

FORM GST SPL-04
Reply to Notice issued under Rule 164(9)

[See rule 164(9)]

Date : 25/11/2025

Reference Number : ZD361125078751A

To

Proper Officer : AJAY KUMAR PENDYALA

Jurisdiction : RAMGOPALPET-III

Legal Name of the applicant : NILGIRI ESTATES

Address of applicant : 5-4-187/3 AND 4,SOHAM MANSION,MG
ROAD,SECUNDERABAD,undefined,36,500003

Reference Number Of FORM GST SPL03 : ZD3611250410800 Dated 13/11/2025

Subject: Reply to the Notice issued in respect of application filed under Section 128A.

Sir/Madam

This is in reference to the notice issued in FORM GST SPL-03 vide no ZD3611250410800 dated 13/11/2025 from your office.

The reply is as under:

Dear Sir,

Please find the attached reply to the above notice in Form SPL-04 along with supporting annexures.

Kindly acknowledge the same and provide us another opportunity of personal hearing before your good self before deciding the matter.

Enclosures:

The following documents in respect of payment proof or additional submissions are enclosed for your reference:

- Document : 1 Nilgiri Estates_SPL-04.pdf



- Document : 2 Annexures.pdf

Verification:

I SOHAM MODI hereby solemnly affirm and declare that the information given hereinabove are true and correct to the best of my knowledge and belief and nothing has been concealed therefrom.

Name of the of authorized
signatory:SOHAM MODI

Designation/Status:Managing Partner

Date:25/11/2025

Prep

Date: 24.11.2025

To
The Assistant Commissioner of Central Tax,
Secunderabad GST Commissionerate,
Secunderabad division, Ramgopalpet Range
Salike Senate, D. No. 2-4-416 and 417,
Secunderabad- 500 003

Dear Sir,

Sub: Filing of reply in Form SPL-04 against the Notice in Form SPL-03.

Ref:

- i. Notice in response to an application filed under Section 128A of CGST Act, 2017 in Form SPL-03 vide Ref. No. ZD3611250410800 dated 13.11.2025.
- ii. Application for waiver of interest and penalty under Section 128A of CGST Act, 2017 in Form GST SPL-02 vide ARN No. AD360625020255A dated 24.06.2025.
- iii. Order-in-Appeal No. HYD-GST-SC- AP2-1062-24-25-GST dated. 25.03.2025
- iv. Order-in-Original No. 23/2024-25- Adjn (GST) dated. 19.04.2024 passed for FY 2018-19
- v. Order-in-Appeal No. HYD-GST-SC-AP2-1123-24-25-GST dated 27.03.2025.
- vi. Hon'ble High Court vide WP No. 17018 of 2025

pertaining to M/s. Niligiri Estates bearing GSTIN: 36AAHFN0766F1ZA

1. With the reference to the above we are authorized by M/s. Niligiri Estates (herein referred as "Noticee") having GSTIN 36AAHFN0766F1ZA and are engaged in providing works contract services located at 2nd floor, 5-4-187/3 and 4, Soham Mansion, Mg Road, Secunderabad, Ranga Reddy, Telangana, 500003 to submit a reply to the above notice issued in Form SPL-03 vide Ref. No. ZD3611250410800 dated 13.11.2025 before your good-self and to do necessary correspondence.
2. Noticee submits that impugned notice has proposed to reject the waiver of interest and penalty on account of -
 - a. Full amount of tax payable has not been paid by the Noticee as per Section 128A (1) of CGST Act, 2017 and Circular 238/32/2024-GST dated 15.10.2024 and held that SPL-02 application cannot be considered.
 - b. Noticee has filed the Writ petition against the OIA No. HYD-GST-SC-AP2-1123-24-25-GST dated 27.03.2025 before Hon'ble High court dated 02.05.2025, since same is not withdrawn in accordance with Section 128A(3) of CGST Act, 2017 and same is held for rejection.



Background:

3. Noticee was in the receipt of show cause notice dated 19.12.2023 for FY 2018-19 demanding tax amount of Rs. 48,30,246/- (Rs. 24,15,123/- each under CGST and SGST) along with interest and penalty as applicable. Contesting the same Noticee has filed the reply to the show cause notice in Form GST DRC-06 dated 16-02-2024. Upon considering the submissions of the Noticee, Noticee was in the receipt of Order-in-Original No. 23/2024-25 (GST-ADJN) dated 19.04.2024 demanding only interest and penalty and dropped the tax amount. (Copy of Order-in-Original vide Ref. No. 23/2024-25 dated 19-04-2024 is enclosed as **Annexure**)
4. Aggrieved by the above Order to the extent of confirming the interest and penalty demand, Noticee has filed an appeal in Form GST APL-01 dated 26.08.2024 to the first appellate authority stating that Noticee is willing to avail the benefit of waiver of interest and penalty under Section 128A of CGST Act, 2017 as Noticee is rightly eligible for the same.
5. Subsequently, the Commissioner (In-situ) (Appeals-II) (Appellate authority) vide the Order-in-Appeal No. HYD-GST-SC-AP2-1062-2024-25 dated 25.03.2025, held that Noticee is rightly eligible for waiver of interest and penalty for Amnesty scheme under Section 128A of CGST Act, 2017. Para 8 of the said OIA is as follows- (Copy of Order-In-Appeal is enclosed as **Annexure**)

Order-in-Appeal No. HYD-GST-SC-AP2-1062-2024-25 dated 25.03.2025

appeal as they are eligible for waiver of interest and penalty u/s.128 of CGST Act, 2017. However, they failed to do the same till issuance of this order. In view, there is no reason to interfere with the decision of OAA as its legally correct & tenable. Hence, the decision of the OAA is upheld.



8. Further, I observe that the appellant is eligible to opt for waiver of Interest and Penalty under Section 128A of the CGST Act, 2017 by complying with the outlined procedure for the same.

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

ORDER

The Appeal filed by the appellant is rejected as discussed above.

6. Noticee states that before filing an application for waiver of interest and penalty Noticee has requested for withdrawal of appeal filed dated 28.03.2025 against the above order.



7. In due course, the reviewing authority has reviewed the above order in original, and filed an appeal against the order-in-original dated 19.04.2024 contending that the demand dropped by the adjudicating authority does not appear to be legal and proper. However, Noticee was having no information regarding the departmental appeal and hearing intimations regarding the same.
8. The Additional commissioner (Appeals-II) of Central Tax has passed the Order-in-Appeal vide Ref. No. HYD-GST-SC-AP2-1123-24-25-GST dated 27-03-2025 confirming the tax demand of Rs. 43,73,928/- and held that the adjudicating authority erred in dropping the demand in Order-in-Original dated 19.04.2024. (Copy of Order-in-Appeal vide Ref. No. HYD-GST-SC-AP2-1123-24-25-GST dated 27.03.2025 is enclosed as **Annexure**).
9. Against the above referred Order-in-Appeal No. 27.03.2025, Noticee have filed a writ petition before the Hon'ble High Court of Telangana vide W.P.No.17018 of 2025. The Hon'ble High Court of Telangana in the proceedings sheet dated 20.06.2025 directed Noticee to file an application for Amnesty Scheme under Section 128A of CGST Act, 2017. The relevant extract is as below for your ready: (Copy of the direction of the High Court in W.P.No.17018 of 2025 is enclosed as **Annexure**)
- "Considering the aforesaid, it is directed that if the petitioner prefers an application under the Amnesty Scheme on or before the last date i.e. 30.06.2025, the said application shall be considered by the respondents, and such consideration shall be subject to final outcome of the writ petition."*
10. Since the Noticee is rightly eligible for waiver of interest and penalty confirmed in Order-in-Original No. 23/2024-25 (GST-ADJN) dated 19.04.2024, the Noticee had filed the application for waiver of interest and penalty vide SPL-02 dated 24-06-2025.
11. Noticee submits that as per the direction of the High Court for the Writ filed against the Order-in-Appeal dated 27.03.2025, Noticee was rightly eligible for application of benefit for waiver of both the interest and penalty amount as referred to under Section 128A of the CGST Act, 2017.
- SCN is not issued within the time limit prescribed under Rule 164 of CGST**
12. Considering Rule 164 of the CGST Act, 2017, the proper officer is required to issue FORM GST SPL-03 within three months from the date of filing the SPL-02 application, if he intends to reject the claim. If no SPL-03 is issued within these three months, the officer must then pass the final order in FORM GST SPL-05 or FORM SPL-07 within the statutory time limit of three months from the date of the SPL-02 application. If the officer fails to issue SPL-03 within the initial three-month period and also



does not issue SPL-05 or SPL-07 within the prescribed three-month period thereafter, the taxpayer's application for waiver of interest and penalty shall be treated as deemed accepted in terms of Rule 164, enclosing the relevant extract of the rule below:

(8) Where the proper officer is of the view that the application made in FORM GST SPL-01 or FORM GST SPL-02 is liable to be rejected as not being eligible for waiver of interest, or penalty, or both, as per section 128A, he shall issue a notice on the common portal to the applicant in FORM GST SPL-03 within three months from the date of receipt of the said application and shall also give the applicant an opportunity of being heard.

(13) (a) In cases where notice in FORM GST SPL-03 has not been issued, the proper officer shall issue the order under sub-rule (10) within a period of three months from the date of receipt of the application in FORM GST SPL-01 or FORM GST SPL-02, as the case may be.

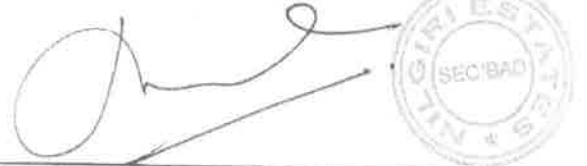
(b) In cases where notice in FORM GST SPL-03 has been issued, the proper officer shall issue the order in sub-rule (10) or sub-rule (12) within a period of three months from the date of receipt of reply of the applicant in FORM GST SPL-04, or within a period of four months from the date of issuance of notice in FORM GST SPL-03 where no reply is received from the applicant.

(14) If no order is issued by the proper officer within the time limit specified in sub-rule (13), then the application in FORM GST SPL-01 or FORM GST SPL-02, as the case may be, shall be deemed to be approved and the proceedings shall be deemed to be concluded.

In this case, the SPL-02 application was filed on 24.06.2025. Under Rule 164, the proper officer is required to issue SPL-03 (notice of proposed rejection) or pass an order in SPL-05 or SPL-07 within a period of three months from the date of the SPL-02 application that is, on or before 24.09.2025. However, in this matter, SPL-03 was issued only on 13.11.2025, which is clearly beyond the prescribed statutory time limit. Therefore, in terms of Rule 164, since neither SPL-03 nor SPL-05 or SPL-07 was issued within the mandatory period of three months, the taxpayer's SPL-02 application is liable to be treated as deemed approved by operation of law.

Proceedings to be kept in abeyance till the final out of Writ Petition

13. Without prejudice to above, considering the directions of the High Court, the Noticee had filed the above referred Amnesty Application. Further, this application is subject to final outcome of the above referred writ petition. The Hon'ble High Court has clearly stated that the application under the **Amnesty Scheme will be considered subject to the final outcome of the writ petition**. This means that the writ is still pending and the Court has not yet given any final decision. Since the matter is still before the Hon'ble High Court, the Noticee respectfully requests the Department to keep the present



Nilgiri Estates

proceedings in abeyance until the writ petition is decided. Moving ahead at this stage may go against the directions of the Court, which has protected the Noticee right to pursue both the writ petition and the Amnesty Scheme. Hence, the Noticee requests that no further action be taken until the High Court gives its final order.

No requirement to withdraw the Writ Petition filed

14. Noticee have filed an application for amnesty scheme for waiver of interest and penalty in Form SPL-02 against the OIA vide Ref. no. HYD-GST-SC-AP2-1062-2024-25 dated 25-03-2025 in accordance with section 128A of CGST Act, 2017.
15. From the above, it is clear that the Writ Petition is not filed against the OIA HYD-GST-SC-AP2-1062-2024-25 dated 25-03-2025 against which the application for waiver of interest and penalty is filed. Therefore, there is no requirement for filing the application for withdrawal of the WP. Hence, the allegation of the SCN is not correct and the same needs to be dropped.

We shall be glad to provide any other information in this regard. Kindly acknowledge receipt of the letter.

Thanking You,

Yours faithfully,

For M/s. Niligiri Estates

Authorized Signatory



Enclosures:

- i. Copy of Order-in-Appeal passed by the department vide no. HYD-GST-SC-AP2-1123-24-25 dated 27-03-2025.
- ii. Copy of Order in Appeal vide No. HYD-GST-SC-AP2-1062-2024-25 dated 25-03-2025
- iii. Copy of Order in Original vide No. 23/2024-25 dated 19-04-2024.
- iv. Copy of DRC 03 vide AD360120000820Z dated 07-01-2020 and DRC-03 vide ARN No. AD361020002275V dated 16-10-2020
- v. Direction of the Telangana high court vide WP No. 17018 of 2025.



सीमाशुल्क व केन्द्रीय कर अपील-II आयुक्त का कार्यालय
OFFICE OF THE COMMISSIONER OF CUSTOMS & CENTRAL TAX
APPEALS-II COMMISSIONERATE, HYDERABAD
सातवाँतल, केन्द्रीयशुल्क भवन, 7th Floor, KENDRIYA SHULK BHAVAN,
एलबीस्टेडियमरोडकेसामने, बशीरबाग, हैदराबाद - 500 004
OPP. L. B. STADIUM, BASHEERBAGH, HYDERABAD-500 004.
Ph. Nos.: 040-23241716; Fax-040-23237873 E-mail: cgst.hyddappeals1@gov.in



Appeal No. 218/2024 (SC) DGST
OIO No. 23/2024-25-Adjn.(GST) dated 19.04.2024
DIN - 20250356DN0000555BE4

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अपील आदेश ORDER - IN - APPEAL No. HYD-GST-SC-AP2-1123-24-25-GST

तारीख Date. 27.03.2025

जारीकर्ता: श्री वि. विजय आई आर एस, अपर आयुक्त, अपील-II

Passed by: Shri. B Vijay, IRS. Additional Commissioner of 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। 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 उपयुक्त अपीलीय 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। जहाँ '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 संप्रेषित 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। 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 अपीलीय 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। जहाँ '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 (छः) 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 प्रत्याक्षेप, वस्तु एवं सेवा कर अधिनियम 2017 की धारा 112 (5) के साथ पठित नियम 110 (2) के अनुसार जीएसटी एपीएल -06 फॉर्म में इसके सम्यवेक्षण के 45 दिनों के अंदर दायर किए जाएं और इस पर नियम 26 में विनिर्दिष्ट तरीके से हस्ताक्षर किए जाएं। 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 वार एसोसिएशन के मामले में मद्रास उच्च न्यायालय के आदेश के मद्देनजर अपीलीय न्यायाधिकरण का गठन नहीं

	<p>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 नोवा 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। अपीलीय न्यायाधिकरण के कार्यालय में प्रवेश करने की स्थिति में, जो भी वाद में हो।</p>
	<p>(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.</p>
4.	<p>धारा 112 (8) के अनुसार, धारा 112 (1) के तहत तब तक कोई अपील दायर नहीं की जाएगी जब तक अपीलकर्ता (ए) आक्षेपित 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 पूर्ण भुगतान नहीं किया हो।</p>
	<p>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.</p>
5.(i)	<p>धारा 112 (1) के तहत आवेदन पत्र के साथ रुपये 5 मूल्य (केवल पांच रुपये) का गैर न्यायिक न्यायालय शुल्क टिकट हो। नियम 110 (5) के साथ पठित धारा 112 (10) के अनुसार अपीलीय प्राधिकरण के समक्ष अपील / अपील प्रत्यावर्तन हेतु प्रस्तुत आवेदन के साथ अधिकतम रु. पच्चीस हजार रुपये के अधधीन 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।</p>
	<p>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</p>
5.(ii)	<p>उपरोक्त धारा 112 की उप धारा (5) में संदर्भित कुल प्रत्याक्षेपों के ज्ञापन के संबंध में कोई शुल्क देय नहीं होगा।</p>
	<p>No fee is payable in respect of the Memorandum of Cross Objections referred to in sub-sec (5) of Sec 112 ibid.</p>
5.(iii)	<p>धारा 112(3) के अंतर्गत, आयुक्त द्वारा अधिकृत अधिकारी द्वारा दायर किए जाने वाले आवेदन के मामले में कोई शुल्क देय नहीं होगा।</p>
	<p>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).</p>
6.	<p>केन्द्रीय 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।</p>
	<p>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.</p>

Appellant	Assistant Commissioner of Central Tax, Secunderabad GST Division, Secunderabad GST Commissionerate, Hyderabad.
Respondent	M/s Nilgiri Estates, 2 nd Floor, 5-4-187/3 and 4, Soham Mansion, MG Road, Secunderabad, Telangana-500003.

These proceedings arise out of an appeal filed by the Assistant Commissioner of Central Tax, Secunderabad GST Division, Secunderabad GST Commissionerate, Hyderabad (hereinafter referred to as 'appellant department') against Order-in-Original No. 23/2024-25-Adjn(GST) GST-Adjn, dated 19.04.2024 (hereinafter referred to as 'impugned order') passed by the Assistant Commissioner of Central Tax, Secunderabad GST Division, Secunderabad GST Commissionerate, Hyderabad (hereinafter referred to as 'original authority') in the case of M/s Nilgiri Estates, 2nd Floor, 5-4-187/3 and 4, Soham Mansion, MG Road, Secunderabad, Telangana-500003 (hereinafter referred to as "respondent").

STATEMENT OF FACTS

2)

- A. The respondent having GSTIN 36AAHFN0766F1ZA are engaged in the supply of 'works contract services' falling under HSN 00440334 & 00440410 with effect from 01-07-2017.
- B. Based on information received from the Telangana State GST authority, scrutiny of the records of the tax payer was undertaken for the financial year 2018-19, following discrepancy was noticed.
 - i. Under declaration of output tax on reconciliation of turnover in GSTR-01, GSTR-3B, and GSTR-9 for the year 2018-19.
 - ii. Excess availment of ITC on inward supplies on reconciliation of GSTR-9 for the year 2018-19.
 - iii. Excess reversal shown in GSTR-9 than the reversals shown in GSTR-3B for the year 2018-19.
- C. Accordingly, the original authority issued the Show Cause Notice No. 46/2023-24 dated 19-12-2023 asking the taxpayer as to why
 - (i) an amount of Rs. 27,66,974/(Rs. 13,83,487/-CGST and Rs13,83,487/-SGST) (Rupees Twenty Seven Lakhs Sixty Six Thousand Nine Hundred and Seventy Four only), as discussed supra in Para 2 should not be demanded

from them under Section 73(1) of the CGST Act, 2017 and similar provisions as laid in the TGST Act, 2017 read with Section 20 of IGST Act, 2017.

(ii) an amount of Rs. 20,63,272 /- (Rs.10,31,636/- CGST and Rs. 10,31,636/- SGST) (Rupees Twenty Lakhs Sixty-Three Thousand Two Hundred and Seventy-Two only), as discussed supra in Para 3 should not be demanded from them under Section 73(1) of the CGST Act, 2017 and similar provisions as laid in the TGST Act, 2017 read with Section 20 of IGST 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 read with Section 20 of IGST Act and similar provisions under TGST 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(2)(a) of CGST Act, 2017 and Section 20 of IGST Act, 2017 and similar provisions under TGST Act, 2017.

D. The Adjudicating Authority after due process of law passed the impugned order.

- i. I drop the proceedings initiated in the show cause under Issue-1 in view of the discussions and findings in Para 9 above.
- ii. I drop the proceedings initiated in the show cause under Issue-2 in view of the discussions and findings in Para 10 above.
- iii. I confirm the demand of Rs. 4,56,318/- (CGST: Rs.2,28,159/-SGST: Rs.2,28,159/-) (Rupees Four Lakh Fifty-Six Thousand Three Hundred and Eighteen Only), in respect of Issue-3, as discussed supra in Para -11 under Section 73(9) of the CGST Act, 2017 and similar provisions as laid down in the TGST Act, 2017 read with Section 20 of IGST Act, 2017.
- iv. I appropriate the amount of Rs. 4,56,318/- (CGST: Rs.2,28,159/-SGST: Rs.2,28,159/-) (Rupees Four Lakh Fifty Six Thousand Three Hundred and Eighteen Only) which was already paid by them vide DRC dated 07.01.2020 under Debit Entry No. D13601200012760 and DRC dated 16.10.2020 under debit entry no. D13610200050832 towards duty confirmed at Sl.No. (iii) above, under Section 73(9) of the CGST Act, 2017 and similar provisions as laid down in the TGST Act, 2017 read with Section 20 of IGST Act, 2017.
- v. I confirm the demand of interest at the applicable rate from them on tax demanded at (iii) above under Section 50 of CGST Act, 2017 read with Section 20 of IGST Act and similar provisions under TGST Act, 2017.
- vi. I confirm the demand of penalty from them on the demand at (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.

E. The impugned order was reviewed vide Review Order No. 222/2024-25-GST (OIO) dated 15.10.2024 passed by the Commissioner of Central Tax, Secunderabad GST Commissionerate, Hyderabad and by virtue of powers vested under Section 107(2) of the CGST Act, 2017, the original authority was authorised and directed to file an appeal to this forum for correct determination of the following points arising out of the impugned order:

- i. *"set aside the impugned order-in-original to the extent of dropping the demand of Rs.27,66,974/- (CGST-Rs.13,83,487/- and SGST-Rs.13,83,487/-) vide Para 13(i) of the impugned Order-In-Original proposed in terms of Section 73 of the CGST Act,2017 and TGST Act, 2017 for the reasons cited supra;*
- ii. *confirm the demand of Rs.27,66,974/- (CGST-Rs.13,83,487/- and SGST-Rs.13,83,487/-) as proposed in the show cause notice under Section 73(9) of the CGST Act, 2017 & TGST Act, 2017 along with Interest under Section 50 of the CGST Act, 2017 & TGST Act, 2017 and impose appropriate penalty under Section 73(9) read with Section 122(2)(a) of the CGST Act, 2017 & TGST Act, 2017 for the reasons cited supra;*
- iii. *set aside the impugned order-in-original to the extent of dropping the demand of Rs.16,06,954/- (CGST-Rs.8,03,477/- and SGST-Rs.8,03,477/-) (included in the total amount of Rs.20,63,272/- (CGST-Rs. 10,31,636/-, SGST:10,31,636/-) demanded vide Para 5(ii) of the impugned show cause notice)) vide Para 13(ii) of the impugned Order-In-Original proposed in terms of Section 73 of the CGST Act,2017 and TGST Act, 2017 for the reasons cited supra;*
- iv. *confirm the demand of Rs.16,06,954/- (CGST-Rs.8,03,477/- and SGST-Rs.8,03,477/-) as proposed in the show cause notice under Section 73(9) of the CGST Act, 2017 & TGST Act, 2017 along with Interest under Section 50 of the CGST Act, 2017 & TGST Act, 2017 and impose appropriate penalty under Section 73(9) read with Section 122(2)(a) of the CGST Act, 2017 & TGST Act, 2017 for the reasons cited supra;*
- v. *Pass such other orders as deemed fit."*

GROUND OF APPEAL

3)

A. The impugned Order-In-Original does not appear to be legal and proper to the extent of dropping the demands in the issues of 'Under declaration of output tax on reconciliation of turn over in GSTR-01, GSTR-3B and GSTR-9 for the year 2018-19' and 'Excess availment of ITC on inward supplies on reconciliation of GSTR-9 for the year 2018-19' stating that on the same issues, a show cause notice was issued earlier and adjudicated by the Additional Commissioner, Secunderabad GST

Commissionerate, for the following reasons:

Under declaration of output tax on reconciliation of turnover in GSTR-01, GSTR-3B and GSTR-9 for the year 2018-19

B. In the impugned Show Cause Notice, it was alleged that the tax payer 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 and an amount of Rs. 27,66,974/- (CGST-Rs.13,83,487/- and SGST-Rs.13,83,487/-) was demanded under Section 73 of CGST Act, 2017/TGST Act, 2017 along with interest under Section 50 of CGST Act, 2017/TGST Act, 2017 and penalty also was proposed under Section 73 of CGST Act, 2017/TGST Act, 2017 read with Section 122(2)(a) of CGST Act, 2017.

C. Whereas vide Para 13 (i) of the impugned Order-In-Original, the Adjudicating Authority dropped the proceedings initiated in the show cause notice holding that on the same issue as detailed at Para 3.2.1 above, a show cause notice was issued by the Additional Commissioner, Hyderabad Audit-II Commissionerate vide Show Cause No. 06/23-24 dated 19.05.2023 in C.No. V/Audit-II/C-I/28/2021- 22/Gr-15 and the same was adjudicated by the Additional Commissioner, Secunderabad GST Commissionerate vide OIO No.28/2023-24 (Sec-Adjn-ADC)(GST), dated 12.10.2023.

D. However, as observed from the said OIO dated 12.10.2023 passed by the Additional Commissioner, Secunderabad GST Commissionerate vide OIO No. 28/2023-24 (Sec-Adjn-ADC)(GST), demand was made for tax liability of CGST & SGST of Rs 27,16,554/- (CGST-Rs. 13,58,227/-, SGST-Rs.13,58,227/-) pertaining to the Financial Year 2018-19 and the same has been confirmed along with applicable interest and penalty which is less than the current demand i.e. Rs.27,66,974/- (CGST-Rs.13,83,487/- and SGST-Rs.13,83,487/-) proposed in the impugned Show cause notice pertaining to the current order-in-original, but the adjudicating authority dropped the demand without proper verification of the facts of the issue and without assigning any reasons for the difference in tax demanded, which does not appear to be legal and proper.

Excess availment of ITC on inward supplies on reconciliation of GSTR-9 for the year 2018-19 for an amount of Rs.16,06,954/- (CGST-Rs.8,03,477/- and SGST-Rs.8,03,477/-).

E. In the impugned Show Cause Notice, it was alleged that the tax payer has not correctly availed input tax on his inward supplies on reconciliation with GSTR-09 for the financial year 2018-19 and an amount of Rs.16,06,954/- (CGST-Rs.8,03,477/-

and SGST-Rs.8,03,477/-) (included in the total amount of Rs.20,63,272/- (CGST-Rs. 10,31,636/-, SGST:10,31,636/-) demanded vide Para 5(ii) of the impugned show cause notice)) was demanded under Section 73 of CGST Act, 2017/TGST Act, 2017 along with interest under Section 50 of CGST Act, 2017/TGST Act, 2017 and penalty also was proposed under Section 73 of CGST Act, 2017/TGST Act, 2017 read with Section 122(2)(a) of CGST Act, 2017.

F. Whereas vide Para 13 (ii) of the impugned Order-In-Original, the Adjudicating Authority dropped the proceedings initiated in the show cause notice holding that on the same issue as detailed at Para 3.3.1 above, a show cause notice was issued by the Additional Commissioner, Hyderabad Audit-II Commissionerate vide Show Cause No. 06/23-24 dated 19.05.2023 in C.No. V/Audit-II/C-I/28/2021- 22/Gr-15 and the same was adjudicated by the Additional Commissioner, Secunderabad GST Commissionerate vide OIO No.28/2023-24 (Sec-Adjn-ADC)(GST), dated 12.10.2023.

G. However, as observed from the said OIO dated 12.10.2023 passed by the Additional Commissioner, Secunderabad GST Commissionerate vide OIO No. 28/2023-24 (Sec-Adjn-ADC)(GST), demand was made for tax liability of CGST & SGST of Rs 18,65,370/- (CGST-Rs. 9,32,685/-, SGST-Rs. 9,32,685/-) pertaining to the Financial Year 2018-19 and the same has been confirmed along with applicable interest and penalty. However, it appears that the adjudicating authority erred in dropping the current demand of Rs. 16,06,954/- without going into merits of the issue and without verifying whether the said amount of Rs. 16,06,954/- demanded in the impugned show cause notice of the current OIO is involved in the said amount of Rs.18,65,370/- which was confirmed along with applicable interest and penalty vide old OIO No. 28/2023-24 (Sec-Adjn-ADC)(GST), dated 12.10.2023. OIO does not appear to be legal and proper to this extent.

PERSONAL HEARING: -

4) Following the principles of natural justice, three opportunities for Personal Hearing were given to respondent on 29.01.2025, 07.03.2025 and 18.03.2025. However, the respondent neither availed the opportunity of attending personal hearing nor submitted any reply to the appeal.

FINDINGS:

5) I have gone through records of the case, impugned OIO and Grounds of appeal.

The issues in the instant case alongwith findings of the OIO, Contentions in the Appeal memo and my findings are discussed hereunder :

A) Under declaration of output tax on reconciliation of turnover in GSTR-01, GSTR-3B and GSTR-9 for the year 2018-19

It was alleged in the Show Cause Notice that the respondent 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 and an amount of Rs. 27,66,974/- (CGST-Rs.13,83,487/- and SGST-Rs.13,83,487/-) was demanded under Section 73 of CGST Act, 2017/TGST Act, 2017 along with interest under Section 50 of CGST Act, 2017/TGST Act, 2017 and penalty also was proposed under Section 73 of CGST Act, 2017/TGST Act, 2017 read with Section 122(2)(a) of CGST Act, 2017.

The Adjudicating Authority dropped the proceedings initiated in the show cause notice holding that on the same issue, a show cause notice was issued by the Additional Commissioner, Hyderabad Audit-II Commissionerate vide Show Cause Notice No. 06/23-24 dated 19.05.2023 in C.No. V/Audit-II/C-I/28/2021-22/Gr-15 and the same was adjudicated by the Additional Commissioner, Secunderabad GST Commissionerate vide OIO No.28/2023-24 (Sec-Adjn-ADC)(GST), dated 12.10.2023 confirming the said demand.

Appellant contested that as observed from the said OIO dated 12.10.2023 passed by the Additional Commissioner, Secunderabad GST Commissionerate vide OIO No. 28/2023-24 (Sec-Adjn-ADC)(GST), demand was made for tax liability of CGST & SGST of Rs 27,16,554/- (CGST-Rs. 13,58,227/-, SGST-Rs.13,58,227/-) pertaining to the Financial Year 2018-19 and the same has been confirmed along with applicable interest and penalty which is less than the current demand i.e. Rs.27,66,974/- (CGST-Rs.13,83,487/- and SGST-Rs.13,83,487/-) proposed in the impugned Show cause notice pertaining to the current order-in-original, but the adjudicating authority dropped the demand without proper verification of the facts of the issue and without assigning any reasons for the difference in tax demanded.

B) Excess availment of ITC on inward supplies on reconciliation of GSTR-9 for the year 2018-19 for an amount of Rs.16,06,954/- (CGST-Rs.8,03,477/- and SGST-Rs.8,03,477/-).

It was alleged in the Show Cause Notice that the tax payer has not correctly

availed input tax on his inward supplies on reconciliation with GSTR-09 for the financial year 2018-19 and an amount of Rs. 16,06,954/- (CGST-Rs.8,03,477/- and SGST-Rs.8,03,477/-) (included in the total amount of Rs.20,63,272/- (CGST-Rs. 10,31,636/-, SGST:10,31,636/-) demanded vide Para 5(ii) of the impugned show cause notice)) was demanded under Section 73 of CGST Act, 2017/TGST Act, 2017 along with interest under Section 50 of CGST Act, 2017/TGST Act, 2017 and penalty also was proposed under Section 73 of CGST Act, 2017/TGST Act, 2017 read with Section 122(2)(a) of CGST Act, 2017.

The Adjudicating Authority vide impugned Order-In-Original dropped the proceedings initiated in the show cause notice holding that on the same issue, a show cause notice was issued by the Additional Commissioner, Hyderabad Audit-II Commissionerate vide Show Cause No. 06/23-24 dated 19.05.2023 in C.No. V/Audit-II/C-I/28/2021- 22/Gr-15 and the same was adjudicated by the Additional Commissioner, Secunderabad GST Commissionerate vide OIO No.28/2023-24 (Sec-Adjn-ADC)(GST), dated 12.10.2023.

Appellant contested that as observed from the said OIO dated 12.10.2023 passed by the Additional Commissioner, Secunderabad GST Commissionerate vide OIO No. 28/2023-24 (Sec-Adjn-ADC)(GST), demand was made for tax liability of CGST & SGST of Rs 18,65,370/- (CGST-Rs. 9,32,685/-, SGST-Rs. 9,32,685/-) pertaining to the Financial Year 2018-19 and the same has been confirmed along with applicable interest and penalty. However, it appears that the adjudicating authority erred in dropping the current demand of Rs. 16,06,954/- without going into merits of the issue and without verifying whether the said amount of Rs. 16,06,954/- demanded in the impugned show cause notice of the current OIO is involved in the said amount of Rs.18,65,370/- which was confirmed along with applicable interest and penalty vide old OIO No. 28/2023-24 (Sec-Adjn-ADC)(GST), dated 12.10.2023.

Respondent in this regard neither submitted any reply nor availed the opportunity to attend personal hearing.

In view of the contentions raised in the Appeal memo, I found that the Adjudicating Authority has erred in dropping the demand of Rs. 27,66,974/- (CGST-Rs.13,83,487/- and SGST-Rs.13,83,487/-) towards Under declaration of output tax on reconciliation of turnover in GSTR-01, GSTR-3B and GSTR-9 for the year 2018-19 and Excess availment of ITC on inward supplies on reconciliation of GSTR-9 for the year 2018-19 for an amount of Rs.16,06,954/- (CGST-Rs.8,03,477/- and SGST-Rs.8,03,477/-).

In view of the above findings and discussion, I pass the following order;

ORDER

The appeal filed by the appellant is allowed on the above grounds.

विजय / 24/3/25
(बी विजय) / (B VIJAY)
अपर आयुक्त (अपील-II) / ADDITIONAL COMMISSIONER (APPEALS-II)
हैदराबाद / HYDERABAD

To

1. Assistant Commissioner, Secunderabad GST Division, Secunderabad GST Commissionerate, Hyderabad.
2. M/s Nilgiri Estates, 2nd Floor, 5-4-187/3 and 4, Soham Mansion, MG Road, Secunderabad, Telangana-500003

Copy submitted to

1. The Commissioner of Customs and Central Tax, Secunderabad GST Commissionerate, Hyderabad
2. Master copy

Sd/-

(बी विजय) / (B VIJAY)
अपर आयुक्त (अपील-II) / ADDITIONAL COMMISSIONER (APPEALS-II)
हैदराबाद / HYDERABAD

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

कपल आ.स.स.स.स.
ON I.G.S. Only

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To
M/s. Nilgiri Estates,
2nd Floor, 5-4-187/3 and 4,
Saham mansion, MG Road,
Secunderabad.

Telangana - 500 003



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 Central Tax & GST (Appeals-II)

उद्देशिका / PREAMBLE

	<p>वित्त न्यायिक को यह प्रती ज्ञाती की जाती है, उन व्यक्ति के विरुद्ध खर्चा के लिए निम्नलिखित की जाती है।</p> <p>This copy is granted free of cost for the private use of the person to whom it is issued.</p>
2.	<p>हस्त आदेश में व्यक्ति को दो अपीलें/अनुसूच प्राप्त होता है अर्थात् 2017 के नियम 110 के तहत यांचे के बीच अनुसूचित रूप से एक अपील/विवाद 2017 की धारा 112 (1) के तहत इलेक्ट्रॉनिक या अन्य माध्यम से, क्षेत्रीय अनुसूचित रूप से एक अपील/विवाद 2017 की धारा 109 के तहत उच्चतम न्यायाधिकरण के समक्ष / क्षेत्र के क्षेत्राधिकार के संबंध में इन मामलों में, किसी भी अपील को जमा करने के बाद, अपील दावा कर सकता है। अपील प्रत्यर्थी की अपील प्रतिकूल मामले में के एक है, अपील, अपील प्राप्त 109 के तहत यांचे के बीच अनुसूचित / क्षेत्रीय न्यायाधिकरण के समक्ष प्राप्त की जा सकती है अपील के विवाद अपील दावा की जा रही है उसे अपीलकर्ता को संश्लेषित करने की दिशि से 3 (तीन) महीने के बाद अपील फाइलिंग शुरू करने के बाद की जाती है अपील / अपील की एक प्रमाणित प्रति, प्रति अनुसूचित की जा सकती है 110 (3) के तहत अपील प्रतिकूल रूप से एक अपील फाइलिंग शुरू करने के बाद, अपील पर दिया 26 के तहत निर्दिष्ट तरीके से हस्ताक्षर किए जाते हैं।</p>
3.	<p>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.</p> <p>किसी व्यक्ति को इस आदेश से असंतोष हो, वह अपील/विवाद 2017 के नियम 110 के तहत यांचे के बीच अनुसूचित रूप से एक अपील/विवाद 2017 की धारा 112 (1) के तहत इलेक्ट्रॉनिक या अन्य माध्यम से, क्षेत्रीय अनुसूचित रूप से एक अपील/विवाद 2017 की धारा 109 के तहत उच्चतम न्यायाधिकरण के समक्ष / क्षेत्र के क्षेत्राधिकार के संबंध में इन मामलों में, किसी भी अपील को जमा करने के बाद, अपील दावा कर सकता है। अपील प्रत्यर्थी की अपील प्रतिकूल मामले में के एक है, अपील, अपील प्राप्त 109 के तहत यांचे के बीच अनुसूचित / क्षेत्रीय न्यायाधिकरण के समक्ष प्राप्त की जा सकती है अपील के विवाद अपील दावा की जा रही है उसे अपीलकर्ता को संश्लेषित करने की दिशि से 3 (तीन) महीने के बाद अपील फाइलिंग शुरू करने के बाद की जाती है अपील / अपील की एक प्रमाणित प्रति, प्रति अनुसूचित की जा सकती है 110 (3) के तहत अपील प्रतिकूल रूप से एक अपील फाइलिंग शुरू करने के बाद, अपील पर दिया 26 के तहत निर्दिष्ट तरीके से हस्ताक्षर किए जाते हैं।</p>
	<p>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</p>

M/s. Nilgiri Estates, 2nd floor, 5-4-187/3 & 4, Soham Mansion, M.G. Road, Secunderabad - 500003. (GSTIN:36AAHFN0766P12A) (here in after referred to as 'the appellant') have filed an appeal bearing No.343/2024(SC)GST dated 27.08.2024

Appellant	M/s. Nilgiri Estates, 2nd floor, 5-4-187/3 & 4, Soham Mansion, M.G. Road, Secunderabad - 500003.
Respondent	The Assistant Commissioner of Central Tax, Secunderabad GST Division, Secunderabad GST Commissionerate.

CGST Act 2017 and signed in the manner specified in Rule 26.	
<p>where the appellant has filed an appeal against the order of the Appellate Tribunal 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 (Amendment) Order, 2019 dated 03.12.2019. It has been provided through the said Order that the appeal to the 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.</p>	
<p>Section 112 (5B) of the Act, inserted by the Finance Act, 2019, provides that where an order is issued by the Tribunal, the appellant shall be entitled to a refund of the tax paid under the order, if the appellant has filed an appeal against the order within the time specified in the Act. The appellant has filed an appeal against the order of the Tribunal under Section 112 (5B) of the Act, and the appellant is entitled to a refund of the tax paid under the order, if the appellant has filed an appeal against the order within the time specified in the Act.</p>	
<p>(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 (Amendment) Order, 2019 dated 03.12.2019. It has been provided through the said Order that the appeal to the 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.</p>	
<p>Section 112 (5B) of the Act, inserted by the Finance Act, 2019, provides that where an order is issued by the Tribunal, the appellant shall be entitled to a refund of the tax paid under the order, if the appellant has filed an appeal against the order within the time specified in the Act. The appellant has filed an appeal against the order of the Tribunal under Section 112 (5B) of the Act, and the appellant is entitled to a refund of the tax paid under the order, if the appellant has filed an appeal against the order within the time specified in the Act.</p>	
<p>In terms of Sec 112(3), 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(5), arising from the said order, in relation to which the appeal has been filed.</p>	
<p>Section 112 (1) of the Act provides that where an order is issued by the Tribunal, the appellant shall be entitled to a refund of the tax paid under the order, if the appellant has filed an appeal against the order within the time specified in the Act. The appellant has filed an appeal against the order of the Tribunal under Section 112 (1) of the Act, and the appellant is entitled to a refund of the tax paid under the order, if the appellant has filed an appeal against the order within the time specified in the Act.</p>	
<p>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 of the amount of fine, fee or penalty determined in the order appealed against, subject to a maximum of twenty-five thousand rupees.</p>	
<p>Section 112 (1) of the Act provides that where an order is issued by the Tribunal, the appellant shall be entitled to a refund of the tax paid under the order, if the appellant has filed an appeal against the order within the time specified in the Act. The appellant has filed an appeal against the order of the Tribunal under Section 112 (1) of the Act, and the appellant is entitled to a refund of the tax paid under the order, if the appellant has filed an appeal against the order within the time specified in the Act.</p>	
<p>No fee is payable in respect of the Memorandum of Cross Objections referred to in sub-section (5) of Sec 112 ibid.</p>	
<p>Section 112 (1) of the Act provides that where an order is issued by the Tribunal, the appellant shall be entitled to a refund of the tax paid under the order, if the appellant has filed an appeal against the order within the time specified in the Act. The appellant has filed an appeal against the order of the Tribunal under Section 112 (1) of the Act, and the appellant is entitled to a refund of the tax paid under the order, if the appellant has filed an appeal against the order within the time specified in the Act.</p>	
<p>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).</p>	
<p>Section 112 (1) of the Act provides that where an order is issued by the Tribunal, the appellant shall be entitled to a refund of the tax paid under the order, if the appellant has filed an appeal against the order within the time specified in the Act. The appellant has filed an appeal against the order of the Tribunal under Section 112 (1) of the Act, and the appellant is entitled to a refund of the tax paid under the order, if the appellant has filed an appeal against the order within the time specified in the Act.</p>	
<p>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.</p>	

against the Order-in-Original No. 23/2024-25-GST-ADJN dated:19.04.2024 (hereinafter referred to as "the impugned order") passed by 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 Notice dated 19.12.2023 was issued to the appellant for the period 2018-19 inter alia demanding GST of Rs.4,56,318/- for excess availment of ITC along with interest u/s 50 and penalty u/s 73(9) of CGST/SGST 2017.

After following the due procedure, the adjudicating authority passed the impugned order wherein the OAA had confirmed and appropriated the demand of confirmed the demand of interest) u/s 50 and imposed a penalty u/s 73(9) r/w.Sec122(2)(a) of the CGST/SGST Act, 2017.

GROUND OFS OF APPEAL:

3. Having been aggrieved by the impugned order, the appellant filed the present appeal inter-alia on the grounds that interest and penalty are to be waived u/s.128A and 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. Ms. Laxman Kumar, CA & Authorised representative of the appellant appeared for personal hearing held virtually on 18-02-2025 and explained the submissions made in the appeal and requested to allow the appeal. Further, he submitted that they would withdraw the appeal as it is a case of interest and penalty.

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 delayed by 39 days with condonation letter stating that after GST Council meeting due to delay in introduction of new section 128A, they were in a confused situation whether to file appeal or not and requested to condone the delay. Considering the reasons put forth by the appellant, the appeal is allowed under section 107(4) of the CGST Act, 2017.

7. The issue to be decided is whether the OAA is correct in confirming interest and imposition of penalty on belated payment of irregularly availed ITC. During the personal the authorised representative informed that they would withdraw the

appeal as they are eligible for waiver of interest and penalty u/s.128 of CGST Act, 2017. However, they failed to do the same till issuance of this order. In view, there is no reason to interfere with the decision of OAA as its legally correct & tenable. Hence, the decision of the OAA is upheld.

8. Further, I observe that the appellant is eligible to opt for waiver of interest and Penalty under Section 128A of the CGST Act, 2017 by complying with the outlined procedure for the same.

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

ORDER

The Appeal filed by the appellant is rejected as discussed above.



To
M/s. Nilgiri Estates, 2nd floor, S-4.187/3 & 4, Soham Mansion, M.G. Road, Secunderabad - 500003. (By Speed Post).

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

Copy Submitted to:

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

3. Master Copy.

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from
Office of the Commissioner of
Customs & Central Tax
Appellate-II Commissionerate
7th Floor, G-9, Chawari, L.B. Stadium Road,
Bachchan

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A/c No: 1742
Customer ID: 200 000 1681



Office of the Commissioner of
Customs & Central Tax
Apartment 11 Commissionerate
7th Floor GSI Bldg, L.B. Stadium Road
Bengaluru-560 004

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To,
कंपन म.अ.से.ए.
ON I.O.S. Only

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SPEED P

M/s. ~~XXXXXX~~ Nigro Estates
2nd floor, 5-4-187/3 and
Soham Mansion, M.B.R.
Bunderabed - 500003



केन्द्रीयकरसहायक आयुक्त कार्यालय, सिकंदराबादमाल एवम सेवाकर मण्डल,
सिकंदराबाद।

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

SALIKE 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/2916/2023-CGST-DIV-SNBD-COMMRTE-SECUNDERABAD

दिनांक/Date: 19.04.2024

DIN: 20240456YO000000E212

ORDER-IN-ORIGINAL No.23/2024-25 (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 के लिए बिना मूल्यके दीजाती है।

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, 7th floor, L.B. Stadium Road, Basheerbagh, Hyderabad-4.

कोई भी व्यक्ति जो केंद्रीयवस्तु एवम सेवा कर अधिनियम, 2017 की धारा 107 (1) के तहत, इस आदेश से दुखी होता हो तो 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 होने के तीन माह के अंदर अपील दर्ज कर सकता है।

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 के नियम 108 के तहत निर्धारित फॉर्म GST APL-01 में अपील दायर की जाएगी।

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

अपील का आधार और फॉर्म के सत्यापन के रूप में फॉर्म जीएसटीएपीएल 01 में निहित है, केंद्रीय सामान और सेवाकर नियम, 2017 के नियम 26 में निर्दिष्ट तरीके से हस्ताक्षर किए जाएंगे।

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 अधिनियम, 2017 के 108 के उपनियम 1 के तहत अपील करने के सात दिनों के भीतर आदेश की प्रमाणित प्रति प्रस्तुत की जाएगी।

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 सेवाकर अधिनियम, 2017 की धारा 107 (6) के अनुसार, अपीलकर्ता को केंद्रीयवस्तु एवम सेवाकर अधिनियम, 2017 की धारा 107 (1) के तहत कोई अपील दायर नहीं की जाएगी, जब तक कि अपीलकर्ता ने भुगतान नहीं किया है—



26/04/24

(ए) पूर्णरूपसे, लगाए गए आदेश से उत्पन्न कर, ब्याज, जुर्माना, शुल्क और जुर्माना की राशि का ऐसा हिस्सा, जैसा कि उसके द्वारा स्वीकार किया गया है; तथा

(बी) दस प्रतिशत के बराबर राशि। उक्त आदेश से उत्पन्न विवाद में कर की शेष राशि, जिसके संबंध में अपील दायर की गई है।

Sub: GST-On account of discrepancies observed during verification of Returns filed by M/S. NILGIRI ESTATES (GSTIN: 36AAHFN0766F1ZA) for the FY 2018-19- Order-in-Original – Regarding.

M/S NILGIRI ESTATES (here-in-after referred to as "Taxpayer"), situated at 2nd FLOOR, 5-4-187/3 AND 4, SOHAM MANSION, MG ROAD, SECUNDERABAD, Rangareddy, Telangana, 500003, is registered with the Centre GST Department with (GSTIN: 36AAHFN0766F1ZA) for the purpose of payment of GST and falls under the jurisdiction of Ramgopalpet-II CGST Range, Secunderabad GST Division, Secunderabad GST Commissionerate. Their business activities are 'WORKS CONTRACT SERVICES (HSNs- 00440334, 00440410).

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. 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.

2.2. 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 27,66,974/-** 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	6384137.00	6384137.00	12768274.00
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

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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)		6384137.00	6384137.00	12768274.00
7	Less Total tax paid in cash	9	0.00	0.00	0.00
8	Less Tax paid by adjustment of ITC	9	5000650.00	5000650.00	10001300.00
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)		1383487.00	1383487.00	2766974.00

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

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

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

- Scrutiny of ITC availed:

Amt in Rs.

S.N o	Description	SGST	CGST	Total
1	2	3	4	5
1	ITC in the year as per Table 8A of GSTR-09	6803981.00	6803981.00	13607962.00
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)	6803981.00	6803981.00	13607962.00
9	ITC used in same year as per 4C of GSTR-3B	7607458.00	7607458.00	15214916.00
10	Net excess used (S.No 9-8)	803477.00	803477.00	1606954.00

ISSUE 3. Scrutiny of ITC reversals:

S.N o	Description	SGST	CGST	Total
1	2	3	4	5
1	ITC reversed in Table 4(B) of GSTR-3B	0.00	0.00	0.00
2	ITC reversed in Table 7(I) of GSTR-09	228159.00	228159.00	456318.00
3	Excess ITC reversal showing in GSTR-09 as completed the GSTR-3B (S.No 2-1)	228159.00	228159.00	456318.00

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From the above taxpayer has declared excess ITC reversal in GSTR 9 compared to ITC reversed in table 4(B) of GSTR-3B as detailed in table above.

Therefore, excess ITC of Rs. 20,63,272/- availed is required to be recovered 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.

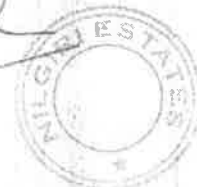
TOTAL TAX PAYABLE SUMMARY				
Sl. No.	Issue	SGST	CGST	Total
1	2	3	4	5
1	Total Tax due for issues 1 to 2.	2415123.00	2415123.00	4830246.00
2	Interest	In terms of Section 50 of the CGST Act, 2017		
3	Penalty	In terms of Section 73 of the CGST Act, 2017		

4. The DRC 01A vide DIN: 20231256Y00000888A4D dated 19.12.2023 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. In view of the above, **M/S NILGIRI ESTATES** (here-in-after referred to as "Taxpayer"), situated at 2nd FLOOR, 5-4-187/3 AND 4, SOHAM MANSION, MG ROAD, SECUNDERABAD, Rangareddy, Telangana, 500003, was issued a Show Cause Notice answerable to the Assistant/Deputy Commissioner of Central Tax, Secunderabad Division, Salike Senate, 1st Floor, D. No. 2-4-416 & 417, Ramgopalpet, MG Road, Secunderabad 500003 within thirty days (30) from the date of issue of this notice as to why: -

- (i) an amount of Rs.27,66,974/- [Rs.13,83,487/-CGST and Rs.13,83,487/-SGST] (Rupees Twenty Seven Lakhs Sixty Six Thousand Nine Hundred and Seventy Four only), as discussed supra in Para 2 should not be demanded from them under Section 73(1) of the CGST Act, 2017 and similar provisions as laid in the TGST Act, 2017 read with Section 20 of IGST Act, 2017.
- (ii) an amount of Rs. 20,63,272 /- [Rs.10,31,636/- CGST and Rs.10,31,636/- SGST] (Rupees Twenty Lakhs Sixty Three Thousand Two Hundred and Seventy Two only), as discussed supra in Para 3 should not be demanded from them under Section 73(1) of the CGST Act, 2017 and similar provisions as laid in the TGST Act, 2017 read with Section 20 of IGST 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 read with Section 20 of IGST Act and similar provisions under TGST Act, 2017.

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- (iv) penalty should not be imposed on them demands at (i) & (ii) above under Section 73 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

6. Reply to Show Cause Notice

The TP has submitted their reply to the SCN on 16.02.2024. The tax payer in his reply stated that in respect of:

6.1 Issue-1: Under declaration of output tax

The taxpayer Submitted that the alleged difference of output tax liability was factually incorrect and wherever there was short payment, it was paid voluntarily. The actual difference was quite less than the amount arrived in the impugned SCN. The detailed explanation was already made to the previous SCN which may be considered here also.

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

The taxpayer 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 to non-reflection of invoices in GSTR2A as all the conditions specified under Section 16 have been satisfied. The taxpayer 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: Scrutiny of ITC Reversals:

The tax payer submitted, they have reversed the said ITC of Rs. 4,56,318/- (CGST: Rs.2,28,159/- SGST: Rs.2,28,159/-) vide DRC dated 07.01.2020 under Debit Entry DI3601200012760 and DRC dated 16.10.2020 under debit entry DI3610200050832 and requested to drop further proceedings.

7. Personal Hearing:

7.1 A Personal Hearing was fixed on 25.01.2024, 13.02.2024 & 27.02.2024 and intimated to the tax payer. Shri Srimannarayana, authorized representative of the company has attended the PH 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

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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 three issues before me to decide. I shall take up the aforesaid issues one by one for discussion.

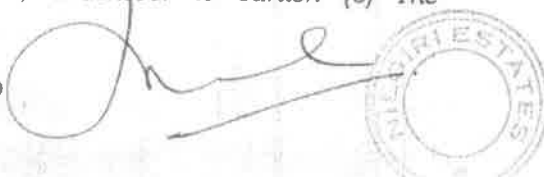
9. Issue-1: Under declaration of output tax

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 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]

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, 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

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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 sub-section (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.

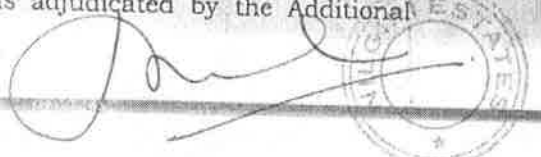
Section 49. Payment of tax, interest, penalty and other amounts.-

(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.

9.1. In the instant case, a show cause notice was issued on the same issue, by the Additional Commissioner, Hyderabad Audit II Commissionerate vide Show Cause No. 06/23-24 dated 19.05.2023 under C.No.V/Audit-II/C-I/28/2021-22/Gr-15. The said Show Cause Notice was adjudicated by the Additional

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Commissioner, Secunderabad GST Commissionerate vide OIO No. 28/2023-24 (Sec-Adjn-ADC)(GST) Dated 12.10.2023. In view of the above, it is proposed to drop the proceedings initiated in the show cause notice.

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

In the instant case, a show cause notice was issued by the Hyderabad Audit II Commissionerate issued by the Additional Commissioner vide Show Cause Notice No. 06/23-24 dated 19.05.2023 under C.No.V/Audit-II/C-I/28/2021-22/Gr-15. The said Show Cause Notice was adjudicated by the Additional Commissioner, Secunderabad GST Commissionerate vide OIO No. 28/2023-24 (Sec-Adjn-ADC)(GST) Dated 12.10.2023.

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

11. Issue-3: Scrutiny of ITC reversals:

In the instant case, the tax payer submitted that they have reversed the said ITC of **Rs. 4,56,318/- (CGST: Rs.2,28,159/- SGST: Rs.2,28,159/-)** vide DRC dated 07.01.2020 under Debit Entry DI3601200012760 and DRC dated 16.10.2020 under debit entry DI3610200050832 and requested to drop further proceedings. The same has to be appropriated. However, interest under Section 50 and Penalty under 73 read with Section 122(2)(a) of CGST Act, 2017 is recoverable.

12. 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 TGST Act, 2017.

13. 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 drop the proceedings initiated in the show cause under **Issue-1** in view of the discussions and findings in **Para 9** above.
- (ii) I drop the proceedings initiated in the show cause under **Issue-2** in view of the discussions and findings in **Para 10** above.
- (iii) I confirm the demand of **Rs. 4,56,318/- (CGST: Rs.2,28,159/- SGST: Rs.2,28,159/-) (Rupees Four Lakh Fifty Six Thousand Three Hundred and Eighteen Only)**, in respect of Issue-3, as

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discussed supra in Para -11 under Section 73(9) of the CGST Act, 2017 and similar provisions as laid down in the TGST Act, 2017 read with Section 20 of IGST Act, 2017.

- (iv) I appropriate the amount of Rs. 4,56,318/- (CGST: Rs.2,28,159/- SGST: Rs.2,28,159/-) (Rupees Four Lakh Fifty Six Thousand Three Hundred and Eighteen Only) which was already paid by them vide DRC dated 07.01.2020 under Debit Entry No. DI3601200012760 and DRC dated 16.10.2020 under debit entry no. DI3610200050832 towards duty confirmed at Sl.No. (iii) above, under Section 73(9) of the CGST Act, 2017 and similar provisions as laid down in the TGST Act, 2017 read with Section 20 of IGST Act, 2017
- (v) I confirm the demand of interest at the applicable rate from them on tax demanded at (iii) above under Section 50 of CGST Act, 2017 read with Section 20 of IGST Act and similar provisions under TGST Act, 2017.
- (vi) I confirm the demand of penalty from them on the demand at (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

3-12-24/2024-25 (GST-Adjn) dated 19/04/2024

(आर.सत्यनारायण)/(R.SATYANARAYANA)

सहायक आयुक्त/Assistant Commissioner

सिकंदराबाद मण्डल/ Secunderabad GST Division

To

M/S NILGIRI ESTATES

2nd FLOOR, 5-4-187/3 AND 4,

SOHAM MANSION, MG ROAD, SECUNDERABAD.

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-II Range, Secunderabad GST Division - For information.

Office copy & Master file.

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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 :

Date :16/10/2020

1.	GSTIN		36AAHFN0766F1ZA								
2.	Name		NILGIRI ESTATES								
3.	Cause of Payment		Voluntary								
4.	Section under which voluntary payment is made		73(5)								
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 applicable	Others	Total	Ledger utilised (Cash/credit)	Debit entry no.	Date of debit entry
1.	APR 2018-MAR 2019	CGST	Telangana	6,464.00	0.00	0.00	0.00	6,464.00	Credit	DI3610200050832	16/10/2020
2.	APR 2018-MAR 2019	SGST	Telangana	6,464.00	0.00	0.00	0.00	6,464.00	Credit	DI3610200050832	16/10/2020

8. Reasons, if any -
ITC excess availed reversed

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: Managing Partner

Date: 16/10/2020

DR C-03

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 :AD360120000820Z

Date :07/01/2020

1.	GSTIN	36AAHFN0766F1ZA									
2.	Name	NILGIRI ESTATES									
3.	Cause of Payment	Voluntary									
4.	Section under which voluntary payment is made	73(5)									
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 applicable	Others	Total	Ledger utilised (Cash/credit)	Debit entry no.	Date of debit entry
1.	SEP 2018-SEP 2018	CGST	Telangana	221,695.00	0.00	0.00	0.00	221,695.00	Credit	DI3601200012760	07/01/2020
2.	SEP 2018-SEP 2018	SGST	Telangana	221,695.00	0.00	0.00	0.00	221,695.00	Credit	DI3601200012760	07/01/2020

8. Reasons, if any -

Input Tax Credit excess availed in Sep-2018. Now Reversed through DRC-03.

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: Managing Partner

Date: 07/01/2020

DRC-03

HIGH COURT FOR THE STATE OF TELANGANA : HYDERABAD

MAIN CASE NO: W.P.No.17018 of 2025

PROCEEDING SHEET

SL. NO	DATE	ORDER	OFFICE NOTE
1.	20.06.2025	<p><u>HACJ (SP,J) & RY,J</u></p> <p>Heard Sri Venkata Prasad P., learned counsel for the petitioner.</p> <p>The matter is arguable and accordingly, Sri Dominic Fernandes, learned Senior Standing Counsel for CBIC, for respondent Nos.1 to 4 and Sri B. Mukherjee, learned counsel representing Sri Gadi Praveen Kumar, learned Deputy Solicitor General of India, for respondent No.5, are directed to take notice and seek instructions.</p> <p>On the question of interim relief, learned counsel for the petitioner submits that the Order-in-Original (OIO) was passed on 19.04.2024 which was assailed by the Department in the instant appeal. Because of some confusion, the petitioner could not participate in the appeal proceedings. Learned appellate authority, in view of contentions raised in the appeal memo, allowed the appeal without dealing with the merits of the case. The impugned appellate order dated 27.03.2025 is not a reasoned order. The appellate authority has only assigned his "conclusion" which is not founded upon any "reasons". The petitioner, as per the said OIO, is entitled to prefer an application under the Amnesty Scheme, for which last date of</p>	Transferred to IO Folder before corrections.

SL. NO	DATE	ORDER	OFFICE NOTE
		<p>submission is 30.06.2025. A <i>prima facie</i> case is made out to show that the appellate order is not a reasoned order.</p> <p>Considering the aforesaid, it is directed that if the petitioner prefers an application under the Amnesty Scheme on or before the last date i.e. 30.06.2025, the said application shall be considered by the respondents and such consideration shall be subject to final outcome of the writ petition.</p> <p>List this matter on 07.07.2025 for further consideration/final disposal.</p> <p style="text-align: right;">HACJ (SP,J)</p> <p style="text-align: right;">RY,J</p> <p>Myk/tsr</p>	



केन्द्रीय करउप/सहायक आयुक्त का कार्यालय,
सिकंदराबाद माल एवम सेवा कर मण्डल
**OFFICE OF THE DEPUTY/ASSISTANT COMMISSIONER OF CENTRAL TAX,
SECUNDERABAD GST DIVISION.**
"सलीक सीनेट", गेट नं: 416-4-28 & 417, रामगोपालपेट, एम. जी. रोड सिकंदराबाद
'SALIK SENATE', Door No. 2-4-416 & 417, RAMGOPALPET, MG ROAD,
SECUNDERABAD - 500003
Contact No. 7901243130 Email- cgst.secdiv@gov.in

C.No: V/04/42/2025-Waiver-Arrears

Date: 13.11.2025

FORM GST- SPL-03

Notice in response to an application filed under Section 128A

[See Rule 164(8)]

To,
M/s. Nilgiri Estates,
GSTIN: 36AAHFN0766F1ZA,
2nd Floor, 5-4-187/3 and 4,
Soham Mansion, MG Road,
Secunderabad, Rangareddy,
Telangana, 500003

Sir,

Subject: Notice in response to application filed under Section 128A of CGST Act, 2017

- Reg.

Whereas, you have submitted an application under Section 128A, declaring your outstanding dues and seeking waiver of interest and penalty in the Form GST SPL-02 bearing ARN No. AD360625020255A dated. 24.06.2025 against Order-in-Appeal No. HYD-GST-SC-AP2-1062-24-25-GST dated. 25.03.2025 with respect to Order-in-Original No. 23/2024-25-Adjn (GST) dated. 19.04.2024 issued by Assistant Commissioner of Central Tax, Secunderabad Division.

2. Upon verification of your application and the details provided therein, your application is liable to be rejected for the following reason:

(i) It is observed that Order-in-Appeal No. HYD-GST-SC-AP2-1123-24-25-GST dated. 27.03.2025 passed by Additional Commissioner, Appeals-II Commissioner, Hyderabad by upheld tax amount Rs. 43,73,928/- (CGST of Rs. 21,86,964/- and SGST of Rs. 21,86,964/-) which was dropped in the Order-in-Original No. 23/2024-25-Adjn (GST) dated. 19.04.2024 by the adjudicating authority. In this regard, the total tax amount payable has revised to Rs. 48,30,246/- (CGST of Rs. 24,15,123/- and SGST of Rs. 24,15,123/-) in respect of Order-in-Original No. 23/2024-25-Adjn (GST) dated. 19.04.2024. However, it is observed that you have paid Rs. 4,56,318/- (CGST of Rs. 2,28,159/- and SGST of Rs. 2,28,159/-) only. As the full amount of tax payable as per the notice or statement or the order has not paid by you as prescribed in Sub-section (1) of Section 128A of CGST Act, 2017 read with Circular No. 238/32/2024-GST dated. 15.10.2024, the SPL-02 application cannot be considered for sanction.

(ii) Further, It is observed that you have filed Writ Petition on 02.05.2025 before Hon'ble High Court against the Order-in-Appeal No. HYD-GST-SC-AP2-1123-24-25-GST dated. 27.03.2025 passed by Additional Commissioner, Appeals-II Commissioner, Hyderabad in relation to Order-in-Original No. 23/2024-25-Adjn (GST) dated. 19.04.2024. Since, you have not withdrawn the said writ petition as required in terms of Sub-Section (3) of Section 128A of Central Tax, 2017 read with Circular No. 238/32/2024-GST dated. 15.10.2024 as issued by CBIC, the SPL-02 application cannot be considered for sanction.

3 You are hereby required to show cause on or before 24.11.2025, along with necessary documents in FORM GST SPL-04, to support your claim, as to why your SPL-02 application vide ARN AD360625020255A dated. 24.06.2025 should not be rejected.

4. You are also granted an opportunity for a personal hearing on 24.11.2025 at 15.00 PM. You may appear in person or through an authorized representative to present your case before Assistant Commissioner of Central Tax, Secunderabad Division.

Ajay
13/11/25

(पी. अजय कुमार)/(P. AJAY KUMAR)
सहायक आयुक्त/Assistant Commissioner
सिकंदराबाद मण्डल/ Secunderabad GST Division