



माल एवं सेवाकर (जी.एस.टी.) के आयुक्त का कार्यालय
OFFICE OF THE COMMISSIONER OF GOODS AND SERVICES TAX (GST)

एन-5 टाउन सेंटर, सिडको, औरंगाबाद - 431003

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DIN-20201266VJ0000833507

SHOW CAUSE-CUM-DEMAND NOTICE

(Sr. No. 231/ST/TPI/JC/JLN/BEED/20-21 dated 31.12.2020)

M/s. SM1 CONSTRUCTION, JALALPUR ROAD, PARALI VAIJNATH, PARLI-431515 registered under Service Tax with Registration No. **AHNP7283JST001** (hereinafter referred to as "the assessee"), are 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. 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 Services (both being taxable services under Finance Act, 1994) to its customers. However, on going through the records available, it is observed that the assessee has not declared/short declared gross service provided by them and not paid/short paid Service Tax for the services provided by them during the period 2015-16.

In order to further investigate the matter and allow the assessee to present the facts, letter dated 21.12.2020 were issued to the assessee, calling for relevant/relied upon documents for verification and for furnishing the reason for non payment/short payment of service tax.

3. In spite of mails and letters mentioned in aforesaid Para, the assessee neither submitted the requisite information which was called for nor paid the Service Tax along with applicable interest and penalty for the FY 2015-16. It appears that the assessee was not interested in submitting the financial records and reconciliation as stated above. 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/short 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 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 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 information for FY **2015-16**.

6. Computation of Service Tax :

For the purpose of this notice, the Value of Net Turnover of Works Contracts and Ongoing Leasing as per MAHAVAT data, is being considered as value of taxable services provided during the FY 2015-16 by the assessee.

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:-

Year	Taxable Value as per MAHAVAT data	Taxable Value declared in ST-3 Return	Difference in Taxable value declared in MVAT to ST-3	Rate at which Service Tax is being demanded	Service Tax payable and being demanded
2015-16	87470004	39222430	48247574	14.5%	6995898

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 to 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 has not paid/short paid Service Tax for the period 2015-16, as shown at column no. 6 of the Table above on the value as shown in column no. 4 of the Table above.