



भारत सरकार / Government of India

वित्तमंत्रालय, राजस्वविभाग/Ministry Of Finance, Department Of Revenue

OFFICE OF THE COMMISSIONER, CENTRAL GOODS & SERVICE TAX, GST
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DIN 20201266VJ000000B70D

SHOW CAUSE-CUM-DEMAND NOTICE

(Sr. No. 35/ST/TPI/JC/20-21 dated 19.12.2020)

M/s KHATUSHYAMJI RE-ROLLING (NANDED) PRIVATE LIMITED situated at D-121, MIDC, NANDED-431602, MAHARASHTRA (hereinafter referred to as “the assessee”), holding Service Tax Registration No AACCK6069NSD002 is engaged in the providing various taxable services covered under the Finance Act, 1994 (hereinafter referred to as “the Act”).

2. Whereas Value of services as declared by the assessee in Income Tax Return (ITR) and TDS data (Amount paid to the assessee by various parties and Income Tax Deducted at Source by such payers as reflected in Form 26AS under Section 194C, 194H, 194I & 194J of Income Tax Act, 1961), obtained from the Income Tax Department for the Fy 2014-15 was found to be in excess of the value of services declared by the assessee in Form ST-3 for Fy 2014-15 and whereas it was observed that, the net amount paid to the assessee (including TDS deducted but excluding the service tax amount, if any) by various parties was in excess of the value of services provided, as declared by the assessee in the ST-3 returns for FY 2014-15. This indicates suppression of the taxable value by the assessee in Form ST-3 and short-payment/non-payment/evasion of service tax. It appears that the differential Service Tax, as indicated in the table in para 7.1 below, is now liable to be paid by the assessee.
3. Further, during the investigation, the Superintendent, CGST & Central Excise, Nanded Urban Range, vide their office letter F. No. R-Ned Urban/220/TPI-15-16/2018 dt. 12.11.2020 requested the assessee to submit relevant / relied upon documents for verification and for furnishing reconciliation in aforesaid cases.
4. Further, in spite of repeated requests vide letters / telephonic reminders, the assessee neither submitted the reconciliation data/requisite information which was called for nonpayment of differential amount of Service Tax along with applicable interest and penalty, for FY 2014-15. Therefore, it appears that the assessee was not interested in submitting the financial records and 26 AS Statement for the FY 2014-15. It is also a matter of record that in spite of repeated requests they have not provided details and documentary evidence to reconcile the differences in taxable values. 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 differential value i.e. difference in value as per ITR / TDS data vis-à-vis taxable amount shown in ST-3 returns, 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.

5. Further it appears from the registration of the assessee under Finance Act, 1994 (Service Tax) that the activity carried out by the assessee falls under the category of service as defined under Section 65B(44) of the Finance Act, 1994. It also appears that the assessee has not paid service tax **during FY 2014-15**. And yet, the assessee is not coming forward to explain the difference in the value of services provided as per ITR/TDS, as mentioned in Para 4.

6. This Show Cause Notice is therefore being issued, for demand of differential service tax on the basis of values of services determined from the Third party ITR / TDS information available for **FY 2014-15**.

7.1 Further, the higher of the value of services provided as declared in ITR for **FY 2014-15**, net value of services paid by various parties as indicated in form 26AS i.e. **Rs 9,34,24,734 /-** is being considered as consideration received by the assessee towards providing the said taxable services during **FY 2014-15** and is thus to be considered as value of taxable services provided during the relevant period. 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 Service Tax Rules 1994 (herein after referred to as Rules), the assessee was required to pay service tax on the above said value at a rate specified in Section 66B of the Act, as applicable during the relevant period, on monthly / quarterly basis, to the credit of the Central Government. Thus, it appears that the assessee has short-paid/not-paid Service Tax of **Rs 1,15,47,297/-** on differential value of **Rs 9,34,24,734/-** as detailed hereunder also **enclosed as Annexure – ‘A’ of this Notice. :-**

(Rs. in actuals)

Year	Taxable receipts on basis of B/S, ITR / 26AS (Higher of ITR/26AS/ Balance Sheet)	Taxable Value declared in ST-3	Difference in Taxable Value (Col 2-3)	Differential Service Tax payable
(1)	(2)	(3)	(4)	(5)
2014-15	9,34,24,734	0	9,34,24,734	1,15,47,297
TOTAL	9,34,24,734	0	9,34,24,734	1,15,47,297

7.2 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 the Section 70(1) of the Act read with the provisions of Rule 7 of the Rules, which they have failed to do. Thus, the assessee has suppressed from the Department, net amount of **Rs 9,34,24,734/-** charged/collected by them, as consideration for providing the taxable services, involving service tax liability of **Rs 1,15,47,297/-** with an intent to evade the payment of said service tax, during the financial year **FY 2014-15**.

8. Whereas from the foregoing, it appears that the assessee has contravened the following provisions of the Finance Act, 1994, and rules made there under:-

- 1) Section 68(1) of the said Act read with Section 66B of the Act read with Rule 6 of the Rules, as applicable during the relevant period, in as much as they failed to pay the appropriate Service Tax for the financial year **2014-15** on the due dates as prescribed.