



भारत सरकार / Government of India

वित्तमंत्रालय, राजस्वविभाग/Ministry Of Finance, Department Of Revenue

OFFICE OF THE COMMISSIONER, CENTRAL GOODS & SERVICE TAX, GST BHAVAN, TOWN  
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**DIN 20201266VJ0000510535**

### **SHOW CAUSE-CUM-DEMAND NOTICE**

**( Sr. No. 71/ST/TPI/JC/NED/HNGL/20-21 dated 23.12.2020)**

M/s. P. D. JAIN, 14, BHATT COLONY, POST OFFICE ROAD, HINGOLI -431513, Maharashtra (hereinafter referred to as "the assessee"), unregistered under Service Tax, having PAN No. **AAKPJ4980A** is engaged in providing services including works contract services which are taxable services covered under the Finance Act, 1994 (hereinafter referred to as "the Act").

2.1 Whereas information regarding Value of Net Turnover of Works Contracts and Ongoing Leasing provided, 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 Works Contracts and Ongoing Leasing Services (both being 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 Noticee was not registered under Finance Act, 1944 (hereinafter referred to as 'Act') even though the taxable services were provided by the Noticee. To obtain the reason for not taking registration for payment of Service Tax, **mails / letters dated 19.10.2020**, were issued to the Noticee and various information and details were called for.

3. The noticee has submitted the reply dated 25.11.2020 wherein they have submitted the VAT returns for FY 2015-16, Audited Balance Sheet & Profit & Loss for FY 2015-16, ITR and Form No 26AS for FY 2015-16, VAT calculation Sheet for FY 2015-16 and further submitted that they are doing the business of Govt. contractor since many years and as the govt contractorship is liable for VAT only before implementation of GST , they filed regular VAT return and paid he tax as per MVAT Act 2002. Further they submitted the there is exemption to civil work done for Govt departments as per Notification No 25/2012 dated 20.06.2012. The Noticee 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.

3.1 Further, as per notification No 09/2016-ST dated 01.03.2016 which amends the Mega Exemption Notification 25/2012 dated 20.06.2012, the Services provided to the Government, a local authority or a governmental authority by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration under a contract which had been entered into prior to the 1st March, 2015 and on which appropriate stamp duty, where applicable, had been paid prior to such date are exempted from service tax. The noticee here claiming the benefit of 25/2012 dated 20.06.2012 without submitting any documents which proves that he had satisfied the conditions laid down by notification No 09/2016-ST dated 01.03.2016 for service tax exemption. 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 Works Contract 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 Works Contracts 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**

**(Amt in Rs)**

Year	Amount Received as contract receipts	Taxable amount @ 40%	Rate at which Service Tax is being demanded	Service Tax Payable and being demanded
1	2	3		4
2015-16	11,05,09,351/-	4,42,03,740/-	14.5%	64,09,542/-
<b>TOTAL</b>				<b>64,09,542/-</b>

The assessee has total receipts of Rs 11,05,09,351/- in balance sheet of the FY 2015-16. The assessee has submitted vide their reply dated 25.11.2020 that they are exempted from Service Tax as they are providing services to Government bodies. As per notification No 09/2016-ST dated