

भारत सरकार / Government of India

वित्त मंत्रालय, राजस्व विभाग / Ministry Of Finance, Department Of Revenue

आयुक्त का कार्यालय / OFFICE OF THE COMMISSIONER

वस्तु एवं सेवाकर, लेखा परीक्षा नाशिक / Goods & Service Tax, Audit Nashik

CR Building, Gadkari Chowk, Nashik - 422002

Phone No. 0253-2313524, Fax No. 0253-2313523, Email: nskaudittech@gmail.com

**DIN: 20211066VL00005075EB/939**

**By Hand delivery/RPAD/Email**

To,  
M/s TURNKEY PROJECT SOLUTION,  
Plot No. M-57, MIDC Area Waluj,  
Aurangabad-431136 (Maharashtra).

**SHOW CAUSE-CUM-DEMAND NOTICE**

**(Centralized SCN No.65/AG-11/JC/Turnkey/ST/2021-22)**

M/s. TURNKEY PROJECT SOLUTION, Plot No. M-57, MIDC Area Waluj, Aurangabad-431136 (Maharashtra), registered under Service Tax with Registration No.AGRPJ5564DSD001 at the address M/s. TURNKEY PROJECT SOLUTION, Plot No. M-57, MIDC Waluj, Aurangabad-431136 (Maharashtra) (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") and also availing Cenvat credit of the central excise duty paid on inputs and Service Tax paid on input services in terms of Cenvat Credit Rules, 2004.

**2.1** Whereas it appeared during the course of the scrutiny and audit their records during the month of March 2021, that, assessee is issuing two types of invoices to their customers one for sale of goods and other for supply of services. The assessee is paying Value Added Tax (VAT) on sale of goods and paying Service Tax on services provided.

**2.2** Whereas it is further noticed that in most of the cases customers had placed common purchase order for supply of goods and for services. It appears from the provisions of Clause 54 of section 65B of Finance Act, 1994 and Section 67 of the Act read with Service Tax (Determination of Value) Rules, 2006 that in such type of transactions assessee has to pay the Service Tax on the combined value of goods and services after claiming abatement. In the instant case, assessee is paying Service Tax only on the value of services arrived at by his own calculation and on the rest amount he is paying VAT.

**3.** Whereas, it appears from provisions of Clause 54 of section 65B of Finance Act, 1994 and Section 67 of the Act read with Service Tax (Determination of Value) Rules, 2006 which are reproduced as under

The relevant provisions of Finance Act, 1994 are reproduced for reference as under:

- (i) Clause 54 of section 65B of Finance Act, 1994, defines the Work-Contract as follows:

"works contract" means a contract wherein transfer of property in goods involved in the execution of such contract is leviable to tax as sale of goods and such contract is for the purpose of carrying out construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, alteration of

*any movable or immovable property or for carrying out any other similar activity or a part thereof in relation to such property.*

The provisions of valuation of service are governed by Section 67 of the Act read with Service Tax (Determination of Value) Rules, 2006. As a general rule, value of taxable service is gross amount charged for a service whether in the form of money or otherwise.

(ii) Rule 2A (ii) *ibid*, provides that where value has not been determined under Rule 2A(i) *ibid*, the person liable to pay tax on the service portion involved in the execution of the works contract shall determine the Service Tax payable in the prescribed manner.

With effect from 1st October 2014, with reference to Notification No.11/2014 dated 11.07.2014), Rule 2A of the Service Tax (Determination of Value) Rules, 2006, is read as under:

**“2A. Determination of value of service portion in the execution of a works contract-**

*Subject to the provisions of section 67, the value of service portion in the execution of a works contract, referred to in clause (h) of section 66E of the Act, shall be determined in the following manner, namely:*

(i) *Value of service portion in the execution of a works contract shall be equivalent to the gross amount charged for the works contract less the value of property in goods transferred in the execution of the said works contract.*

*Explanation- For the purposes of this clause-*

(a) *gross amount charged for the works contract shall not include value added tax or sales tax, as the case may be, paid or payable, if any, on transfer of property in goods involved in the execution of the said works contract;*

(b) *value of works contract service shall include, -*

(i) *labour charges for execution of the works;*

(ii) *amount paid to a sub-contractor for labour and services;*

(iii) *charges for planning, designing and architect's fees;*

(iv) *charges for obtaining on hire or otherwise, machinery and tools used for the execution of the works contract;*

(v) *cost of consumables such as water, electricity, fuel used in the execution of the works contract;*

(vi) *cost of establishment of the contractor relating to supply of labour and services;*

(vii) *other similar expenses relating to supply of labour and services; and*

(viii) *profit earned by the service provider relating to supply of labour and services;*

(c) *Where value added tax or sales tax has been paid or payable on the actual value of property in goods transferred in the execution of the works contract, then, such value adopted for the purposes of payment of value added tax or sales tax, shall be taken as the value of property in goods transferred in the execution of the said works contract for determination of the value of service portion in the execution of works contract under this clause.*

(ii) *Where the value has not been determined under clause (i), the person liable to pay tax on the service portion involved in the execution of the works contract shall determine the Service Tax payable in the following manner, namely:*

(A) *in case of works contracts entered into for execution of original works, Service Tax shall be payable on forty per cent of the total amount charged for the works contract;*

(B) in case of works contract, not covered under sub-clause (A), including works contract entered into for,

(i) maintenance or repair or reconditioning or restoration or servicing of any goods;

(ii) or maintenance or repair or completion and finishing services such as glazing or plastering or floor and wall tiling or installation of electrical fittings of immovable property,

Service Tax shall be payable on seventy per cent. of the total amount charged for the works contract”.

*Explanation 1. - For the purposes of this rule,-*

(a) “original works” means-

(i) all new constructions;

(ii) all types of additions and alterations to abandoned or damaged structures on land that are required to make them workable;

(iii) erection, commissioning or installation of plant, machinery or equipment or structures, whether pre-fabricated or otherwise;

(b) total amount” means the sum total of the gross amount charged for the works contract and the fair market value of all goods and services supplied in or in relation to the execution of the works contract, whether or not supplied under the same contract or any other contract, after deducting-

(i) the amount charged for such goods or services, if any; and

(ii) the value added tax or sales tax, if any, levied thereon:

Provided that the fair market value of goods and services so supplied may be determined in accordance with the generally accepted accounting principles.

*Explanation 2.- For the removal of doubts, it is clarified that the provider of taxable service shall not take CENVAT credit of duties or cess paid on any inputs, used in or in relation to the said works contract, under the provisions of CENVAT Credit Rules, 2004.”*

It appears from the above reproduced provisions of law that wherever the value of services is not determined, spelt out in the purchase order or contract or value of goods and services are not specifically mentioned, the assessee is required to pay Service Tax on the basis of value of purchase order placed by customer in accordance with the Rule 2A of the Service Tax (Determination of Value) Rules, 2006 with the abatement provided.

4. Whereas 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 (54) of the Finance Act, 1994. It also appears from the Maharashtra Value Added Tax (MAHAVAT) data that the assessee is engaged in providing Works Contract Services in addition to any other service the assessee may be providing. For the purpose of this notice, the Value of Net Turnover of Works Contracts and Ongoing Leasing as per Maharashtra value added Tax (MAHAVAT) data is considered as Relied Upon Document (**RUD No.-a**) as value of taxable services provided during the FY 2016-17 & 2017-18 (Up to June-2017) by the assessee.

5. Whereas it further appears on scrutiny of all purchase orders placed by the assessee's customers, invoices issued for services, and invoices issued for sale of goods during the period 2016-2017 and 2017-2018 (upto June 2017) that there are common purchase orders mentions both sale of goods and services. It is evident that in most of the cases customers have placed common purchase orders for supply of goods as well as services, but the assessee without observing the provisions of Finance Act 1994 as discussed in para 4 above, has used his own discretion to split the value of service and value of goods as per his convenience and paid Service Tax accordingly. The detailed analysis of purchase orders issued by customers and particulars which are mentioned on the body of invoices issued by the assessee for sale of goods and sale of

services for sale of goods for the period 2016-2017 & 2017-2018 (upto June17) is as under:

**Year 2016-2017**

Sr no.	Name of buyer	Purchase Order. No.	Issued Invoice No. / dated for providing <b>service</b> under same purchase order	Issued Invoice No. / dated for supplying <b>goods</b> under same purchase order	Remark
1	NHK Automotive Components India P. Ltd., Aurangabad	SPO15-16_000009 /12.01.2016	01/05.04.2016	05/30.04.2016 04/22.04.2016 01/02.04.2016	Common Purchase order
2	Kamalnayan Bajaj Hospital, Beed-ByPass Road, Aurangabad	W0003455 / 01.01.2016	02/05.04.2016	02/02.04.2016 03/02.04.2016, 07/1.06.2016, 06/1.06.2016	Common Purchase order
3	Bonatrans India Pvt. Ltd., Shendra, Aurangabad	no p.o. no.	03/26.04.2016		
4	Kamalnayan Bajaj Hospital, Beed-ByPass Road, Aurangabad	W0003455/ 01.01.2016	04/01.06.2016	02/02.04.2016 03/02.04.2016 07/1.06.2016, 06/1.06.2016	Common Purchase order
5	B.M. Construction, Waluj, MIDC, Aurangabad	no p.o. no.	05/04.06.2016	09/4.06.2016	Goods and services are related and services and goods are supplied on same date
6	Sakal Paper, Five Star, Industrial Area, Aurangabad	4500026696 /27.05.2016	06/07.06.2016	10/7.06.2016	Goods and services are related and are supplied on same date
7	NHK Automotive Components India P. Ltd., Aurangabad	SPO16-17_000053 /31.05.2016	07/07.06.2016	11/7.06.2016	Common Purchase order
8	NHK Automotive Components India P. Ltd., Aurangabad	SPO15-16_000009 /12.01.2016	08/08.06.2016	17/18.07.2016 08/1.06.2016	Common Purchase order
9	Concept Ventures Pvt. Ltd., Exe. Park, Sharnapur	no p.o. no.	09/18.06.2016	12/18.06.2016	Common Purchase order
10	Tulip Designers & Deceraters, CIDCO, Aurangabad	4500122700 /3 /17.05.2014	10/21.06.2016		
11	Tulip Designers & Deceraters, CIDCO, Aurangabad	4500122700 /4 /17.05.2014	11/21.06.2016		
12	Monsanto Holding India	4512020562 /	12/06.07.2016	13/6.07.2016	Goods and services are

	Pvt. Ltd., Deulgaon Raja, Buldhana	06.05.2016			related and are supplied on same date
13	Kamalnayan Bajaj Hospital, Beed-ByPass Road, Aurangabad	W0003455/0 1.01.2016	13/18.07.2016	02/02.04.2016 03/02.04.2016, 07/1.06.2016, 06/1.06.2016	Common Purchase order
14	Concept Ventures Pvt. Ltd., Exe. Park, Sharnapur	CVPL/FORB ES/16- 17/007 /30.05.201 6	14/04.08.2016	14/7.07.2016	Common Purchase order
15	NHK Automotive Components India P. Ltd., Aurangabad	SPO16- 17_000160 /24.07.201 6	15/06.08.2016	19/6.08.2016	Common Purchase order
16	Bonatrans India Pvt. Ltd., Shendra, Aurangabad	PO/16/131 /23.03.201 6	16/16.08.2016		
17	NHK Automotive Components India P. Ltd., Aurangabad	SPO16- 17_000009 /12.01.201 6	17/28.08.2016	28/12.11.2016 20/16.08.2016 16/18.07.2016	Common Purchase order
18	NHK Automotive Components India P. Ltd., Aurangabad	SPO16- 17_000096 /04.07.201 6	18/28.08.2016	29/12.11.2016 21/17.08.2016 18/18.07.2016	Common Purchase order
19	Concept Ventures P. Ltd., Exe. Park, Sharnapur	CVPL/FORB ES/16- 17/007 /30.05.201 6	19/31.08.2016	23/31.08.2017	Common Purchase order
20	NHK Automotive Components India P. Ltd., Aurangabad	SPO1617_00 0281/ 07.09.2016	20/10.09.2016		
21	Tulip Designers & Deceraters, CIDCO, Aurangabad	16112015	21/13.10.2016		
22	Tulip Designers & Deceraters, CIDCO, Aurangabad	no p.o. no.	22/13.10.2017		
23	Brembo Brakes India Ltd., Chakan, Pune	16805POC15 342 /09.08.201 6	23/23.11.2016	30/23.11.2016 25/12.09.2016	Common Purchase order
24	Brembo Brakes India Ltd., Chakan, Pune	16805POC53 327 /10.10.201 6	24/23.11.2016	31/23.11.2016	Common Purchase order
25	NHK Automotive Components India P. Ltd., Aurangabad	SPO15- 16_000009 /12.01.201 6	25/26.11.2016	28/12.11.2016	Common Purchase order
26	Brembo Brakes India Ltd., Chakan, Pune	16805POC77 714/ 02.12.2016	26/04.01.2017	32/20.12.2016	Common Purchase order

27	Brembo Brakes India Ltd., Chakan, Pune	16805POC89 599/ 14.12.2016	27/20.12.2016		
28	Welcome Hotel Rama International, Jalna Road, Aurangabad	101112 to 10116 / 18.12.2016	28/04.01.2017	3/4.01.2017	Goods and services are related and are supplied on same date
29	NHK Automotive Components India P. Ltd., Aurangabad	SPO1617- 000323 /21.09.201 6	29/06.01.2017	35/6.01.2017	Common Purchase order
30	Tulip Designers & Deceraters, CIDCO, Aurangabad	Tulip/mum/ nrb/07112/ 16 /07.11.201 6	30/11.01.2017		
31	Monsantro Holding Pvt. Ltd., Lalgadi Malakpet Village, Hyderabad	4511706308 /26.06.201 5	31/17.01.2017		
32	NHK Automotive Components India P. Ltd., Aurangabad	SPO1617- 000607 /12.10.201 6	32/31.01.2017	37/31.01.2017	Common Purchase order
33	Brembo Brakes India Ltd., Chakan, Pune	17805SPOA0 0860/ 06.01.2017	33/02.02.2017		
34	Brembo Brakes India Ltd., Chakan, Pune	17805POA07 200 /02.04.201 7	34/06.02.2017	38/6.02.2017	Common Purchase order
35	East-West Seeds (I) P. Ltd. Tq. Paithan, Aurangabad	EWS/2016- 77/ 17.10.2016	35/06.02.2017	39/6.02.2017	Common Purchase order
36	East-West Seeds (I) P. Ltd. Tq. Paithan, Aurangabad	EWS/2016- 77/ 17.10.2016	36/06.02.2017	39/6.02.2017	Common Purchase order
37	Monsantro Holding Pvt. Ltd., Lalgadi Malakpet Village, Hyderabad	4511706308 / 26.06.2015	37/10.02.2017		
38	East-West Seeds (I) P. Ltd. Tq. Paithan, Aurangabad	LOI/NILL /16.04.201 6	38/08.02.2017	41/7.02.2017	Common Purchase order
39	East-West Seeds (I) P. Ltd. Tq. Paithan, Aurangabad	EWS/2016/ 80 / 22.11.2016	39/10.02.2017	42/10.02.2017 40/6.02.2017	Common Purchase order
40	M/s.Nadkarni & Mahajan Associates, CIDCO, Aurangabad	Nil	40/21.02.2017		
41	Brembo Brakes India Ltd., Chakan, Pune	17805POA24 665/ 24.02.2017	41/24.02.2017		

42	Brembo Brakes I. Ltd., Chakan, Pune	17805POA24 668/ 24.02.2017	42/24.02.2017		
43	Kamalnayan Bajaj Hospital, Beed-ByPass Road, Aurangabad	W0003455/ 01.01.2016	43/25.02.2017	46/25.02.2017	Common Purchase order
44	Jagrut Hotel Pvt. Ltd., Railway Station Road, Aurangabad	Nil	44/10.03.2017	47/10.03.2017	Goods and services are related and advance of Rs.3600000/- for both services and goods
45	Bonatrans India Pvt. Ltd., Shendra, Aurangabad	PO/16/131 /23.03.2016	45/27.03.2017		
<b>Year 2017-2018</b>					
1	Syngenta India Ltd., Aurangabad	87006961 78/ 17.11.2016	01/05.04.2017	02/7.04.2017, 01/5.04.2017, 45/25.02.2017	Common Purchase order
2	Brembo Brakes India Ltd., Chakan, Pune	17805POA 40330/ 15.03.2017	02/14.04.2017	03/14.04.2017	Common Purchase order
3	NHK Automotive Components India P. Ltd., Aurangabad	SPO16- 17_00086 6 /25.02.2017	03(service) /20.04.2017	04/20.04.2017	Common Purchase order
4	NHK Automotive Components India P. Ltd., Aurangabad	SPO1617_ 000906 /03.06.2017	04(service)/ 25.04.2017	05/25.04.2017	Common Purchase order
5	Monsantro Holding Pvt. Ltd., Lalgadi Malakpet Village, Hyderabad	45117063 08/ 26.06.2015	05R(service)/06 .06.2017		
6	Monsantro Holding P. Ltd., Lalgadi Malakpet Village, Hyderabad	45121895 33/ 10.11.2016	06(service) /28.04.2017		
7	NHK Automotive Components India P. Ltd., Aurangabad	SPO17- 18_00003 0/04.03.2017	07(service) /29.04.2017	07/29.04.2017, 06/29.04.2017	Common Purchase order
8	B.M. Construction, Waluj, MIDC, Aurangabad	no p.o. no.	08(service) /03.05.2017		
9	NHK Automotive Components India P. Ltd., Aurangabad.	SPO15- 16_00000 9 /12.01.2016	09(service) /08.05.2017		
10	Jagruiti Hotel Pvt. Ltd., Railway Station Rd. Aurangabad	NILL	10(service) /12.05.2017	08/13.05.2017	Goods and services are related and advance of Rs.3600000/- for both services and

					goods
11	East-West Seeds (I) Pvt. Ltd. Tq. Paithan, Aurangabad	no p.o. no.	11/20.05.2017	10/20.05.2017	Goods and services are related and supplied on same date
12	NHK Automotive Components India P. Ltd., Aurangabad.	SPO17-18_000104 /26.04.2017	12(service) /23.05.2017	11/23.05.2017	Common Purchase order
13	Tulip Designers & Deceraters, CIDCO, Aurangabad	Nil	13(service) /01.06.2017		
14	Tulip Designers & Deceraters, CIDCO, Aurangabad	Tulip/lieb /Elect.fire-0809-3	14(service)/01.06.2017		
15	Sakal Paper, Five Star, Industrial Area, Aurangabad	no p.o. no.	15(service)/03.06.2017	12/3.06.2017	Goods and services are related and supplied on same date
16	Arogadham Health Pvt. Ltd., Digras Tq. Digras	Agreement Dt.21.06.2017	16(service)/23.06.2017	13/23.06.2017	Goods and services are related and supplied on same date
17	Varroc Engg. P. Ltd., corp. L-4, MIDC, Waluj, Aurangabad	4595304165/02.06.2017	17(service)/28.06.2017		
18.	Tulip Designers & Deceraters, CIDCO, Aurangabad	no p.o. no.	18(service)/30.06.2017	17/30.06.2017	Goods and services are related and supplied on same date

6. Whereas it is evident from the above table that in most of the transactions, customers have placed common purchase orders for supply of goods and services. In all such cases, as per the Service Tax provisions, the assessee has to pay the Service Tax on the total value of goods and services with abatement provided. However, the assessee has failed to determine the correct taxable value of the service provided and thereby failed to pay correct Service Tax liability.

7.1 Whereas it appears that the assessee has contravened the provisions of Rule 2A of the Service Tax (Determination of Value) Rules, 2006 read with Section 68 (1) & Section 73 of the Finance Act, 1994 along-with interest under Section 75 of the Finance Act, 1994. Further the said assessee is liable for penalty under Section 78 of Finance Act, 1994. the details Service Tax liability is as under:-

( Amount in Rs.)

Period	Taxable value declared in VAT Return for period (excluding VAT)	Taxable value declared in ST-3 Return	Differential Taxable value	Service Tax Payable @15%
2016-17	4,63,55,578	81,11,442	3,82,44,136	57,36,620
2017-18 (Upto June)	44,73,747	27,85,570	16,88,177	2,53,227
<b>Total</b>				<b>59,89,847</b>



7.2 Whereas, it further appears on the scrutiny of the ST-3 filed by the said assessee that, in view of the provisions of Section 68(1) of the Finance Act, 1994 read with the provisions of Rule 6(1) of the Service Tax Rules, the assessee was required to pay Service Tax on monthly / quarterly basis, to the credit of the Central Government, on such values as detailed in table 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. 2016-17 & 2017-18 (Up to June-2017) is enumerated in the table given below:

Calculation of value and Service Tax payable thereon:

( Amount in Rs.)

Year	Taxable Value as per MAHAVAT data	Taxable Value Declared in ST-3 Returns	Differential Taxable value	Rate at which Service Tax is being demanded	Service Tax Payable and being demanded
1	2	3	4(2-3)	5	6
2016-17	4,63,55,578	81,11,442	3,82,44,136	15%	57,36,620/-
2017-18 (Upto June-2017)	44,73,747	27,85,570	16,88,177	15%	2,53,227
<b>Total</b>					<b>59,89,847-</b>

8. Whereas it appears that the said assessee in their Exit Interview dated 16.03.2021 (RUD No.-b) when apprised of the legal provisions as mentioned in the foregoing paras and explained in person, the assessee has submitted that the department has not considered the VAT paid by them, therefore the audit objection is not acceptable to them. The views of the assessee are recorded in the exit interview dated 16.03.2021 given by proprietor Shri. Vijay Harishchandra Jadhav.

9. 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 2016-17 & 2017-18 (Upto June-2017) was obtained from the assessee (RUD No. a). From the said data, it appears that the assessee has failed to arrive at the correct value of services for payment of Service Tax during the period 2016-2017 & 2017-2018 (upto June 2017) and not filed correct Service Tax return for the period 2016-17 & 2017-18 (upto June-2017) and not paid/short paid Service Tax on the correct value of services provided by them. Whereas it further appears from above facts discussed in the foregoing para, that the noticee was required to determine the correct Value of Service provide considering the goods supplied along with the service, pay Service Tax provided by them to their customers. It appears from the above facts that the unassessed value of goods for Rs. **3,99,32,313/-** has to be determined as such for value escaped from the Service Tax liability. Correct Service Tax of Rs. **59,89,847/-** which the said assessee has failed to pay so far for the period 2016-17 and 2017-18 (upto June 2017) which was payable as detailed in Annexure-'A' to this notice.

10. Whereas it further 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 Section 70(1) of the Act read with the provisions of Rule 7 of the Rules, which they have failed to do. Whereas it appears that the assessee has suppressed facts from the Department and mis-declared the value of the service provided in the relevant ST3 returns, consideration for providing the taxable services, involving Service Tax liability as detailed in foregoing paras, with an intent to evade Service Tax for the period 2016-17 & 2017-18 (Upto June-2017).

**11.** Whereas, it appears that the Service Tax liability as indicated in the table at Para 7.1 & 7.2 above, for the services provided by the assessee, would have gone unnoticed had it not been for the reconciliation done by the Department. It is a statutory obligation on the assessee to correctly assess the value of service provided and pay Service Tax and file true and correct returns prescribed. In the era of self-assessment, trust is placed on the assessee to correctly self-assess their tax liability and pay the same and disclose the true values in their ST-3 returns. In addition, they had also filed the ST-3 returns for the material period and mis-stated the fact in their ST-3 returns and did not pay the correct amount of Service Tax due thereon. However, in this case, it was noticed that the assessee has deliberately suppressed the true and correct value of taxable service in as much as they have neither declared the complete value of taxable service rendered during the material time nor paid the correct Service Tax liability thereon. Further, it also appears that the assessee was well aware of the fact that the business activities carried out by them was leviable to Service Tax, since they have obtained Service Tax registration. Therefore, it appears that the above acts / omissions by the assessee, tantamount to suppression of the material facts from the department with an intent to evade payment of Service Tax and they have thereby contravened the various legal provisions of the 'Act' and the 'Rules' made there under. It therefore, appears that the provisions of proviso to Section 73(1) of the Act are correctly invocable for demanding the Service Tax for the extended period. Any suppression of facts resulting in wrong self-assessment causing evasion of tax, which gets detected during scrutiny by the Departmental officers, enables invocation of extended period under proviso to Section 73 of the Act, as in the present case.

**12.1** Whereas it appears that invoking extended period attracts imposition of penalty under Section 78 of the Act. It further appears that the liability to pay interest on the Service Tax due but not paid within the time prescribed, is concurrent with the liability to pay Service Tax. Delay in payment of Service Tax, requires payment of interest at appropriate rates. Therefore, it also appears that in the instant case the assessee is required to pay interest as applicable under the provisions of Section 75 of the Act on the Service Tax payable as enumerated in Para 7.1 & 7.2. Further, the assessee failed to declare the true value of the Services provided by them during the said period and the Service Tax payable thereon as required under Section 70 of the Act read with Rule 7 of the Service Tax Rules.

**12.2** In the Self-assessment system, the declarations and submissions made by the assessee in the prescribed ST-3 returns are very specific and legal and accepted as true and correct unless contrary is evidenced later. They never intimated the fact to the department that they are splitting the value of the purchase order or contract in two segments, namely goods supplied and service provided by them and that they issue two sets of invoices as per their convenience and paying Service Tax only on the value of service and not considering the value of the goods supplied to their customers. Factually, they were aware that their customers have placed combined purchase orders for supply of goods and service. It is the responsibility of the assessee to ascertain the correct Service Tax liability or whether they are eligible for any exemption provided. When taxable value is declared by the assessee in the ST-3 returns, it is prima-facie believed that they have satisfied themselves about correct value of service. This is the scheme of law in the self-assessment system of levy of tax. All these facts constitute together that the assessee had suppressed or mis-stated the material facts from/to the department with an intent to evade the payment of Service Tax which evidences and demonstrates their mala-fide intention to evade the payment of Service Tax. The above fact came to fore when a detailed scrutiny and audit of their records carried out by the officers of the Audit CGST Commissionerate and, therefore, the extended period of limitation appears to be invocable in this case under proviso to Section 73(1) of the Finance Act, 1944 for recovery of applicable Service Tax not paid.

**13.1** Further, as per Circular No. 1053/02/2017-CX dated 10.03.2017, Pre-Show Cause Notice Consultation was held on 06.09.2021 with the party, in which the

authorized representative of M/s Turnkey Project Solutions, submitted a letter dated 06.09.2021, wherein, he informed that the value of goods and value of services has been defined in purchase order separately. It was further requested by them to grant them one week's time for detailed submission alongwith the re-consultation statement for the period in question and stated that they are ready to discharge the liability of Service Tax if any accordingly.

**13.2** The noticee further submitted a detailed reply dated 20.09.2021, stating that the department has hastily pointed the audit objections which are not due on them. Also, that there is no Service Tax leviable in this case. The audit para is totally based on information gathered from summarized Profit & Loss account figures, however, it required in depth examination of books of accounts, service invoices etc. Further, they are ready to submit all relevant information and explanation in this connection. It has been requested that the demand proceedings against them be dropped.

**13.3** The request of the assessee to drop the proceedings is inordinate and cannot be considered.

**14.** Now therefore, the assessee M/s. TURNKEY PROJECT SOLUTION, Plot No. M-57, MIDC Area Waluj, Aurangabad-431136 (Maharashtra), are hereby called upon to show cause to The Joint Commissioner, CGST & Central Excise, Aurangabad having his office at N-5, Town Centre, CIDCO, Aurangabad, as to why:

- (i) the extended period of limitation as envisaged under proviso to Section 73(1) of Chapter V of the Finance Act, 1994 read with Section 174 and Section 142 of CGST Act, 2017, should not be invoked against them for demand of Service Tax beyond normal period from the relevant date for the reasons mentioned in the Show-cause notice;
- (ii) the amount of **Rs.3,99,32,313/-** so determined and calculated in foregoing para and as per RUD, should not be considered as taxable value for services provided by them in terms of Section 67 of the Act read with Section 174 and Section 142 of CGST Act, 2017;
- (iii) Service Tax of **Rs.59,89,847/-** inclusive of cess not paid on taxable services provided by them, for period 2016-17 & 2017-18 (upto June 2017), as detailed above, should not be demanded and recovered from them under the provisions of proviso to Section 73(1) of the Act; read with read with Section 174 and Section 142 of CGST Act, 2017;
- (iv) interest on the tax amount as mentioned at (ii) above, at appropriate rate, should not be charged & recovered from them as specified under Section 75 of the Finance Act, 1994 from the date such tax was payable to the date such tax is paid;
- (v) penalty under Section 78 (i) of the Finance Act, 1994, read with read with Section 174 and Section 142 of CGST Act, 2017, equal to the tax evaded as mentioned in point no. (iii) above, should not be imposed on them for suppressing the material facts from the Department, with an intention to evade payment of Service Tax for period 2016-17 & 2017-18 (upto June 2017).

**15.** M/s. TURNKEY PROJECT SOLUTION, Plot No. M-57, MIDC Area Waluj, Aurangabad-431136 (Maharashtra), are hereby directed to file their written reply to this Show Cause Notice within 30 days of receipt of this notice. They are directed to produce at the time of showing cause, all the evidence upon which they intend to rely, in support of their defence. They are further requested to state in their written reply as to whether they wish to be heard in person, before the case is adjudicated. If no cause is shown against the action proposed to be taken, within 30 days of receipt of this notice, or the assessee or their legal representative does not appear before the adjudicating authority when the case is posted for personal hearing, the case is liable to be decided *ex-parte* on the basis of evidences available on records, without any further reference to the assessee.

16. The document relied upon in this case are as under:-

- a) Maharashtra value added Tax (MAHAVAT) data for the year 2016-17 & 2017-18 (upto June 2017) submitted by assessee.
- b) Audit Exit interview dated 16.03.2021.
- c) Audit report No.24/STAX/NSK/TURNKEY/GR-11/2021-22
- d) 45 and 18 Original copies of Purchase orders and Invoices for the FY 2016-17 and FY 2017-18 respectively mentioned in Para 5 above. (Original Copies available with the assessee)

17. This notice is read with Section 174 of The Central Goods and Services Tax Act, 2017 read with Section 142 of Central Goods & Service Tax Act, 2017.

18. This notice is issued without prejudice to any other action that may be taken against the said assessee under the Finance Act, 1994/Central Excise law and/or any other law for the time being in force in India.

Enclosed: (i) Annexure A - Statement showing details of Service Tax demanded  
(ii) Annexure B - showing List of Relied Upon Documents (RUD)

*Anushree*  
12/10/21

(Anushree Hardikar)  
Joint Commissioner  
GST & CEX Audit Commissionerate  
Nashik

F.No. III/10-06/Audit/Tech/SCN/Turnkey/2021-22  
Dated, 12.10.2021

Copy to -

1. The Additional/ Joint Commissioner, Goods & Services Tax & Central Excise, Aurangabad Rural Division, Aurangabad Commissionerate for information and necessary action.
2. Superintendent (CGST), Waluj Range-II, Aurangabad Rural Division, Aurangabad Commissionerate for information.
3. Superintendent (Computer), GST & Central Excise, Aurangabad Commissionerate to upload the SCN on website.
4. Master File.

Annexure A to the show cause notice issued under F.No. <sup>65/A4-11/SC/Turnkey/2021-22</sup> III/10-06/Audit/Tech/SCN/Turnkey/  
Dated <sup>12/19/2021</sup> Bearing Sr.No..... issued to M/s. Turnkey Project <sup>2021-22</sup>  
Solutions, Plot No.M-57, MIDC Area, Waluj, Aurangabad.

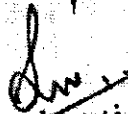
Period	Taxable value declared in VAT Return for period (excluding VAT)	Taxable value declared in ST-3 Return	Differential Taxable value	Service Tax Payable @15%(including cess)
2016-17	4,63,55,578	81,11,442	3,82,44,136	57,36,620
2017-18(Upto June)	44,73,747	27,85,570	16,88,177	2,53,227
<b>Total</b>				<b>59,89,847</b>


Superintendent (Audit Group-11)  
Aurangabad Chapter  
Nashik Audit Commissionerate

Assistant Commissioner  
Aurangabad Chapter  
Nashik Audit Commissionerate

Annexure B to the show cause notice issued under F.No. 11/10-06/Audit/Tech/SCN/Turnkey  
Dated 12.10.2021 Bearing Sr.No. 65/AU-11/36/Turnkey/2021-22 issued to M/s. Turnkey  
Projection Solutions, Plot No.M-57, MIDC Waluj, Aurangabad showing  
list of relied upon document. 2021-22

- a) Maharashtra value added Tax (MAHAVAT) return for the period April-16 to March 17 and april-17 to June-17
- b) Audit Exit interview dated 16.03.2021
- c) Audit Report No. 24/STAX/NSK/TURNKEY/GR-11/2021-22

  
Superintendent (Audit Group-11)  
Aurangabad Chapter  
Nashik Audit Commissionerate

  
Assistant Commissioner  
Aurangabad Chapter  
Nashik Audit Commissionerate