावी करने में उत्पन्न होने वाली कठिनाई को दूर करने के लिए, सरकार ने परिषद की सिफारिशों पर, केंद्रीय माल और सेवा कर (कठिनाइयों का निवारण) आदेश, 2019 दिनांक 03.12.2019 जारी किया है। उक्त आदेश के माध्यम से यह प्रावधान किया गया है कि ट्रिब्यूनल में अपील आदेश के संचार की तारीख या जिस तारीख को राष्ट्रपति या राज्य अध्यक्ष, के रूप में तीन महीने (सरकार द्वारा अपील के मामले में छह महीने) के भीतर की जा सकती है। अपीलार्थ न्यायाधिकरण के कार्यालय में प्रवेश करने की स्थिति में, जो भी बाद में हो।                                                                                                       |
|          | (ii) The appellate tribunal has not been constituted in view of the order by Madras High Court in case of Revenue Bar Assn. v. Union of India and therefore the appeal cannot be filed within three months from the date on which the order sought to be appealed against is communicated. In order to remove difficulty arising in giving effect to the above provision of the Act, the Government, on the recommendations of the Council, has issued the Central Goods and Services Tax (Ninth Removal of Difficulties) Order, 2019 dated 03.12.2019. It has been provided through the said Order that the appeal to tribunal can be made within three months (six months in case of appeals by the Government) from the date of communication of order or date on which the President or the State President, as the case may be, of the Appellate Tribunal enters office, whichever is later. |
| 4.       | धारा 112 (8) के अनुसार, धारा 112 (1) के तहत तब तक कोई अपील दायर नहीं की जाएगी जब तक अपीलकर्ता (ए) आदेशित आदेश से उत्पन्न कर, ब्याज, फाइन, शुल्क व जुर्माना के उस अंश का, जो उसके द्वारा स्वीकार किया गया है तथा (बी) उक्त आदेश, जिसके संबंध में अपील दायर की गई है, से उत्पन्न धारा 107(6) के अंतर्गत प्रदत्त राशि के अतिरिक्त, विवादित कर की शेष राशि के 20% का पूरा भुगतान नहीं किया हो।                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|          | In terms of Sec 112(8), no appeal shall be filed under Sec 112(1) unless the appellant has paid (a) in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him, and (b) a sum equal to 20% of the remaining amount of tax in dispute, in addition to the amount paid under Sec 107(6), arising from the said order, in relation to which the appeal has been filed.                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 5. (i)   | धारा 112 (1) के तहत आवेदन पत्र के साथ रुए 5 मूल्य (केवल पांच रुपये) का गैर न्यायिक न्यायालय शुल्क टिकट हो। नियम 110 (5) के साथ पठित धारा 112 (10) के अनुसार अपीलार्थ प्रतिकरण के समक्ष अपील / अपील प्रस्तावर्तन हेतु प्रस्तुत आवेदन के साथ अधिकतम रु. पच्चीस हजार रुपये के अध्याधीन कर / इनपुट टैक्स क्रेडिट के प्रति एक लाख रुपये के लिए रु. एक हजार का शुल्क या कर या इनपुट टैक्स क्रेडिट में अंतर या जिस आदेश के विरुद्ध अपील की जा रही है उसमें निर्धारित फाइन, शुल्क या जुर्माना लगाया जाए।                                                                                                                                                                                                                                                                                                                                                                                                  |
|          | The application under Sec 112(1) shall bear a non-judicial court fee stamp of value Rs.5 (Rupees Five only). In terms of Sec 112(10) read with Rule 110(5), an application for appeal / restoration of appeal before the Appellate Tribunal shall be accompanied by a fee of One thousand rupees for every one lakh rupees of tax or input tax credit involved or the difference in tax or input tax credit involved or the amount of fine, fee or penalty determined in the order appealed against, subject to a maximum of twenty-five thousand rupees                                                                                                                                                                                                                                                                                                                                          |
| 5. (ii)  | उपरोक्त धारा 112 की उप धारा (5) में संदर्भित कुल प्रत्याक्षों के ज्ञापन के संबंध में कोई शुल्क देय नहीं होगा।                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|          | No fee is payable in respect of the Memorandum of Cross Objections referred to in sub-sec (5) of Sec 112 ibid.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 5. (iii) | धारा 112(3) के अंतर्गत, आयुक्त द्वारा अधिकृत अधिकारी द्वारा दायर किए जाने वाले आवेदन के मामले में कोई शुल्क देय नहीं होगा।                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|          | No fee is payable in case of an application filed by the officer authorized by the Commissioner to file an appeal under Sec 112(3).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 6.       | केंद्रीय वस्तु एवं सेवा कर अधिनियम, 2017 में निहित उक्त एवं अन्य संबंधित मामलों को नियंत्रित करने वाले प्रावधानों और इनके तहत बनाए गए नियम / जारी की गई अधिसूचनाओं की ओर ध्यान आकर्षित किया जाता है।                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|          | Attention is invited to the provisions governing these and other related matters, contained in the Central Goods & Services Act, 2017 and the rules made / notifications issued thereunder, for compliance.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |

|            |                                                                                                                          |
|------------|--------------------------------------------------------------------------------------------------------------------------|
| Appellant  | M/s. VILLA ORCHIDS LLP, 2 <sup>nd</sup> Floor, 5-4-187/3 & 4, Soham Mansion, M.G.Road, Secunderabad, Telangana – 500003. |
| Respondent | The Assistant Commissioner of Central Tax, Secunderabad GST Division, Secunderabad GST Commissionerate.                  |

M/s. VILLA ORCHIDS LLP, 2<sup>nd</sup> Floor, 5-4-187/3 & 4, Soham Mansion, M.G.Road, Secunderabad, Telangana – 500003. (GSTIN:36AANFG4817C1ZH) (here in

after referred to as 'the appellant') have filed an appeal bearing No. 337/2024(SC)GST

dated 20-08-2024 against the Order-in-Original No. 25/2024-25 (GST-ADJN) dated 19.04.2024 said to have been received on 25.04.2024 by post(hereinafter referred to as "the impugned order") passed by The Assistant Commissioner of Central Tax, Secunderabad GST Division, Secunderabad GST Commissionerate. (hereinafter referred to as the "Original Adjudicating Authority" or OAA).

**BRIEF FACTS OF THE CASE:**

2. The Show Cause was issued to the appellant for the year 2018-19 inter alia on the following issues:

(Amount in Rs.)

| S.No. | Issue                                                                    | CGST   | SGST   | TOTAL    |
|-------|--------------------------------------------------------------------------|--------|--------|----------|
| 1     | Under declaration of output tax on reconciliation of data in GSTR-09     | 51,928 | 51,928 | 1,03,856 |
| 2     | Under declaration of ineligible ITC on reconciliation of data in GSTR-09 | 6,202  | 6,202  | 12,404   |

After following the due procedure, the adjudicating authority passed the impugned order confirming the above demands along with interest and imposed penalty u/s.73(9) r/w.Sec.122(2)(a) of CGST/TGST Act, 2017.

**GROUND OF APPEAL:**

3. Having been aggrieved by the impugned order, the appellant filed the present appeal inter-alia on the grounds that regarding (1) Under declaration of output tax on reconciliation of data in GSTR-09, they have identified at the time of filing GSTR-09 return of FY 2018-19 and paid the same through DRC-03 dt.31.12.2020; (2) Under declaration of ineligible ITC on reconciliation of data in GSTR-09, they have not ineligible ITC which is restricted under Sec.17(5) and that the said section restricts ITC on motor vehicles used for transportation of passengers with specified seating capacity and also restriction on insurance of motor vehicles was not effective during the period under dispute. Hence, requested to allow the appeal

4. A copy of the Appeal was sent to the Respondent for comments. However, no comments were received.

**PERSONAL HEARING:**

5. Shri Laxmana Rao, CA appeared for personal hearing on 18.02.2025 explained

the submissions made in the appeal, sought time to submit CA certificate regarding non-availment/utilisation of ineligible ITC, but, not submitted till date.

**FINDINGS:**

6. I have examined the submissions made by the appellants in the appeal memorandum and at the time of personal hearing along with the impugned order. The Appeal is filed 29 days after the time limit stipulated under section 107(1) of the CGST Act, 2017 along with applicable pre-deposit under Section 107(6) and the Appellant has requested to condone the delay as their annual accounts were under closure as on 31<sup>st</sup> March 2024 and were busy in reconciliation for closure of the accounts, which got delayed in preparing and filing the appeal. I hereby accept the delay under Section 107(4) of the CGST Act, 2017.

7. The issues to be decided are whether - (i) There is Under declaration of output tax of Rs. 1,03,856/- on reconciliation of data in GSTR-09 - The contention of the appellant is that they have identified at the time of filing GSTR-09 return of FY 2018-19 and paid the same through DRC-03 dt.31.12.2020. On verification copy of DRC-03s the appellants have paid the disputed tax, and paid interest on the tax paid through cash. The tax paid is appropriated towards the disputed tax demand and interest paid is also appropriated towards the interest demand. However, they are liable to pay penalty of Rs.20,000/-(CGST Rs.10,000/- & SGST Rs.10,000/-) u/s.73(11) r/w. Sec.122(2)(a) of CGST/SGST Act, 2017. The decision of the OAA on this issue is modified to this extent.

(ii) Whether there is Under declaration of ineligible ITC of Rs.12,404/- on reconciliation of data in GSTR-09 - On verification of the SCN and impugned order, it is noticed that the appellants availed ITC on motor vehicle and insurance pertaining to motor vehicle. As per Sec.16(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."* It is not proved by the appellant for which purpose the vehicle is procured. ITC is allowed only on the goods used for in the course or furtherance of his business. Hence, the appellants are not eligible to avail the disputed ITC. Hence, the decision of the OAA on this issue is upheld.

In the light of the above discussions, I pass the following order.

**ORDER**

The Appeal is allowed partially and modified as discussed above.



To  
M/s. VILLA ORCHIDS LLP, 2<sup>nd</sup> Floor, 5-4-187/3 & 4, Soham Mansion, M.G.Road,  
Secunderabad, Telangana - 500003. . (By Speed Post).

The Assistant Commissioner of Central Tax, Secunderabad GST Division,  
Secunderabad GST Commissionerate. (By Speed Post).

Copy Submitted to:

1. The Commissioner of Central Tax, Secunderabad GST Commissionerate/ Review Section, Medchal GST Commissionerate, Hyderabad.
2. The Commissioner, SGST, Commercial Tax Building, Opp.Gandhi Bhavan, Nampally, Hyderabad-500001 **(As per Section 107(15) of the CGST Act, 2017).**

Master Copy/Office Copy.



केन्द्रीयकरसहायक आयुक्त कार्यालय,सिकंदराबादमालाएवमसेवाकरमण्डल,  
सिकंदराबाद।

OFFICE OF THE ASSISTANT COMMISSIONER OF CENTRAL TAX,  
SECUNDERABAD GST DIVISION, SECUNDERABAD

SALIK SENATE, D.No: 2-4-416 & 417, RAMGOPALPET, M.G. ROAD,  
SECUNDERABAD- 500 003

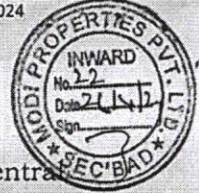
Phone 7901243130

E-mail- cgst.secdiv@gov.in

C.No.GEXCOM/ADJN/GST/2903/2023-CGST-DIV-SNBD-COMMRTE-SECUNDERABAD

दिनांक/Date: 19.04.2024

DIN: 20240456YO0000888FD5



**ORDER-IN-ORIGINAL No. 25/2024-25 (GST-Adjn)**

(Passed by Shri R.Satyanarayana, I.R.S., Assistant Commissioner of Central Tax, Secunderabad GST Division)

**PREAMBLE**

1. This copy is granted free of charge for the private use of persons to whom it is issued.

इसे जिस व्यक्तिको जारी किया गया है यह प्रतिनिजी प्रयोग केलिए बिना मूल्यके दीजातीहै.

2. Under Section 107(1) of the Central Goods and Service Act, 2017 any person aggrieved by this order can prefer appeal within three months from the date of communication of such order to the Joint Commissioner (Appeals), Hqrs Office, 7<sup>th</sup> floor, L.B. Stadium Road, Basheerbagh, Hyderabad-4.

कोईभी व्यक्ति जो केंद्रीयवस्तु एवम सेवा करअधिनियम, 2017 की धारा107 (1) केतहत, इस आदेश से दुखी होताहोतो वह ऐसे आदेश के विरुद्ध संयुक्त आयुक्त (अपील), मुख्यालय कार्यालय, सातवीं मंजिल, जी.एस.टी भवन, एल.बी स्टेडियम रोड, बशीरबाग, हैदराबाद -500 004 के समक्ष इस आदेश के सूचित होनेके तीन माह के अंदर अपील दर्ज कर सकताहै.

3. Appeals shall be filed in **FORM GST APL-01** prescribed under Rule 108 of Central Goods and Service Tax Rules, 2017.

केंद्रीयवस्तु एवम सेवा कर नियम, 2017 केनियम108 केतहतनिर्धारितफॉर्मGST APL-01 मेंअपीलदायरकीजाएगी।

4. The grounds of appeal and form of verification as contained in Form GST APL 01 shall be signed in the manner specified in rule 26 of Central Goods and Service Tax Rules, 2017

अपीलकाआधारऔरफॉर्मकेसत्यापनकेरूपमेंफॉर्मजीएसटीएपीएल01 मेंनिहितहै,  
केंद्रीयसामानऔरसेवाकर नियम, 2017 केनियम26 मेंनिर्दिष्टतरीकेसेहस्ताक्षरकिजाएंगे।

5. A certified copy of the decision or order appealed against shall be submitted within seven days of filing appeal under sub rule 1 of 108 of Central Goods and Service Tax Rules, 2017.

केंद्रीयवस्तु एवम सेवाकर नियम, 2017 के108 केउपनियम1 केतहतअपीलभरनेकेसातदिनोंकेभीतरआदेशकीप्रमाणितप्रतिप्रस्तुतकीजाएगी।

6. As per Section 107(6) of CGST Act, 2017, no appeal shall be filed under Section 107(1) of CGST Act, 2017 unless the appellant has paid—

(a) in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and

(b) a sum equal to ten per cent of the remaining amount of tax in dispute arising from the said order, in relation to which the appeal has been filed.

केंद्रीयवस्तु एवम सेवाकरअधिनियम, 2017कीधारा 107 (6) केअनुसार, अपीलकतनेकेंद्रीयवस्तु एवम सेवाकरअधिनियम, 2017कीधारा 107 (1) केतहतकोईअपीलदायरनहींकीजाएगी, जबतककिअपीलकतनेभुगताननहींकियाहो-

(ए) पूर्णरूपसे, लगाएगाआदेशसेउत्पन्नकर, ब्याज, जुर्माना, शुल्कऔरजुर्मानाकीराशिकाऐसाहिस्सा, जेसाकिउसकेद्वारास्वीकारकियागयाहै; तथा

(बी) दसप्रतिशतकेबराबरराशि।उक्तआदेशसेउत्पन्नविवादमेंकरकीशेषराशि, जिसकेसंबंधमेंअपीलदायरकीगईहै।

Sub: GST-On account of discrepancies observed during verification of Returns filed by **M/s. VILLA ORCHIDS LLP** (GSTIN: **36AANFG4817C1ZH**) for the FY 2018-19- Issue of Order-in-Original - Regarding.

\*\*\*\*

**M/s. VILLA ORCHIDS LLP** (here-in-after referred to as "Taxpayer"), situated at 2ND FLOOR, 5-4-187/3 AND 4, SOHAM MANSION, M.G ROAD, SECUNDERABAD, Rangareddy, Telangana, 500003, are engaged in Works Contract Services falling under the HSN 00440410 & 995411. The taxpayer is registered with the Central GST department with GSTIN: **36AANFG4817C1ZH** for the purpose of payment of GST and falls under the jurisdiction of Ramgopalpet-III CGST Range, Secunderabad Division, Secunderabad Commissionerate.

2. On verification of the records, by the Telangana State GST authority, the following discrepancies were observed.

**2.1. ISSUE 1: Under declaration of output tax.**

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

2.1.1. It is observed that, the taxpayer has not correctly declared tax on his outward supplies on reconciliation of turnover in GSTR-01, GSTR-3B and GSTR-9 for the financial year 2018-19.

2.1.2. The taxpayer has self-assessed the tax liability on outward supply and furnished the details of the same in returns specified under Section 37 of the CGST Act, 2017. In terms of provision of section 59 of the CGST Act, 2017, 'every registered person shall self-assess the taxes payable under this Act and furnish a return for each tax period as specified under section 39'. The taxpayer failed to discharge the self-assessed tax in the returns specified under Section 39 and the taxpayer was to pay taxes liable under Section 9 of the CGST Act, 2017 and therefore, the differential tax of Rs 1,03,856/- as detailed in table below, is liable for recovery under Section 73 of the CGST Act, 2017 along with applicable interest under section 50 and penalty under section 73 of the CGST Act, 2017 read with Section 122(2)(a) of the CGST Act, 2017.

**Table-1****Amount: INR**

| S.No | Issue                                                                                 | Table No. in GSTR-09        | SGST       | CGST       | Total       |
|------|---------------------------------------------------------------------------------------|-----------------------------|------------|------------|-------------|
| 1    | 2                                                                                     | 3                           | 4          | 5          | 6           |
| 1    | Tax on taxable supplies as declared in GSTR-09                                        | 4N                          | 6323140.00 | 6323140.00 | 12646280.00 |
| 2    | Add net increase due to amendments(Increase in amendments (-) decrease in amendments) | 10 (-) 11                   | 0.00       | 0.00       | 0.00        |
| 3    | Add tax on deemed supplies                                                            | 16B                         | 0.00       | 0.00       | 0.00        |
| 4    | Add tax on unreturned goods                                                           | 16C                         | 0.00       | 0.00       | 0.00        |
| 5    | Pending demands                                                                       | 15G                         | 0.00       | 0.00       | 0.00        |
| 6    | Total output tax liability as per the above in GSTR-09(S.NO 1+2+3+4+5)                |                             | 6323140.00 | 6323140.00 | 12646280.00 |
| 7    | Less Total tax paid in cash                                                           | 9                           | 0.00       | 0.00       | 0.00        |
| 8    | Less Tax paid by adjustment of ITC                                                    | 9                           | 6271212.00 | 6271212.00 | 12542424.00 |
| 9    | Less differential tax paid on amendments                                              | 14                          | 0.00       | 0.00       | 0.00        |
| 10   | Add differential tax paid on amendments related to previous year in current year      | (14) of previous FY GSTR-09 | 0.00       | 0.00       | 0.00        |
| 11   | Net tax payable (S.NO 6-7-8-9+10)                                                     |                             | 51928.00   | 51928.00   | 103856.00   |

**2.2. ISSUE 2: Excess claim of ITC:**

**The excess input tax credit (ITC) claimed on account of non-reconciliation of information:**

**2.2.1.** Under Section16(2)(c) of CGST Act, 2017, every registered person shall be entitled to take credit of ITC on supply of goods or services to him subject to the condition that the tax charged in respect of such supply has been actually paid to the Government either in cash or through utilization of ITC admissible in respect of such supply.

**2.2.2.** It is observed that the taxpayer has not correctly availed input tax on his inward supplies on reconciliation of turnovers in GSTR-09.

**Scrutiny of ITC availed:**

| S.No | Description                                                                         | SGST       | CGST       | Total      |
|------|-------------------------------------------------------------------------------------|------------|------------|------------|
| 1    | 2                                                                                   | 3          | 4          | 5          |
| 1    | ITC in the year as per Table 8A of GSTR-09                                          | 4804897.00 | 4804897.00 | 9609794.00 |
| 2    | ITC from ISD table 4A (4)                                                           | 0.00       | 0.00       | 0.00       |
| 3    | ITC from imports table 4A (1) +4A (2)                                               | 0.00       | 0.00       | 0.00       |
| 4    | Inward Supplies liability to reverse charge 4A (3) (other than 4A(1) & 4A(2))       | 0.00       | 0.00       | 0.00       |
| 5    | ITC brought forward from previous FY to current FY, Table 8C of previous FY GSTR-09 | 0.00       | 0.00       | 0.00       |
| 6    | ITC carried forward from present FY to subsequent FY, Table 8C of GSTR-09           | 0.00       | 0.00       | 0.00       |

|    |                                                             |            |            |             |
|----|-------------------------------------------------------------|------------|------------|-------------|
| 7  | Reversals in Table 4B of GSTR-3B                            | 0.00       | 0.00       | 0.00        |
| 8  | ITC Available for use in the same year (S.No 1+2+3+4+5-6-7) | 4804897.00 | 4804897.00 | 9609794.00  |
| 9  | ITC used in same year as per 4C of GSTR-3B                  | 7313853.00 | 7313853.00 | 14627706.00 |
| 10 | Net excess used (S.No 9-8)                                  | 2508956.00 | 2508956.00 | 5017912.00  |

**3. ISSUE 3: Under declaration of Ineligible ITC:**

**3.1** Under Section 17(5) of the CGST Act, 2017 input tax credit shall not be available in respect of the list of commodities & services mentioned therein subject to certain conditions.

**3.2.** It is seen from GSTR-09 and other information that they have claimed ITC on these commodities and therefore the ITC claimed on these commodities or services is proposed to be recovered.

| S.No | Commodity/Service               | HSN/SAC code     | SGST    | CGST    | Total    |
|------|---------------------------------|------------------|---------|---------|----------|
| 1    | 2                               | 3                | 4       | 5       | 6        |
| 1    | Motor Vehicles                  | 8702; 8703; 8711 | 1174.00 | 1174.00 | 2348.00  |
| 2    | Motor Vehicle Insurance Service | 997134           | 5028.00 | 5028.00 | 10056.00 |

| S.No | Issue                          | Table no. in GSTR-09                                                                                                                                                                   | SGST    | CGST    | Total    |
|------|--------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|---------|----------|
| 1    | 2                              | 3                                                                                                                                                                                      | 4       | 5       | 6        |
| A    | Total ineligible ITC u/s 17(5) |                                                                                                                                                                                        | 6202.00 | 6202.00 | 12404.00 |
| B    | Ineligible ITC declared        | 7E or (Sum of 4D(1) of GSTR 3B of all months in FY) which ever is higher                                                                                                               | 0.00    | 0.00    | 0.00     |
| C    | Difference/excess ITC claimed  | "If (SL.No A – SI.NO B >0) then Lower of (SL.No A – SI.NO B) or ((Sum of 4C of GSTR 3B of all months in current FY) – (13-12 of Previous FY GSTR-09) + (13-12 of current FY GSTR-09))" | 6202.00 | 6202.00 | 12404.00 |

**3.3.** From the above, the taxpayer is required to reverse the excess ITC claimed under Section 73 of the CGST Act, 2017 along with applicable interest under section 50 of the CGST Act, 2017 and penalty under section 73 of the CGST Act, 2017 read with Section 122(2)(a) of the CGST Act, 2017.

| TOTAL TAX PAYABLE SUMMARY |               |                                              |            |            |
|---------------------------|---------------|----------------------------------------------|------------|------------|
| Sl. No.                   | Issue         | SGST                                         | CGST       | Total      |
| 1                         | 2             | 3                                            | 4          | 5          |
| 1                         | Total Tax due | 2567086.00                                   | 2567086.00 | 5134172.00 |
| 2                         | Interest      | In terms of Section 50 of the CGST Act, 2017 |            |            |
| 3                         | Penalty       | In terms of Section 73 of the CGST Act, 2017 |            |            |

4. The DRC 01A issued to the taxpayer requesting to pay tax along with interest and applicable penalty. However the taxpayer neither paid dues nor submitted any reply.

5. Therefore, **M/s. VILLA ORCHIDS LLP** (here-in-after referred to as "Taxpayer"), situated at 2ND FLOOR, 5-4-187/3 and 4, Soham Mansion, M.G Road, Secunderabad, Rangareddy, Telangana, 500003, were issued a Show Cause Notice answerable to the Assistant Commissioner of Central Tax (Adjudicating Authority), Secunderabad GST Division, Secunderabad GST Commissionerate, Salike Senate, D.No.2-4-416&417, Ramgopalpet, MG Road, Secunderabad - 500003 within thirty days from the date of issue of this notice as to why: -

- (i) an amount of **Rs.1,03,856/-** (CGST: **Rs.51,928/-** & SGST: **Rs.51,928/-** (Rupees One Lakh Three Thousand Eight Hundred and Fifty Six only), as discussed supra in Para 2.1 should not be demanded from them under section 73(1) of the CGST Act, 2017/TSGST Act, 2017.
- (ii) an amount of **Rs.50,30,316/-** (CGST: **Rs.25,15,158/-** & SGST: **Rs.25,15,158/-** (Rupees Fifty Lakhs Thirty Thousand Three Hundred and Sixteen only), as discussed supra in Para 2.2 should not be demanded from them under section 73(1) of the CGST Act, 2017/TSGST Act, 2017.
- (iii) interest at the applicable rate should not be demanded from them on tax demanded at (i) & (ii) above under section 50 of CGST Act, 2017/TSGST Act, 2017.
- (iv) Penalty should not be imposed on them demands at (i) & (ii) above under Section 73 of CGST Act, 2017 read with Section 122 of CGST Act, 2017/TSGST Act, 2017.

**6. Reply to Show Cause Notice:**

The TP has submitted their reply to the SCN on 29.01.2024. The tax payer in his reply stated that in respect of

**6.1. ISSUE - 1: Under declaration of output tax**

The tax payer submitted that appropriate submissions will be provided in due course time.

**6.2 ISSUE -2: The excess input tax credit (ITC) claimed on account of non-reconciliation of information:**

The tax payer submitted that the demand was raised in the previous SCN in any case, such alleged differences between ITC in GSTR3B Vs GSTR2A is factually wrong as impugned SCN was based on the old GSTR2A as on the date of filing of annual returns. Once, the updated GSTR2A was considered, the actual difference was quite less than the amount arrived in the SCN. Further,

submitted that ITC cannot be denied merely due non-reflection of invoices in GSTR2A as all the conditions specified under Section 16 have been satisfied. Submitted that GSTR2A cannot be taken as a basis to deny the ITC in accordance with Section 41, Section 42 of CGST Act, 2017, Rule 69 of CGST Rules, 2017. Finally, requested to drop further proceedings initiated in the show cause notice.

### **6.3. ISSUE - 3: Under declaration of In-eligible ITC**

The tax payer submitted that they have not availed ITC of Rs. 12,404/- on motor vehicles as alleged in the show cause notice. On verification of the GSTR2A and GSTR3B for the months of Sep, 2018 and March, 2019 it is noticed that the ITC availed is more in GSTR3B than the ITC available in GSTR2A. In view of the above, it is construed that the tax payer availed the said credit

### **7. Personal Hearing:**

**7.1** A Personal Hearing was fixed on 30.01.2024, 15.02.2024 & 28.02.2024 and intimated to the tax payer. Shri Srimannarayana, authorized representative of the company has attended the PH and reiterated the submissions made in their reply dated 16.02.2024 and requested to drop further proceedings.

### **8. Discussions & Findings :**

I have carefully gone through the records of the case, Show Cause Notice, tax payer's reply dated 16.02.2024, submissions made during the course of personal hearing and other material available on record. I now propose to adjudicate the case under the provisions of Section 73 of CGST Act, 2017. There are two issues before me to decide. I shall take up the aforesaid issues one by one for discussion.

### **8.1. ISSUE- 1: Under declaration Output tax**

#### ***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 <sup>1</sup>[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 <sup>2</sup>[shall, subject to such conditions and restrictions, within such time and in such manner as may be prescribed]*

**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

70 thereof, furnish, in such form and manner as may be prescribed, a return, electronically, of inward and outward supplies of goods or services or both, input tax credit availed, tax payable, tax paid and such other particulars, in such form and manner, and within such time, as may be prescribed, on or before the twentieth day of the month succeeding such calendar month or part thereof. (2) A registered person paying tax under the provisions of section 10 shall, for each quarter or part thereof, furnish, in such form and manner as may be prescribed, a return, electronically, of turnover in the State or Union territory, inward supplies of goods or services or both, tax payable and tax paid within eighteen days after the end of such quarter. (3) Every registered person required to deduct tax at source under the provisions of section 51 shall furnish, in such form and manner as may be prescribed, a return, electronically, for the month in which such deductions have been made within ten days after the end of such month. (4) Every taxable person registered as an Input Service Distributor shall, for every calendar month or part thereof, furnish, in such form and manner as may be prescribed, a return, electronically, within thirteen days after the end of such month. (5) Every registered non-resident taxable person shall, for every calendar month or part thereof, furnish, in such form and manner as may be prescribed, a return, electronically, within twenty days after the end of a calendar month or within seven days after the last day of the period of registration specified under sub-section (1) of section 27, whichever is earlier. (6) The Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing the returns under this section for such class of registered persons as may be specified therein: Provided that any extension of time limit notified by the Commissioner of State tax or Union territory tax shall be deemed to be notified by the Commissioner. (7) Every registered person, who is required to furnish a return under sub-section (1) or sub-section (2) 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. CHAPTER IX RETURNS 71 (8) Every registered person who is required to furnish a return under sub-section (1) or sub-section (2) shall furnish a return for every tax period whether or not any supplies of goods or services or both have been made during such tax period. (9) Subject to the provisions of sections 37 and 38, if any registered person after furnishing a return under sub-section (1) or sub-section (2) or sub-section (3) or subsection (4) or sub-section (5) discovers any omission or incorrect particulars therein, other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities, he shall rectify such omission or incorrect particulars in the

return to be furnished for the month or quarter during which such omission or incorrect particulars are noticed, subject to payment of interest under this Act: Provided that no such rectification of any omission or incorrect particulars shall be allowed after the due date for furnishing of return for the month of September or second quarter following the end of the financial year, or the actual date of furnishing of relevant annual return, whichever is earlier. (10) A registered person shall not be allowed to furnish a return for a tax period if the return for any of the previous tax periods has not been furnished by him.

**Section 49. 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.

8.2. In the instant case, the tax payer stated that they will submit suitable reply in due course. In the absence of any reply from the tax payer it is construed the tax payer had contravened the provisions of GST Act and liable to pay the tax of **Rs. 1,03,856/- (CGST:Rs. 51,928/- SGST:Rs.51928/-)** along with interest under Section 50 and penalty under Section 73 read with Section 122(2)(a) CGST Act, 2017.

**9.Issue-2: The excess input tax credit (ITC) claimed on account of non-reconciliation of information.**

9.1. In the instant case, upon verification, a show cause notice was issued by the Additional Commissioner, Hyderabad Audit II Commissionerate vide C.No. V/01/GST/78/2020-GR.12/Cir-I dated 05.01.2022 and the same was adjudicated by the Additional Commissioner, Secunderabad GST Commissionerate vide OIO NO. 33/2023-24 dated 01.11.2023 under O.R No. 40/2021-22-Sec-Adjn-ADC(GST).

9.2. In view of the above, it is proposed to drop the proceedings initiated in the show cause notice.

**10. Issue-3: Under declaration of Ineligible ITC:**

**Section 17. Apportionment of credit and blocked credits.-**

(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:-

<sup>2</sup>(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 vehicles, vessels or aircraft insured by him;]

(b) <sup>3</sup>[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;

**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;

<sup>5</sup>[(fa) goods or services or both received by a taxable person, which are used or intended to be used for activities relating to his obligations under corporate social responsibility referred to in section 135 of the Companies Act, 2013;]

(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.

(6) The Government may prescribe the manner in which the credit referred to in sub-sections (1) and (2) may be attributed.

**Explanation.** For the purposes of this Chapter and Chapter VI, the expression "plant and machinery" means apparatus, equipment, and machinery fixed to earth by foundation or structural support that are used for making outward supply of goods or services or both and includes such foundation and structural supports but excludes-

(i) land, building or any other civil structures;

(ii) telecommunication towers; and

(iii) pipelines laid outside the factory premises.

10.1. The tax payer submitted that they have not availed ITC of Rs. 12,404/- on motor vehicles as alleged in the show cause notice. On verification of the GSTR2A and GSTR3B for the months of Sep, 2018 and March, 2019 it is noticed that the ITC availed is more in GSTR3B than the ITC available in GSTR2A. In view of the above, it is construed that the tax payer availed the said credit.

10.2. In view of the above, it is proposed to confirm proceedings initiated in the show cause notice.

10.3. In view of the above, the tax payer contravened Section 17 of CGST Act, 2017 and the said credit of Rs. 12,404/- (CGST: Rs. 6,202/- SGST: Rs. 6,202/-) is recoverable under Section 73 of CGST Act, 2017 alongwith interest under Section 50 of CGST Act, 2017 and penalty under Section 73 of CGST Act, 2017.

11. Therefore, the allegation made in the Show Cause Notice under **Issue-I, Issue-III** that the taxpayer has contravened the provisions of CGST Act is acceptable on the above terms discussed supra. Thus, the contravention with an intent to evade payment of tax is proved beyond doubt and provisions of Section 73 of the CGST Act, 2017 read with the corresponding TGGST Act, 2017 have rightly been applied in the instant case. It can be seen that when the demand for the tax under Section 73 is confirmed, the provisions of interest under Section 50 and penalty under Section 73 of the CGST Act, 2017 shall follow automatically and accordingly I hold that interest and penalty is payable on the tax amount.

12. Therefore, it is proposed to confirm the proceedings initiated in the Show Cause Notice in respect of **Issue-I and III**.

13. Further, Section 6 of the Telangana State Goods & Services tax Act, 2017 authorizes the officers appointed under the Central Goods and Services Tax Act as proper officers for the purposes of the said Act, subject to such conditions as the Government shall, on the recommendations of the Council, by Notification, specify. Accordingly, the demand of levy of SGST is authorized under the provisions of Section 6 of the TGGST Act, 2017.

14. In view of the foregoing discussions and findings, in terms of provisions of Section 73 of CGST Act 2017, having regard to the facts and circumstances of the case, I pass the following order:

**ORDER**

- (i) I confirm the demand of **Rs.1,03,856/- (CGST: Rs.51,928/- & SGST: Rs.51,928/- (Rupees One Lakh Three Thousand Eight Hundred and Fifty Six only)**, as discussed supra in Para 8.2 under section 73(9) of the CGST Act, 2017/TSGST Act, 2017;
- (ii) I drop the proceedings initiated in the show cause notice in respect of **Issue-2: The excess input tax credit (ITC) claimed on account of non-reconciliation of information** in view of the discussions and findings under para 9 above;
- (iii) I confirm the demand of **Rs.12,404/- (CGST: Rs.6,202/- & SGST: Rs.6,202/- (Rupees Twelve Thousand Four Hundred and Four only)** in respect of **ISSUE-3**, as discussed supra in Para 10.1 to 10.3 under section 73(9) of the CGST Act, 2017/TSGST Act, 2017;

- (iv) I confirm the demand of interest at the applicable rate on tax confirmed at (i) & (iii) above under Section 50 of CGST Act, 2017 read with Section 20 of IGST Act and similar provisions under TGST Act, 2017.
- (v) I confirm the demand penalty from them on the tax confirmed at (i) & (iii) above, under Section 73(9) of CGST Act, 2017 read with Section 122(2)(a) of CGST Act, 2017 and Section 20 of IGST Act, 2017 and similar provisions under TGST Act, 2017

श्री 2. 21/04/2024  
19/04/2024

(आर.सत्यनारायण)/(R.SATYANARAYANA)

सहायक आयुक्त/Assistant Commissioner

सिकंदराबाद मण्डल/ Secunderabad GST Division

To,

**M/s. VILLA ORCHIDS LLP**

2ND FLOOR, 5-4-187/3 AND 4,  
SOHAM MANSION, M.G ROAD,  
SECUNDERABAD, Rangareddy,  
Telangana, 500003,

Copy submitted to the Commissioner of Central Tax, Secunderabad GST Commissionerate, GST Bhavan, Opp. L.B.Stadium, Hyderabad (Attention: Superintendent, (Review))

Copy to

The Superintendent of GST, Ramgopalpet-I Range, Secunderabad GST Division  
- for information.

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