



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 20201266VJ0000555DBB

SHOW CAUSE-CUM-DEMAND NOTICE

(Sr. No. 44 /ST/TPI/JC/20-21 dated 18.12.2020)

M/s NEHA ELECTRICALS situated at Y. B. CHAVAN MARKET, SHOP No 22, KINWAT, NANDED MAHARASHTRA (hereinafter referred to as “the assessee”), holding Service Tax Registration No AAHFN4768PSD001 is engaged in 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 and 2016-17 was found to be in excess of the value of services declared by the assessee in Form ST-3 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 Rural Range, vide their office letter/ email F. No. R-Ned Rural/57/TPI/2018-19 dt. 10.12.2018 03.01.2019, 15.03.2019, 01.05.2019, 28.08.2019, 04.02.2020, 26.02.2020, 14.07.2020, 22.09.2020 and 23.10.2020 requested the assessee to submit relevant / relied upon documents for verification and for furnishing reconciliation in aforesaid cases.
4. Further, inspite 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 and 2016-17. Therefore, it appears that the assessee was not interested in submitting the financial records and 26 AS Statement for the 2014-15 and 2016-17. It is also a matter of record that inspite 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 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 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 due Service Tax during FY 2014-15 and 2016-17, 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 and 2016-17

7.1 Further, the higher of the value of services provided as declared in ITR for FY 2014-15 (AY 2015-16) and 2016-17 (AY 2017-18) and net value of services paid by various parties as indicated in form 26AS i.e. Rs 5,17,61,139/- and 4,04,20,946/- respectively is being considered as consideration received by the assessee towards providing the said taxable services during FY 2014-15 and 2016-17 respectively 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 62,32,609 /- on differential value of Rs 5,04,25,637/- Service Tax liability of Rs. 60,63,142/- on differential value of Rs. 4,04,20,946/- services provided as detailed hereunder also enclosed as Annexure – 'A' to this Notice. :-

(Rs. in actuals)

Year	Taxable receipts on basis of B/S, ITR / 26 (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)	(5)	(6)
2014-15	5,17,61,139	13,35,502	5,04,25,637	62,32,609
2016-17	4,04,20,946	0	4,04,20,946	60,63,142
TOTAL	9,21,82,085	13,35,502	9,08,46,583	1,22,95,751

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 Finance Act 1994 read with the provisions of Rule 7 of the Service Tax Rules, 1994 which they have failed to do. Thus, the assessee has suppressed from the Department, net amount of Rs 9,08,46,583/- charged/collected by them, as consideration for providing the taxable services, involving service tax liability of Rs. 1,22,95,751/- with an intent to evade the payment of said service tax, during the financial year 2014-15 and 2016-17.