



माल एवं सेवाकर (जी.एस.टी.) के आयुक्त का कार्यालय
OFFICE OF THE COMMISSIONER OF GOODS AND SERVICES TAX (GST)
एन-5 टाउन सेंटर, सिडको, औरंगाबाद - 431003
N-5 TOWN CENTRE, CIDCO, AURANGABAD - 431 003
दूरभाष / Phone : 0240-2484975 फ़ैक्स / FAX : 0240-2483303
वेबसाइट/Website : <http://www.centralexciseaurangabad.gov.in> ई-मेल / e-mail : cexauran@excise.nic.in

DIN-20201266VJ000081853E

To,

M/s. Jubilant Logistics Limited,
Gut No.84 Nr. Videocon Industries,
Paithan Road, Chitegaon,
Aurangabad, MAHARASHTRA.

DIN NO.

SHOW CAUSE CUM DEMAND NOTICE

(Sr. No. 66 /TPI/SCN/ST/JC/20-21 dated)

M/s. Jubilant Logistics Limited, Gut No.84 Nr Videocon Industries, Paithan Road, Chitegaon, Aurangabad, MAHARASHTRA holding Service Tax Registration No. AADCJ3081ESD002 (hereinafter referred to as "the noticee") are engaged in providing/receiving taxable services covered under the erstwhile Finance Act, 1994 (hereinafter referred to as "the Act").

2. As per the Third Party Data of Income Tax Department viz. AURANGABAD_ST_Mismatch_With_Similar_Pan_of_ITR_TDS No. 3, it was observed that the noticee had shown expenditure of Rs.34,20,47,642/- towards receipt of various services for the Financial Year 2014-15.

Further as per the available records, it is noticed that noticee has not filed ST-3 Return for the period Apr-14 to Sept-14 and filed ST-3 Return for the period Oct-14 to Mar-15 on 20.04.2015 and declared Value of service received in ST-3 Return as under:

Sr.No.	Name of Service Received	Amount declared in ST-3
1	Security/Detective agency service	8049196
2	Manpower recruitment/supply agency service	22619035

3	GTA	203081687
4	Business Support Service	0
5	Renting of immovable Property Service	0
6	Works Contract Service	0
7	Legal Consultancy Service	0
	Total	233749918

Therefore, Superintendent, Paithan Range, of Aurangabad Rural Division has issued letters through E-mail/post dated 13.10.2020 and 11.11.2020 and asked them to produce relevant documents/records to ascertain the tax liability. However, noticee failed to do so.

3. In view of the above, it is observed that noticee has received various taxable services covered under the erstwhile Finance Act, 1994. The activity carried out by the noticee falls under the category of service as defined under erstwhile Section 68 (2) of the Finance Act, 1944 (hereinafter referred to as the Chapter & Act) read with Rule 2 (1) (d) (i) and Rule 6 of the Service Tax Rules, 1994 (hereinafter referred to as the Rules) read with Notification No. 30/2012-Service Tax dtd. 20.06.2012, as amended.

4. In view of above, it is observed that though noticee has received and utilised the various taxable services covered under the Finance Act, 1994 and though they were liable to make the payment of service tax by virtue of Notification No.30/2012-Service Tax dtd. 20.06.2012, as amended they fails to make the payment of appropriate Service Tax on taxable value as per the information of third party data received from the Income Tax Department viz. (AURANGABAD_ST_Mismatch_With_Similar_Pan_of_ITR_TDS No.3 and as per ST-3, for the period 2014-15. Therefore, the service tax due on the said amount is worked out as detailed below.

Financial Year	ITR/TDS of received declared Income department (Rs.)	Value of Service to declared Tax department (Rs.)	Value of service received as to Service Tax department (Rs.)	Difference in value (Rs.)	Rate of Service Tax	Service Tax payable under RCM in (Rs.)
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1	2	3	4 (2-3)	5	6
2014-15	34,20,47,642	23,37,49,918	10,82,97,724	12.36%	1,33,85,599

5. Further, the Value of Rs.34,20,47,642/- being consideration paid by the noticee towards receiving the various taxable services, the gross amount incurred by the noticee is thus considered as value of taxable services received during the relevant period. in view of above data the noticee was required to pay the Service Tax amounting to **Rs.1,33,85,599/-** on the differential value of **Rs.10,82,97,724/-** at the rate specified in erstwhile Section 66/66B of the Act, as applicable during the relevant period, on monthly/quarterly basis, to the credit of the Central Government, in view of the provisions of erstwhile Section 68 (2) of the Act read with the provisions of erstwhile Rule 2 (1) (d) (i) read with Notification No. 30/2012-Service Tax dtd. 20.06.2012, as amended and Rule 6 (1) of the Rules, but they failed to do so.

5.1 Further, it appears that, the noticee was liable to assess and pay the Service Tax due on the services received and declare taxable value in the specified Form ST-3 return, on half-yearly basis, as specified in erstwhile Section 70 (1) of the Act read with the provisions of erstwhile Rule 7 of the Rules, but they failed to do so. Thus, the noticee has suppressed the payment of value Rs.10,82,97,724/-towards receipt of various services from the knowledge of the Department with intent to evade the payment of Service Tax during the FY2014-15.

6. Contravention of Legal Provisions :- Whereas from the foregoing, it appeared that the noticee has contravened the following provisions of the erstwhile Finance Act, 1994, and Rules made there under:

- i) Erstwhile Section 68 (2) of the said Act read with erstwhile Section 66/Section 66B of the Act read with erstwhile Rule 2 (1) (d) (i) read with Notification No. 30/2012-Service Tax dtd. 20.06.2012, as amended and Rule 6 of the Rules, as applicable during the relevant period, in as much as they failed to pay the appropriate Service Tax for Financial Year 2014-15 on the due date as prescribed.
- ii) Erstwhile Section 70 (1) of the said Act read with erstwhile Rules 7 (1),

7 (2) & 7 (3) of the Rules, in as much as they failed to assess the Service Tax due, on the services received by them and also failed to furnish prescribed ST-3 Returns with correct details in prescribed time.

iii) Erstwhile Section 69 of the Act read with erstwhile Rule 4 of the Rules, in as much as they failed to amend their Service Tax registration.

7. It appears that in the regime of self assessment, more reliance is placed on the noticee who has to take every care and ensure that he has correctly assessed and discharged tax liability and followed service tax procedure. However, the noticee had never disclosed to the department the fact of an amount of Rs. 10,82,97,724/- paid towards receiving the taxable services. Further, they failed to amend their registration for the taxable services on which service tax was either not paid or short paid. Also they have neither filed ST-3 returns for the services received for the differential value nor followed service tax procedure. These omissions and commissions on the part of the noticee shows that they have withheld the information which was statutorily required to be declared by them and thus suppressed the material facts with intent to evade payment of service tax. Therefore, proviso to erstwhile Section 73 (1) of the Finance Act, 1994 is rightly invocable in this case for demanding and recovering the service tax not paid/short paid for the extended period along with interest at applicable rates under the provisions of the erstwhile Section 75 of the Finance Act, 1994.

7.1 Further, it also appears that by their omissions and commissions, the noticee has rendered themselves liable for payment of late fees under the provisions of erstwhile Section 70 (1) read with erstwhile Rule 7C of the Service Tax Rules, 1994 for failure to file ST-3 returns for differential value as mentioned above. They are also liable for penalty under erstwhile Section 77 (1) (a) of the Finance Act, 1994 for failure to amend service tax registration for the services received for differential value. For the contraventions of the provisions of erstwhile Section 68 (2) of the said Act read with erstwhile Section 66/Section 66B of the Act read with erstwhile Rule 2 (1) (d) (i) read with Notification No. 30/2012-Service Tax dtd. 20.06.2012, as amended and Rule 6 of the Rules, they are liable for penalty under erstwhile Section 78 of the Finance Act, 1994 for contravention of various provisions of Service Tax

law by suppressing of material facts with intent to evade payment of service tax.

08. Further, it appears the difference in value of taxable values declared by the assessee in the ST-3 returns vis-à-vis ITR / TDS values for FY 2014-15 resulting in short payment of Service Tax these are reasonable grounds to allege that the assessee has also suppressed the correct values of taxable services for FY 2014-15. The assessee was also asked to furnish information in respect of the period FY 2015-16, FY 2016-17 FY 2017-18(up to June 2017).

09. Further appears that, the assessee has not furnished such information and records and therefore in absence of such information, this show cause cum demand notice, does not cover period from 2015-16, 2016-17 & 2017-18 (Upto June, 2017). The department will consider issue of Show Cause cum demand notice for such period, whenever such information will be provided by the assessee or is available to the department from other sources.

10. This notice is issued without prejudice to further Show Cause Notice for the period 2015-16, 2016-17 & 2017-18 (Upto June, 2017) as and when financial records are submitted by the Assessee or the information is available to the department from an official source. This notice is issued without prejudice to any other action that may be taken against the said noticee under the Finance Act, 1994 / Central Excise law and / or any other law for the time being in force in India.

11. Further the period of five years as mandated under section 73 of the Finance Act,1994, was extended till 31st December - 2020 in terms of Section 6, Chapter V of the Taxation and Other Laws (Relaxation and amendment of Certain Provisions) Act, 2020 read with Notification CG-DL-E-30092020-222154 dated 30.09.2020 issued under F. No. 450/61/2020-Cus.IV(Part-1

12. Now, therefore, M/s. Jubilant Logistics Limited, Gut No.84 Nr Videocon Industries, Paithan Road, Chitegaon , Aurangabad, MAHARASHTRA are hereby called upon to show cause to the Joint Commissioner of Central Goods and Service Tax, Aurangabad, having his office at 1st Floor of the Office of the Commissioner of Central Goods & Service Tax, N-5, Town Center,

CIDCO, Aurangabad within 30 days from the date of receipt of this notice, as to why;

- a) Service Tax of **Rs. 1,33,85,599/-** (as detailed in the above table) (as mentioned in **Annexure-A**) not paid/short paid on taxable services received by them, during the Financial year 2014-15 as detailed above, should not be demanded and recovered from them under the provisions of proviso to erstwhile Section 73 (1) of the Finance Act, 1994;
- b) Interest at an appropriate rate should not be charged & recovered from them as specified under erstwhile Section 75 of the Finance Act, 1994;
- c) Late fees under erstwhile Section 70 (1) of the Act read with erstwhile Rule 7 of the Rules should not be charged and recovered from them for failure to file correct return in Form ST-3 during the period.
- d) Penalty under erstwhile Section 77 (1) (a) of the Act should not be imposed on them for failure to amend Service Tax registration.
- e) Penalty under erstwhile Section 78 of the Act should not be imposed on them for suppressing the material facts from the Department, with intention to evade payment of correct Service Tax for Financial year 2014-15.

13. The noticee is required to produce at the time of showing cause all the evidences upon which they intend to rely in support of their defence. They are further required to state as to whether they wish to be heard in person, before the case is adjudicated.

14. If no cause is shown against the action proposed to be taken, within 30 days of receipt of this notice, or the noticee does not appear before the adjudicating authority when the case is posted for hearing, the case will be decided ex-parte on the basis of evidences available on records, without any further reference to them.

15. The documents relied upon in this case are the value of services received as per AURANGABAD_ST_Mismatch_With_Similar_Pan_of_ITR_TDS

No. 3 for the year 2014-15 & as per value of service received and declared in ST-3 return filed for the period Oct-14 to Mar-15 and letter dated 13.10.2020 and 11.11.2020 as mentioned in **Annexure-B**.

16. The provisions of Section 174 (2) of the Central Goods & Services Tax Act, 2017 empowers the proper officer to exercise the powers vested under the provisions of erstwhile Chapter V of the Finance Act, 1994 read with Service Tax Rules, 1994.

Encl:- As above.

Sunil Bhimrao Deshmukh
Joint Commissioner-ii
JOINT COMMISSIONER-II

Copy to:- 1) The Assistant Commissioner, CGST & C.Ex, Aurangabad Rural Division,

Aurangabad

2) The Superintendent, Central Goods & Service Tax, Paithan Range.

3) Master Copy.