



भारतसरकार / Government of India

वित्तमंत्रालय, राजस्वविभाग/Ministry Of Finance, Department Of Revenue

OFFICE OF THE COMMISSIONER, CENTRAL GOODS & SERVICE TAX, GST BHAVAN,
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DIN 20201266VJ0000914289

SHOW CAUSE-CUM-DEMAND NOTICE

(Sr. No. 92/ST/TPI/JC/NED/UR/20-21 dated 24.12.2020)

M/s AMEY CONSTRUCTION, situated at GURUKRUPA, TILAK NAGAR, TQ MUKHED, Dist., NANDED, unregistered under Service Tax, having PAN No. AAQFM3840A (hereinafter referred to as “the assessee”), is engaged in providing services including taxable supply services covered under the Finance Act, 1994 (hereinafter referred to as “the Act”).

2.1 Whereas information regarding Value of Net Turnover of Taxable services, as declared by the assessee to Department of Commercial Taxes, Maharashtra State for the year 2015-16 was obtained. From the said data, it appeared that the assessee is providing Taxable services under Finance Act, 1994 to its customers. However, on going through the records available, it is observed that the Tax payer was unregistered under Service tax regime during the relevant period.

2.2 Whereas it further appears on scrutiny of the said data that the assessee was not registered under Finance Act, 1944 (hereinafter referred to as ‘Act’) even though the taxable services were provided by the assessee. To obtain the reason for not taking registration for payment of Service Tax, letter dated 28.10.2020, were issued to the assessee and various information and details were called for.

3. In spite of letter mentioned in aforesaid Para, the assessee neither submitted the requisite information which was called for, nor explained the reasons for not taking Service Tax registration under the Act, even the assessee had declared Turnover in MAHAVAT Return exceeding Rs 10 lakhs. Notification No. 33/2012 dated 20.06.2012, exempts the value upto 10 lakhs from payment of Service Tax and person providing services upto 10 lakhs need not take registration under the Act as envisaged under Section 69 of the Act. Thus, it is evident that there is an act of omission and commission on the part of the assessee with intent to evade payment of Service tax. The non-payment of the service tax by the assessee on the value even after being pointed out by the Department leads to the conclusion that in spite of legal provisions to furnish the correct information to the department, the assessee is not willing to share such correct information with the department.

4. It appears from the MAHAVAT data that the assessee is engaged in providing Taxable Services in addition to any other service the assessee may be providing.

5. This Show Cause Notice is therefore being issued for demand of service tax on the basis of values of services determined from the MAHAVAT Return Value for FY 2015-16.

6.1 For the purpose of this notice, the Value of Net Turnover of TAXABLE SERVICES as per MAHAVAT data is being considered as value of taxable services provided during the FY 2015-16 by the assessee.

6.2 Whereas it, accordingly, appears that in view of the provisions of Section 68(1) of the Act read with the provisions of Rule 6(1) of the Rules, the assessee was required to pay service tax on monthly / quarterly basis to the credit of the Central Government, on such values as described below, at a rate specified in Section 66B of the Act as applicable during the relevant period. The calculations of such values and service tax payable by the assessee for F.Y. 2015-16 is enumerated in the table given below:-

Calculation of value and service tax payable thereon

(Amount in Rs)

Year	Taxable Value as per MAHAVAT data	Rate at which Service Tax is being demanded	Service Tax Payable and being demanded
1	2	3	4
2015-16	Rs. 11,99,04,354/-	14.50%	Rs. 1,73,86,131/-
TOTAL			Rs. 1,73,86,131/-

The assessee has failed to come forward to explain the value of services provided as per MVAT data. Therefore the department has no other option but to proceed with using best judgment method as envisaged under Section 72 of Finance Act, 1994 i.e. calculating the service tax liability based on records available with the department i.e. on basis of values of services determined from MVAT data available which was supplied by VAT department. Therefore, the value as per MVAT data has been considered for calculation of service tax liability, and is treated as taxable value in terms of Section 67 of Finance Act, 1994. Thus, it appears that the assessee was unregistered in Service Tax regime for the period 2015-16, Service tax Calculated on MVAT value shown at column no. 2 of the Table above on the value and service tax shown in column no. 4 of the Table above.

6.3 Further, it appears that, while the assessee was liable to assess and pay the service tax on the services provided every month/every quarter and declare the information of services provided, value thereof, service tax liable to be paid and service tax actually paid, service wise, in the specified form ST-3 return, on half-yearly basis, as specified in Section 70(1) of the Act read with the provisions of Rule 7 of the Rules, which they have failed to do, as unregistered. Thus, the assessee has suppressed from the Department, consideration for providing the taxable services, involving service tax liability as detailed in Para 6.2 above, with an intent to evade the payment of said service tax, for the period 2015-16.

6.4 Rule 5A(2) of Service Tax Rules, 1994 requires every assessee to make available to the officer authorized in this regard various records within reasonable time not exceeding fifteen days. In the instant case, the assessee has failed to take action as prescribed in Rule 5A(2) and has thus contravened the provisions thereof.