



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 20201266VJ0000381325**

**SHOW CAUSE-CUM-DEMAND NOTICE**

**( Sr. No. 112/ST/TPI/JC/NED/20-21 dated 24.12.2020)**

M/s DEVGIRI JEVIK KHATE UTPADAK VA PURVATHA SAHAKARI SANSTHA MARYADIT, situated at NR KAILASH FERTILIZERS, NEW MONDHA HANUMAN MANDIR, SHIVAJI NAGAR NANDED MAHARASHTRA 431602 (hereinafter referred to as "the assessee"), holding Service Tax Registration No AAEFD5245NSD001 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)/Balance Sheet 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 as well as copies of TDS submitted by the assessee for the FY 2014-15, 2015-16, 2016-17 and 2017-18 (upto June 2017) was found to be in excess of the value of services declared by the assessee in Form ST-3 for FY 2014-15, 2015-16, 2016-17 and 2017-18(upto June 2017) 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, 2015-16, 2016-17 and 2017-18(upto June 2017). 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/2018 dt. 10.02.2020 requested the assessee to submit relevant / relied upon documents for verification and for furnishing reconciliation in aforesaid cases.
4. Further, Vide letter/ Telephonic reminders the assessee had submitted the reconciliation data/ requisite information which was called for non payment of differential amount of service tax along with applicable interest and penalty for the period from 2014-15, 2015-16, 2016-17 & 2017-18. On reconciliation of data along with statutory records viz. Balance Sheet/ Profit and Loss Account/ TDS (Form 26AS) for the period from 2014-15, 2015-16, 2016-17 & 2017-18 & 2017-18 (( upto June-17), it appears that they have short declared value of services of Rs. 9,03,05,115/- on which service tax 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/ Balance Sheet/ Profit and Loss Account 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 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 Short paid service tax during FY 2014-15, 2015-16, 2016-17 and 2017-18(upto June 2017). And yet, the assessee is not coming forward to explain the difference in the value of services provided as per ITR/TDS/ Balance Sheet, 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/ Balance Sheet information available for FY 2014-15, 2015-16, 2016-17 and 2017-18(upto June 2017).

7.1 Further, the higher of the value of services provided as declared in ITR/ Balance Sheet for FY 2014-15, 2015-16, 2016-17 and 2017-18(upto June 2017), net value of services paid by various parties as indicated in form 26AS and Balance Sheet i.e. Rs. 11,49,16,253/- is being considered as consideration received by the assessee towards providing the said taxable services during FY FY 2014-15, 2015-16, 2016-17 and 2017-18(upto June 2017) 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. 1,33,94,988/- on differential value of Rs. 9,03,05,115/- 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 (P&L/TDS)	66,96,046	3440590	32,55,456	4,02,374
2015-16 (P&L /TDS)	1,53,32,464	2365323	1,29,67,141	18,80,235
2016-17 (P&L/TDS)	4,20,17,519	14246210	2,77,71,309	41,65,696
2017-18 (P&L/TDS) (upto June 2017)	5,08,70,224	4559015	4,63,11,209	69,46,681
<b>TOTAL</b>	<b>11,49,16,253</b>	<b>2,46,11,138</b>	<b>9,03,05,115</b>	<b>1,33,94,988</b>