DIN-20200556YS00003PC2EB

केन्द्रीय कर आयुक्त का कार्यालय :: लेखा आयुक्तालय-II
1-98/B/20, 21 :: कृतिका लेआउट :: हाइटेक सिटी :: हैदराबाद – 81
OFFICE OF THE COMMISSIONER OF CENTRAL TAX :: AUDIT-II COMM'ATE
1-98/B/20, 21 :: KRITHIKA LAYPUT :: HITECH CITY :: HYDERABAD - 81

C.No.Audit/CR-I/10/2017-18/**SAG-14** Date: 05.05.2020

MODI PROPERTIES PVT. LTD. SEC'BAD
INWARD
No. 07
Date 19/05/2
Sign

To,
M/s. B & C Estates,
5-4-187/3 & 4, Soham Mansion,
M.G.Road, Raniganj,
Secunderabad, Telangana – 500003.
Ph: 040-27845400, 32125400.

Sir,

Sub: EA-2000 Excise Audit conducted on the accounts of M/s. B&C Estates for the period 04/2013 to 06/2017 – Communication of Final audit Report - Reg.

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Please find enclosed herewith the Final Audit Report No. 797/2019-20 dated 05.05.2020 of Service Tax Audit conducted on the accounts of M/s. B&C Estates (STC No.AAHFB7046ASD001) for the period April, 2013 to June, 2017.

Yours faithfully,

RK Vidyarthi
05/5/2020

Encl: As above.

(RAJESH KUMAR VIDYARTHI)
SUPERINTENDENT, SAG-14
CIRCLE-I, AUDIT II COMM'ATE

DIN-20200556YS00003PC2EB

केन्द्रीय कर आयुक्त का कार्यालय :: लेखा आयुक्तालय-II
1-98/B/20, 21 :: कृतिका लेआउट :: हाइटेक सिटी :: हैदराबाद – 81
OFFICE OF THE COMMISSIONER OF CENTRAL TAX :: AUDIT-II COMM'ATE
1-98/B/20, 21 :: KRITHIKA LAYPUT :: HITECH CITY :: HYDERABAD - 81

C.No.Audit/CR-I/10/2017-18/**SAG-14** Date: 05.05.2020

अनुलंग्क ANNEXURE – X
अंतिम लेखा परीक्षा रिपोर्ट सं. Final Audit Report No. 797 / 2019-20

भाग – *I Part – I*

1.	करदाता का नाम व पता Name & Address of the Taxpayer	M/s. B & C Estates, 5-4-187/3 & 4, Soham Mansion, M.G.Road, Raniganj, Secunderabad, Telangana – 500003. Ph: 040-27845400, 32125400.
2.	मुख्य कार्यालय, क्षेत्रीय/शाखा कार्यालय आदि Head Office, Regional/ Branch Offices etc	M/s. B & C Estates, 5-4-187/3 & 4, Soham Mansion, M.G.Road, Raniganj, Secunderabad, Telangana – 500003. Ph: 040-27845400, 32125400.
3.	कर दाता की स्थिति Status of the taxpayer	Medium Scale Tax Payer
4.	अधिकार क्षेत्र आयुक्तालय / मण्डल/ रेंज Jurisdictional Commissionerate/ Division/ Range	Secunderabad Commissionerate, Secunderabad GST Division, Ramgopalpet-I Range
5.	केन्द्रीय उत्पाद एवं सेवा कर निबंधन सं. Central Excise & Service Tax Registration No.	STC No. AAHFB7046ASD001
6.	विनिर्मित उत्पादों का विवरण Description of Service rendered	1.Construction of Residential Complex Service
7.	अगर छूट का दावा किया गया है तो उसकी छूट अधिसूचना सं और प्रभावी तिथि तथा उसका सार Exemption Notification No. and its effective date along with gist of exemption notification in case exemption is claimed	NIL
8.	अंतिम लेखा परीक्षा की तिथि Date of last audit	First Audit

9.	अवधि जिसके लिए वर्तमान लेखा परीक्षा की गई Period for which current Audit undertaken	April, 2013 to June, 2017
10.	लेखा परीक्षा की तारीखें Dates on which audit undertaken	06.11.2019, 18.11.2019, 21.11.2019 & 03.12.2019
11.	लेखा परीक्षकों के नाम Names of the Auditors	सर्वश्री / श्री S/Shri 1. K.S.Subba Rao, Superintendent 2. Rajesh Kumar Vidyarthi, Inspector
12.	राजस्व पैराओं की सं. No. of Revenue Paras	5
13.	प्रक्रियात्मक पैराओं की सं. No. of procedural Paras	Nil
14.	लेखा परीक्षा पैराओं में शामिल कुल राजस्व Total Revenue involved in audit Paras	Rs.26,59,594/-

लेखा परीक्षा के परिणाम का सारांश SUMMARY OF AUDIT RESULTS

[लेखा परीक्षा के दौरान चिन्हित महत्वपूर्ण व ठोस गैर अनुपालना मामलों की रूपरेखा प्रदान करें]
[PROVIDE AN OUTLINE OF IMPORTANT AND MATERIAL NON COMPLIANCE ISSUES IDENTIFIED DURING THE AUDIT]

महत्वपूर्ण व ठोस गैर-अनुपालना के चिन्हित किए गए मामले और उनपर करदातों की प्रतिक्रिया निम्न सारणी में दी गई है ।
The important and material non-compliance issues identified and reaction of the tax payer is indicated in the table given below:-

ऑडिट पैरा सं. Audit Para No.	आपत्तियों का सार Gist of objections Attested write-up/workings may be enclosed if warranted	राजस्व संलिप्तता, यदि कोई (रु. में) Revenue Implications, If any (in Rs.)	करदाता की सहमति हाँ/नहीं, यदि नहीं, असहमति का कोई कारण हो तो Tax payer's Agreement Yes/No, If no, reasons for disagreement	विभाग का निष्कर्ष कारण सहित Department's conclusion with reasons; MMC date & decision
1	Delay in filing of ST-3 Returns	Late Fee: Rs.21,500/-	Partially agreed but not paid.	**Admitted in MMCM held on 03.01.2020 and SAG was directed to recover Late Fee or issue SCN.**
2	Short/Non payment of interest on delayed payment of Service Tax	Int: Rs.4,93,498/- Pnt: Rs.10,000/-	Not agreed	**Admitted in MMCM held on 03.01.2020 and SAG was directed to recover interest along with penalty u/s 77(2) of FA, 1994 or issue SCN.**

3	Non-payment of Service Tax on Legal Consultancy Service under Reverse Charge	ST: Rs.30,608/- Pnt: As applicable Int: As applicable	Not agreed	**Admitted in MMCM held on 03.01.2020 and SAG was directed to recover duty along with interest and penalty or issue SCN.**
4	Non-payment of Service Tax on Transportation Charges under GTA Service	ST: Rs.41,158/- Pnt: As applicable Int: As applicable	Not agreed	**Admitted in MMCM held on 03.01.2020 and SAG was directed to recover duty along with interest and penalty or issue SCN.**
5	Reversal of Cenvat Credit on Input Services under Rule 6(3) of Cenvat Credit Rules, 2004	ST: Rs.20,62,830/- Pnt: As applicable Int: As applicable	Not agreed	**Admitted in MMCM held on 03.01.2020 and SAG was directed to recover duty along with interest and penalty or issue SCN.**
	Total	**Rs.26,59,594/-**		

<u>01. Delay in filing of ST-3 Returns:</u>

During the course of audit, it was observed that half-yearly ST-3 Returns had been belatedly filed during the period as given in the table below. It was further observed that in some cases Late Fee had been fully or partially paid by the assessee. However, there is short payment of such Late Fee due. The details of short payment, not payment or excess payment of Late Fee on delayed filing of ST-3 Returns for the period from 04/2014 to 06/2017 are as follows:

Sl. No.	Period of ST-3s	No. of Days (Delay)	Late Fee Payable	Late Fee Paid	Late Fee Dues
1.	Apr – Sep, 2013	21	Rs.500/-	NIL	Rs.500/-
2.	Oct – Mar, 2015	34	Rs.1,400/-	Rs.1,200/-	Rs.200/-
3.	Apr – Sep, 2015	104	Rs.8,400/-	Rs.2,300/-	Rs.6,100/-
4.	Oct – Mar, 2016	62	Rs.4,200/-	Rs.4,500/-	(-) Rs.300/-
5.	Oct – Mar, 2017	380	Rs.20,000/-	Rs.25,000/-	(-) Rs.5,000/-
6.	Apr – Jun, 2017	274	Rs.20,000/-	NIL	Rs.20,000/-
				TOTAL =	**Rs.21,500/-**

Hence, it was requested to pay an amount of Rs.21,500/- as Late Fee under Section 70 of Finance Act, 1994 read with Rule 7 of Service Tax Rules, 2004.

On being pointed out, the assessees partially agreed to the contention of the Audit but they have not paid so far. **The Para has been admitted in MMCM held on 03.01.2020 and SAG was directed to recover Late Fee or issue SCN.**

02. Short/Non payment of interest on delayed payment of Service Tax:

During the verification of records and ST-3s, it was noticed that there was delay in payment of service tax during the financial years as given in the table below. It was further observed that in some cases interest had been paid by the assessee. However, there is short payment of such interest due. The details of short payment or non payment of interest on delayed payment of Service Tax for the period from 04/2014 to 06/2017 are as follows:

Sl. No.	Period of ST-3s	Interest Payable	Interest Paid	Interest Due
1.	Oct – Mar, 2014	Rs.19,778/-	Rs.16,062/-	Rs.3,716/-
2.	Apr – Sep, 2015	Rs.56,638/-	Rs.42,338/-	Rs.14,300/-
3.	Oct – Mar, 2016	Rs.1,59,792/-	Rs.1,30,902/-	Rs.28,890/-
4.	Apr – Sep, 2016	Rs.1,30,066/-	Rs.84,416/-	Rs.45,650/-
5.	Oct – Mar, 2017	Rs.1,33,914/-	Rs.49,708/-	Rs.84,206/-
6.	Apr – Jun, 2017	Rs.10,314/-	Rs.3,27,050/-	Rs.3,16,736/-
			TOTAL =	**Rs.4,93,498/-**

Hence, it was requested to pay the short payment of interest amount to the tune of **Rs.4,93,498/-** under Section 75 of Finance Act, 1994 wherein the rate of interest is applicable in terms of Notification No.14/2011-ST dated 01.03.2011 w.e.f. 01.04.2011 as amended vide Notification No.12/2014-ST dated 11.07.2014 w.e.f. 01.10.2014 and further amended vide Notification No.13/2016-ST dated 01.03.2016 w.e.f. 14.05.2016.

On being pointed out, the assessees have not agreed to the contention of the Audit. **The Para has been admitted in MMCM held on 03.01.2020 and SAG was directed to recover interest along with a penalty of Rs.10,000/- under Section 77(2) of Finance Act, 1994 or issue SCN.**

03. Non-payment of Service Tax on Legal Consultancy Service under Reverse Charge:

During the course of audit and verification of ledgers with ST-3 Returns, it was observed that an expenditure of Rs.89,315/- in the F.Y. 2014-15, Rs.84,062/- in the F.Y. 2015-16, Rs.45,150/- in the F.Y. 2016-17 and Rs.4,050/- in the F.Y. 2017-18 (upto June, 2017) was incurred towards Legal Expenses and no Service

Tax was paid on such expenditure. M/s. B&C Estates being a Partnership Firm, Service Tax under partial reverse charge under proviso to Section 68(2) of Finance Act, 1994 in terms of Notification No. 30/2012 dated 20.06.2012 to the extent of service tax is payable by the person who receives the service as per Sl. No.5 of Table of the above said notification. In the instant case M/s. B&C Estates being the service recipient, Service Tax is to be paid by M/s. B&C Estates.

Hence, it was requested that Service Tax on above amount to the tune of Rs.11,039/- @12.36% for the F.Y. 2014-15, Rs.12,189/- @14.50% for the F.Y. 2015-16, Rs.6,772/- @15.00% for the F.Y. 2016-17 and Rs.608/- @15.00% for the F.Y. 2017-18 (upto June, 2017) totaling to Rs.30,608/- to be paid along with applicable interest and penalty under Section 75 & 78 of Finance Act, 1994.

On being pointed out, the assessees have not agreed to the contention of the Audit. **The Para has been admitted in MMCM held on 03.01.2020 and SAG was directed to recover interest along with a penalty of Rs.10,000/- under Section 77(2) of Finance Act, 1994 or issue SCN.**

04. Non-payment of Service Tax on Transportation Charges under GTA Service:

During the course of audit and verification of ledgers with ST-3 Returns, it was observed that an expenditure of Rs.4,52,017/- in the F.Y. 2014-15, Rs.2,51,980/- in the F.Y. 2015-16, Rs.2,89,044/- in the F.Y. 2016-17 and Rs.71,605/- in the F.Y. 2017-18 (upto June, 2017) was incurred towards Transportation Charges and no Service Tax was paid on such expenditure. M/s. B&C Estates being a Partnership Firm, Service Tax under partial reverse charge under proviso to Section 68(2) of Finance Act, 1994 in terms of Notification No. 30/2012 dated 20.06.2012 to the extent of service tax is payable by the person who receives the service as per Sl. No.2 of Table of the above said notification after availing abatement as per Sl. No.7 of Notification No. 26/2012 dated 20.06.2012 as amended vide Notification No.8/2016-ST dated 01.03.2016 w.e.f. 01.04.2016 wherein the rate of abatement is reduced from 75% to 70%. In the instant case M/s. B&C Estates being the service recipient, Service Tax is to be paid by M/s. B&C Estates.

Hence, it was requested that the Service Tax after proper abatement on above amount to the tune of Rs.13,967/- @12.36% for the F.Y. 2014-15, Rs.10,961/- @14.50% for the F.Y. 2015-16, Rs.13,007/- @15.00% for the F.Y. 2016-17 and Rs.3,223/- @15.00% for the F.Y. 2017-18 (upto June, 2017) totaling to Rs.41,158/- to be paid along with applicable interest and penalty under Section 75 & 78 of Finance Act, 1994.

On being pointed out, the assessees have not agreed to the contention of the Audit. **The Para has been admitted in MMCM held on 03.01.2020 and SAG was directed to recover duty along with applicable interest and penalty or issue SCN.**

05. Reversal of Cenvat Credit on Input Services under Rule 6(3) of Cenvat Credit Rules, 2004:

During the course of audit and verification of ledgers with ST-3 Returns, it was observed that Service Tax is being discharged on taxable services viz, construction of residential complex services provided on the amounts received against the flats which were sold before the receipt of occupation certificate. It was also observed that certain amounts were deducted from the value of taxable services as exempted service. Upon enquiry, a statement showing the details of flats sold after receipt of OC i.e. Occupancy Certificate. Perusal of the statement reveals that 07 flats were sold after receipt of OC during the period 01.01.2014 to 30.06.2017. The total receipt from the sale of the above 07 flats is Rs.2,94,69,000/-. No Service Tax was paid on the consideration received from the sale of the above flats.

From the scrutiny of the ST3 returns and invoices on which input service credit was availed it appears that Cenvat Credit of Service Tax paid on common input services like Architect, Security Services, Professional Charges, have been availed for provision of both taxable and exempted services. It was observed that though both taxable and exempted services were provided no option has been exercised by M/s B&C Estates as provided under Rule 6(3)A of the Cenvat Credit Rules, 2004.

In terms of Rule 6(3) of the Cenvat Credit Rules, 2004, where a person is engaged in provision of both taxable and exempted services and avails Cenvat Credit on input services which are common to both taxable and exempted services, the service provider has the option to reverse that portion of the Cenvat Credit attributable to exempted service or pay 7% of the value of exempted services. In the instant case M/s B&C Estates have not exercised their option from the above two. Since M/s B&C have provided both taxable and exempted services and have not followed the procedure prescribed under Rule 6(3) of the Cenvat Credit Rules, 2004, they are liable to pay an amount of Rs.20,62,830/- which is equal to the 7% on the total sale consideration received from the sale of the above 7 flats. They are also required to pay appropriate interest and penalty under Section 75 and 78 of the Finance Act, 1994. Hence, it was requested to pay the Service Tax amount of Rs.20,62,830/- along with interest from the date of utilization and penalty under

Section 75 & 78 of Finance Act, 1994 read with Rule 14 of Cenvat Credit Rules, 2004.

On being pointed out, the assessees have not agreed to the contention of the Audit. **The Para has been admitted in MMCM held on 03.01.2020 and SAG was directed to recover duty along with applicable interest and penalty or issue SCN**

Procedural Paras / Advisory Note: NIL

शिव नारायण
05/05/2020

(SHIV NARAYAN)
JOINT COMMISSIONER
CIRCLE–I, AUDIT II

Copy to:

1. M/s. B&C Estates, 5-4-187/3 & 4, Soham Mansion, M.G.Road, Raniganj, Secunderabad, Telangana – 500003.

2. The Assistant / Deputy Commissioner of Central Tax, MIS-I / MIS-II Section, Audit II Commissionerate, Hyderabad.

3. The Assistant/Deputy Commissioner of Central Tax, Secunderabad GST Division, Salike Senate, D.No.2-4-416 & 417, Ramgopalpet, M.G.Road, Secunderabad - 500003 for information and necessary action.

4. The Superintendent of Central Tax, Ramgopalpet - I Range, Secunderabad GST Division, Salike Senate, D.No.2-4-416 & 417, Ramgopalpet, M.G.Road, Secunderabad - 500003 for information and necessary action.

Copy Submitted to:
The Additional Director General (Audit, Hyderabad Zone), Indirect Taxes and Customs, Audit Bhavan, Plot No.92, Avanti Nagar, Basheerbagh, Hyderabad – 500029.