



Corp. Office: Shree Laxmi Woolen Mills Estate, 2nd Floor,
R.R. Hosiery, Off Dr. E. Moses Rd. Mahalaxmi, Mumbai - 400 011
Tel: (022) 3001 6600 Fax : (022) 3001 6601
CIN No. : L17100MH1905PLC000200

Date: September 28, 2023

To,
BSE Limited.
Phiroze Jeejeebhoy Towers,
Dalal Street, Fort, Mumbai - 400001

National Stock Exchange of India Limited.
"Exchange Plaza", Bandra Kurla Complex,
Bandra (E), Mumbai - 400051

(Security code: 503100)

(Symbol: PHOENIXLTD)

Dear Sir/Madam,

Sub: - Intimation under Regulation 30 read with Schedule III of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015

Pursuant to Regulation 30(6) read with Para A of Part A of Schedule III of the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015, ("Listing Regulations"), we wish to inform you that Subsidiaries of the Company viz. Vamona Developers Private Limited, Offbeat Developers Private Limited, Market City Resources Private Limited, Pallazzio Hotels & Leisure Limited, have received show cause cum demand notice(s) dated September 27, 2023 from the GST authorities for payment of tax liability in relation to discrepancies alleged by the GST authorities during the course of their investigation in the month of May 2023, along with the applicable interest and penalty for the tax period July 2017 to March 2018. Please find enclosed the show cause cum demand notice(s).

The authorities have advised the aforementioned Subsidiaries of the Company to pay the amount of tax as determined, along with the applicable interest and penalty for the tax period July 2017 to March 2018. The Company intends to contest the matter at an appropriate forum.

The details as required under SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 read with SEBI Circular No. SEBI/HO/CFD/CFD-PoD-1/P/CIR/2023/123 dated July 13, 2023 are given in Annexure A to this letter.

The aforesaid information is also being uploaded on the Company's website at <https://www.thephoenixmills.com/investors/FY2024/Exchange-Intimations>.

We request you to take the above information on record.

Thanking You,

Yours Faithfully,
For The Phoenix Mills Limited

Gajendra Mewara
Company Secretary

Annexure A

Sr. No.	Details of Events that need to be provided	Information of such events(s)																																																																																																																																																										
		Offbeat Developers Private Limited	Vamona Developers Private Limited	Graceworks Realty & Leisure Private Limited	Market City Resources Private Limited	Pallazzio Hotels & Leisure Limited																																																																																																																																																						
a)	Name of the authority	Assistant Commissioner of State Tax, Investigation - C Mumbai. Department of Goods and Service Tax	Assistant Commissioner of State Tax, Investigation - C Mumbai. Department of Goods and Service Tax	Assistant Commissioner of State Tax, Investigation - C Mumbai. Department of Goods and Service Tax	Assistant Commissioner of State Tax, Investigation - C Mumbai. Department of Goods and Service Tax	Assistant Commissioner of State Tax, Investigation - C Mumbai. Department of Goods and Service Tax																																																																																																																																																						
b)	Nature and details of the action(s) taken, initiated or order(s) passed	<p>Receipt of show cause cum demand notice from GST authorities instructing the Company to do the following:</p> <p>a. to appear before the adjudicating authority for a personal hearing on November 20, 2023 at 11.00 am;</p> <p>b. submit the response to the said show cause cum demand notice by November 21, 2023; and</p> <p>c. to pay the amount of tax as detailed below determined, along with the applicable interest and penalty for the tax period July 2017 to March 2018 under MGST/CGST Act and a penalty equivalent to the tax within 30 days of receipt of the said show cause cum demand notice i.e. on or before November 21, 2023</p> <table border="1"> <thead> <tr> <th>Act</th> <th>Tax</th> <th>Interest</th> <th>Penalty</th> <th>Total</th> </tr> <tr> <th></th> <th>Amount in Rs.</th> <th>Amount in Rs.</th> <th>Amount in Rs.</th> <th>Amount in Rs.</th> </tr> </thead> <tbody> <tr> <td>IGST</td> <td>0</td> <td>0</td> <td>0</td> <td>0</td> </tr> <tr> <td>CGST</td> <td>5713064</td> <td>6364936</td> <td>1355914</td> <td>13433914</td> </tr> <tr> <td>SGST</td> <td>5713064</td> <td>6364936</td> <td>1355914</td> <td>13433914</td> </tr> <tr> <td>Total</td> <td>11426128</td> <td>12729872</td> <td>2711828</td> <td>26867828</td> </tr> </tbody> </table>	Act	Tax	Interest	Penalty	Total		Amount in Rs.	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c)	Date of receipt of direction or order, including any ad-interim or interim orders, or any other communication from the authority	Date of receipt of Notice - September 27, 2023	Date of receipt of Notice - September 27, 2023	Date of receipt of Notice - September 27, 2023	Date of receipt of Notice - September 27, 2023	Date of receipt of Notice - September 27, 2023																																																																																																																																																						
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e)	Impact on financial, operation or other activities of the listed entity, quantifiable in monetary terms to the extent possible.	There is no material impact on the financial position or operation of the Company due to the said tax liability and penalty. The impact is limited to the extent of tax liability as ascertained along with interest and penalty as aforesaid.	There is no material impact on the financial position or operation of the Company due to the said tax liability and penalty. The impact is limited to the extent of tax liability as ascertained along with interest and penalty as aforesaid.	There is no material impact on the financial position or operation of the Company due to the said tax liability and penalty. The impact is limited to the extent of tax liability as ascertained along with interest and penalty as aforesaid.	There is no material impact on the financial position or operation of the Company due to the said tax liability and penalty. The impact is limited to the extent of tax liability as ascertained along with interest and penalty as aforesaid.	There is no material impact on the financial position or operation of the Company due to the said tax liability and penalty. The impact is limited to the extent of tax liability as ascertained along with interest and penalty as aforesaid.

FORM GST DRC - 01
[See rule 100(2) & 142(1)(a)]

Reference No. - ZD270923066854U

Date - 27-09-2023

To

GSTIN/ID: 27AAACO5140L1ZE

Name: OFFBEAT DEVELOPERS PRIVATE LIMITED

Address : CTS - 124 A/B, PHOENIX MARKETCITY MALL, OLD MUKUND PREMISES, L B S MARG, KURLA WEST, Mumbai Suburban, Maharashtra, 400070

Tax Period : JUL 2017 - MAR 2018

F.Y.- 2017-2018

Act/ Rules Provisions - Relevant legal provisions of Section 74, 50 & 122 of the CGST/MGST Act and Section 20 of IGST Act, 2017

Section / sub-section under which SCN is being issued - 74

Summary of Show Cause Notice

(a) Brief Fact of the Case : Investigation visit dated 19/05/2023 u/s 67 of MGST/ CGST Act for the Period July-2017 to Mar-2023. Intimation of tax letter Reference No. No.: AC (D-055.)/INV-C/ offbeat/2022-23/DRC-01A/B-245 Mumbai Dt-25/08/2023

(b) Grounds : A) GST Liability on account of claiming of Block ITC as per section 17(5) of MGST Act for construction of immovable property, Gift Items, Self-consumption items, Elevators and their parts, Interiors Works, Civil Works and Repair and Maintenance
B. GST Liability on account of GST not collected and deposited on the consideration received in the form of Gift Vouchers

(c) Tax and other dues :

(Amount in Rs.)

Sr. No.	Tax Rate (%)	Turnover	Tax Period		Act	POS (Place of Supply)	Tax	Interest	Penalty	Fee	Others	Total
			From	To								

1	2	3	4	5	6	7	8	9	10	11	12	13
1	0	0.00	JUL 2017	MAR 2018	CGST	NA	57,13,064. 00	63,64,936. 00	13,55,914. 00	0.00	0.00	1,34,33,914. 00
2	0	0.00	JUL 2017	MAR 2018	SGST	NA	57,13,064. 00	63,64,936. 00	13,55,914. 00	0.00	0.00	1,34,33,914. 00
Total							1,14,26,128 .00	1,27,29,872 .00	27,11,828. 00	0.00	0.00	2,68,67,828. 00

Show Cause Notice is attached.

Supporting documents attached by officer:

DRC-01 offbit 2017-18.pdf : DRC-01 OFFBEAT

Details of personal hearing and due date to file reply:

Sr. No.	Description	Particulars
1	Date by which reply has to be submitted	21-11-2023
2	Date of personal hearing	20-11-2023
3	Time of personal hearing	11:00 am
4	Venue where personal hearing will be held	Office of the Assistant Commr. of State Tax (D-055), Investigation -C, Mumbai.G-0 5, 8th Floor, GST Bhavan, New Building, Mazgaon, Mumbai-400010

Signature

Name: VIDHYADHAR SADASHIV JAGTAP

Designation: Assistant Commissioner of State

Jurisdiction: Tax
Maharashtra

Notice



**Office of the
Assistant Commr. of State Tax (D-055),
Investigation -C, Mumbai.
G-05, 8th Floor, GST Bhavan, New Build
Mazgaon, Mumbai-400010.
Phone: 022 23760882.**

FORM GST DRC - 01

[See rule 142(1)]

To

M/s. Offbeat Developers Pvt. Ltd.
GSTIN: -27AAACO5140L1ZE
Address:- CTS - 124 A/B, Phoenix Marketcity
Mall, Old Mukund Premises, L B S Marg,
Kurla West, Mumbai Suburban,
Maharashtra, 400070.

No.: AC (D-055)/INV-C/offbeat/DRC-01/2017-18/B-289 Mumbai,
Dt- 27.09.2023

Tax Period- 01st July 2017 to 31st March 2018 F.Y.2017-18

Act- MGST, CGST& IGST Act 2017

Sub: - SCN is being issued under Section 74 of MGST/CGST Act, 2017 and
Section 20 of IGST Act, 2017 R/w Section 74 of CGST Act, 2017.

Ref: - 1. Investigation visit dated 19/05/2023 u/s 67 of MGST/ CGST Act for the
Period July-2017 to Mar-2023.
2. Intimation of tax letter Reference No. No.: AC (D-055.)/INV-C/ offbeat
/2022-23/DRC-01A/B-245 Mumbai Dt-25/08/2023.

Summary of Show Cause Notice

(a) Brief of facts of the case:

M/s. Offbeat Developers Pvt. Ltd. is registered Taxpayer under GST Act having registration No. 27AAACO5140L1ZE, w.e.f. 01/07/2017 having place of business located at CTS - 124 A/B, Phoenix Marketcity Mall, Old Mukund Premises, L B S Marg, Kurla West, Mumbai Suburban, Maharashtra, 400070 and which is registered address. The Constitution of Business is Private Limited Company and Mr. Haresh Zilu Morajkar, Mr. Amit Kumar and Mr. Lalit Jain are the Directors of

the company as per GST portal.

As per assignment No. 11, dt. 18/05/2023, given by Dy. Commissioner of State Tax, E-007, INV-C Mumbai. I, Assistant Commissioner of State Tax (D-055) Proper Officer, along with State Tax Inspector, visited registered place of business of M/s. Offbeat Developers Pvt. Ltd. is registered Taxpayer under GST Act having registration No. 27AAACO5140L1ZE, w.e.f. 01/07/2017 having place of business located at CTS - 124 A/B, Phoenix Marketcity Mall, Old Mukund Premises, L B S Marg, Kurla West, Mumbai Suburban, Maharashtra, 400070.

During the investigation visit, findings of investigation were communicated to taxpayer. But taxpayer failed to discharge the said liability in DRC-03 after giving sufficient time.

After that this office has issued intimation in Form **DRC-01A on 25.08.2023** and advised to pay the amount of tax as ascertained above along with the amount of interest as applicable and penalty levied u/s 74(5) by 21.09.2023. In response to notice the taxpayer has submitted reply in Part-B of Form DRC-01A but not paid the tax. Hence the same is required to be recovered under the provision of Section 74(1) of CGST ACT read with Rule 142 of the CGST Rules 2017 and also liable for interest under section 50 of CGST Act and penalty under section Penalty u/s 122 (2) of CGST Act, 2017.

(b) Facts noticed during the Investigation & grounds:-

A) GST Liability on account of claiming of Block ITC as per section 17(5) of MGST Act for construction of immovable property, Gift Items, Self-consumption items, Elevators and their parts, Interiors Works, Civil Works and Repair and Maintenance:

1. It is observed from the returns filed by you in Form GSTR-3B and documents submitted by you during Investigation for the F.Y. 2017-18, in the case of M/s. Offbeat Developers Pvt. Ltd. have received inward supply invoices of goods & services related to Construction, Repair and Maintenance of Civil Structures, Self-Consumption Items, Gifts items, Hardware Items(TMT Bars, Glass, Tapes, Brass Hings, Flowering Carpet, Foam sheet and Mat), Marbles, Granites and Tiles, Wallpaper, Company Printing Bags, Sanitizer Items, Home Renovation, Tour of Employee, Company Event, Dismantling/Debris Removing, Painting Work and Painting oil purchases, Gypsum Works, Carpentry Panelling/Clading

Works, Gardening Works, Interior Designing, Aerome Fragrance/Perfume, Guest Hotel Stay, Chandelier, Interior Works, Wallpaper on all such purchases items, Taxpayer availed corresponding ITC in GSTR-3B.

2. But as per the provision of Section 17 (5) of CGST Act 2017, goods or services or both received for Construction (re-construction, renovation, additions or alterations or repairs) of immovable property which are blocked credit. ITC related to Construction, Repair and Maintenance of Building, self-consumption, Gifts items, Home Renovation, Tour, Company Event outside, Debris Removing, Painting work, Interior Works and Chandelier all these related ITC is not allowable or eligible as per section 17(5).

Clause (c), (d) and (h) of sub-section (5) of section 17 is as below,-

17(5) Notwithstanding anything contained in sub-section (1) of section 16 and sub-section (1) of section 18, input tax credit shall not be available in respect of the following, namely:-

(c) works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service;

(d) goods or services or both received by a taxable person for construction of an immovable property (other than plant or machinery) on his own account including when such goods or services or both are used in the course or furtherance of business.

Explanation.-For the purposes of clauses (c) and (d), the expression "construction" includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalization, to the said immovable property;

(h) goods lost, stolen, destroyed, written off or disposed of by

way of gift or free samples;

3. The word "construction" has been explained by explanation appended to clause (c) and clause (d). As per explanation construction includes "reconstruction, renovation, additions or alterations or repairs". The word repair simply means "to restore (something damaged, faulty, or worn) to a good condition. The goods purchased for maintenance is nothing but for repair of the building which houses Mall, Theatre, Food Court and Retail apparel store. A building which has become old would certainly require inward supply of goods such as vitrified tiles, Marble, Granite, ACT sheets, Steel Plates, TMT Tor, bricks, Cement, Paint, Chemicals and other sanitary items like Urinal Pots, Wash Basins and Toilet accessories for restoring it to a usable condition. These purchases are being made it own account for repair of building which is immovable property. Where this repair work is carried out by registered or unregistered suppliers by providing services it would qualify for work contract services.
4. ITC on works contract service is allowable only in case when such works contract service is used as an input service for providing further output service of works contract. It is clear that works contract service for civil work etc. for repair/maintenance/renovation of building is fully consumed at its own and it is not an input services for further provision of output services as works contract. Hence the ITC related to Interiors Works, Civil Works and Repair and Maintenance is not allowed.
5. "Capital Goods" have been defined in clause (19) of section 2. It says, "capital goods means goods, the value of which is capitalized in the books of account of the person claiming the input tax credit and which are used or intended to be used in the course or furtherance of business." It simply means that classification of any goods as capital goods would be dependent / at the sweet will of a taxpayer on making entry in his books of accounts. If the value of goods has been capitalized, it would become capital goods and if it is not capitalized, it would not become capital goods.

The eligibility of ITC does not depend on the treatment given to the

expenditure. If the expenditure in nature but subsequently capitalized the books of account it would not make eligible to ITC on such goods. ITC on such goods used for maintenance/ repair/ renovation of Mall building, an immovable property, shall not be available.

Considering the above facts you have to be reversed the said ITC along with interest and penalty.

6. The taxpayer has disputed to pay the tax liability at Rs.9979080/- along with consequential interest and penalty thereon. Same issue was communicated to taxpayer during investigation visit and statement recorded under section 70 of CGST Act,2017 in which he deposed as under;

“Said services or inputs have been procured by the named company for repair and maintenance of premises which is integral part of mall business. We have been given understanding that ITC on such inputs or services to the extent not capitalized under books is allowed under the provisions of GST laws. We will provide relevant details to re-assess the availability of ITC on the same “

Tax Liability as below;

Sr. No.	Description	Tax – CGST	Tax – SGST	Tax – IGST
A	GST Liability on account of claiming of Block ITC as per section 17(5) of MGST Act for construction of immovable property, Gift Items, Self-consumption items, Elevators and their parts, Interiors Works, Civil Works and Repair and Maintenance	4989540	4989540	0
	Total	4989540	4989540	0

The taxpayer has to pay tax along with consequential interest @18% as per u/s 50(3) of CGST Act, 2017 & applicable penalty as per section 122 of CGST Act, 2017.

B. GST Liability on account of GST not collected and deposited on the consideration received in the form of Gift Vouchers:-

- a. During the scrutiny of the record, it is observed in the case of M/s. Offbeat Developers Private Limited received Coupons/Gift Vouchers with face value

around Rs. 5000/- from each tenant as per Lease Agreement between Lessor and Lessee. Provision regarding supply of vouchers is included in the terms and conditions of leave and license agreement of each tenant. As per Section 15 (2), 7 & 13(4) of CGST Act 2017, the consideration in the form of coupons/vouchers worth Rs.5000 shall constitute the value of supply of renting service. However, M/s. Offbeat Developers Pvt. Ltd. has not collected and deposited GST on the said consideration received in the form of vouchers. The taxpayer has paid above tax liability with applicable interest and penalty under protest.

b. Liability paid under protest as below;

Sr. No.	Description	Tax – CGST	Tax – SGST	Interest – CGST	Interest – SGST	Penalty – CGST	Penalty – SGST
B	B. GST Liability on account of GST not collected and deposited on the consideration received in the form of Gift Vouchers	723524	723524	749209	749209	108529	108529
	Total	723524	723524	749209	749209	108529	108529

The taxpayer has paid above tax liability with applicable interest and penalty under protest through DRC-03 on 05.06.2023. Submit your reply on this issue.

In response to notice the taxpayer has submitted reply in Part-B of Form DRC-01A but not paid the tax. The taxpayer has requested to provide block credit list. Block credit list is provided herewith.

GSTIN	Name	Sum of IGST AMOUNT	Sum of CGST AMOUNT	Sum of SGST AMOUNT
27AAACC9308A1Z3	CBRE SOUTH ASIA PRIVATE LIMITED	0	1205155.35	1205155.35
27AAACO5172E1ZL	ARYA OMNITALK WIRELESS SOLUTIONS PRIVATE LIMITED	0	123302	123302
27AABCT6921F1ZE	TK ELEVATOR INDIA PRIVATE LIMITED	0	1018257	1018257
27AAECS1548J1Z6	SCHINDLER INDIA PRIVATE LIMITED	0	93349	93349
27AAGFI2820N1Z7	INTEGRATED BUSINESS SOLUTIONS	0	105044.94	105044.94
27ABIFS1136L1ZY	S I CONSTRUCTION	0	557399.71	557399.71
27AEQPS8135L1ZM	MAHMOODUL HAQUE ABDUL RAZZAQ SHAIKH	0	34991	34991
27AGAPB1727H1ZW	NANDKUMAR SITARAM BANGAR	0	263480	263480
27AHCPA7447A1ZU	MOHD HASSAN ABDUL REHMAN ANSARI	0	363704	363704
27AHNPB1501F1ZX	AJAY DEODATTA BHOIR	0	93643	93643
27AJUPV7219H2ZD	BINEETKUMAR PARSHURAM VARMA	0	134447	134447
27ALZPB2333B1ZC	KIRAN BANSI BOCHARE	0	320997.22	320997.22
27ASWPR4920L1ZV	MOHANSINGH LAXMANSINGH RAJPUT	0	64095	64095
27ATPPA5153L1ZE	MOHAMMAD MUSTAFA ANSARI	0	257404.25	257404.25
27AUAPS1944B1ZV	MADHUKANT GOVINDBHAI SAKHAT	0	8601	8601
27AXOPK3543M1ZX	SHAHANA BEGUM ABDUL SALAM KHAN	0	186422.99	186422.99
27CJPPK8485H1ZE	MOMINA KHATUN SHAMSUDDIN KHAN	0	159246.04	159246.04
Grand Total	#N/A	0	4989539.5	4989539.5

Relevant legal provisions of Section 74, 50 & 122 of the CGST/MGST Act and Section 20 of IGST Act, 2017 are given below;

Section 74. Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized by reason of fraud or any willful- misstatement or suppression of facts.-

(1) *Where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded or where input tax credit has been wrongly availed or utilised by reason of fraud, or any wilful- misstatement or suppression of facts to evade tax, he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under section 50 and a penalty equivalent to the tax specified in the notice.*

Section 50. Interest on delayed payment of tax.-

(1) *Every person who is liable to pay tax in accordance with the provisions of this Act or the rules made thereunder, but fails to pay the tax or any part thereof to the Government within the period prescribed, shall for the period for which the tax or any part thereof remains unpaid, pay, on his own, interest at such rate, not exceeding eighteen per cent., as may be notified by the Government on the recommendations of the Council:*

[Provided that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period, shall be levied on that portion of the tax that is paid by debiting the electronic cash ledger.]

(2) *The interest under sub-section (1) shall be calculated, in such manner as may be prescribed, from the day succeeding the day on which such tax was due to be paid.*

(3) *Where the input tax credit has been wrongly availed and utilized, the registered person shall pay interest on such input tax credit wrongly availed and utilized, at such rate not exceeding twenty-four per cent. as may be notified by the Government, on the recommendations of the*

Council, and the interest shall be calculated, in such manner as may be prescribed]

Section 122 of CGST/MGST act,

(2) Any registered person who supplies any goods or services or both on which any tax has not been paid or short-paid or erroneously refunded, or where the input tax credit has been wrongly availed or utilized,-

(a) for any reason, other than the reason of fraud or any wilful misstatement or suppression of facts to evade tax, shall be liable to a penalty of ten thousand rupees or ten per cent. of the tax due from such person, whichever is higher;

(b) for reason of fraud or any wilful misstatement or suppression of facts to evade tax, shall be liable to a penalty equal to ten thousand rupees or the tax due from such person, whichever is higher.

(c) Tax and other dues:

Considering above facts and grounds, I, Assistant Commissioner of State Tax (MUM-INV-D-055) Proper Officer, required to issue show cause to pay the amount specified in the following table along with interest payable thereon under section 50 and a penalty equivalent to the tax within 30 days of receipt of this notice i.e. on or before **21/11/2023**.

Sr. No	Tax Period		Act	POS (Place of Supply)	Tax	Interest	Penalty	Total
	From	To						
1	01-07-2017	31-03-2018	IGST	-----	0	0	0	0
2	01-07-2017	31-03-2018	CGST	-----	5713064	6364936	1355914	13433914
	01-07-2017	31-03-2018	SGST	-----	5713064	6364936	1355914	13433914
			Total		11426128	12729872	2711828	26867828

The tax liability on account of GST not collected and deposited on the consideration received in the form of Gift Vouchers the taxpayer has paid tax liability with applicable interest and penalty under protest

through DRC-03 on 05.06.2023. Submit your reply on this issue. And taxpayer has to be paid tax, interest, penalty liability on remaining issue.

The taxpayer is further directed to produce all the evidence upon which they intend to rely upon in support of their defense, at the time of showing cause. The taxpayer is also required to state in their written submission, as to whether they would like to be heard in person by the proper officer before the case is adjudicated. If no such request is made in their written reply, it will be presumed that they do not wish/ desire to be heard in person and the case shall be adjudicated accordingly, without any further reference to them.

If no cause is shown by them against the action proposed to be taken, within 30 days of receipt of this notice and/or if they do not appear before the adjudicating authority when the case is posted for hearing, the case will be decided ex-parte on the basis of evidences on record and on the merits of the case without any further reference to them.

This show cause cum demand notice is issued without prejudice to any Other/further action that may be taken against the recipient of the notice, or any other person/s concerned with the acts, Commission as mentioned in this notice or any other law for the time being in force in India.

Place: Mumbai

Date: 27/09/2023

(Vidhyadhar S. Jagtap)
Assist. Commissioner of State Tax,
(D-055), INV-C, Mumbai

FORM GST DRC - 01
[See rule 100(2) & 142(1)(a)]

Reference No. - ZD270923066688N

Date - 27-09-2023

To

GSTIN/ID: 27AACCV3425B1ZQ

Name: VAMONA DEVELOPERS PRIVATE LIMITED

Address : SURVEY NO. 207, 2ND FLOOR, PHOENIX MARKETCITY MALL, NAGAR ROAD, Pune, Pune, Maharashtra, 411014

Tax Period : JUL 2017 - MAR 2018

F.Y.- 2017-2018

Act/ Rules Provisions - Relevant legal provisions of Section 74, 50 & 122 of the CGST/MGST Act and Section 20 of IGST Act, 2017

Section / sub-section under which SCN is being issued - 74

Summary of Show Cause Notice

(a) Brief Fact of the Case : Investigation visit dated 19/05/2023 u/s 67 of MGST/ CGST Act for the Period July-2017 to Mar-2023. Intimation of tax letter Reference No. No.: AC (D-055.)/INV-C/ Vamona/2022-23/DRC-01A/B-246 Mumbai Dt-25/08/2023.

(b) Grounds : A) GST Liability on account of claiming of Block ITC as per section 17(5) of MGST Act for construction of immovable property, Gift Items, Self-consumption items, Elevators and their parts, Interiors Works, Civil Works and Repair and Maintenance
B. GST Liability on account of GST not collected and deposited on the consideration received in the form of Gift Vouchers

(c) Tax and other dues :

(Amount in Rs.)

Sr. No.	Tax Rate (%)	Turnover	Tax Period		Act	POS (Place of Supply)	Tax	Interest	Penalty	Fee	Others	Total
			From	To								
1	2	3	4	5	6	7	8	9	10	11	12	13

1	0	0.00	JUL 2017	MAR 2018	CGST	NA	69,25,306. 00	76,97,272. 00	16,23,371. 00	0.00	0.00	1,62,45,949. 00
2	0	0.00	JUL 2017	MAR 2018	SGST	NA	69,25,306. 00	76,97,272. 00	16,23,371. 00	0.00	0.00	1,62,45,949. 00
Total							1,38,50,612 .00	1,53,94,544 .00	32,46,742. 00	0.00	0.00	3,24,91,898. 00

Show Cause Notice is attached.

Supporting documents attached by officer:

DRC-01 Venoma 2017-18.pdf : DRC-01 VAMONA

Details of personal hearing and due date to file reply:

Sr. No.	Description	Particulars
1	Date by which reply has to be submitted	22-11-2023
2	Date of personal hearing	21-11-2023
3	Time of personal hearing	11:00 am
4	Venue where personal hearing will be held	Office of the Assistant Commr. of State Tax (D-055), Investigation -C, Mumbai.G-0 5, 8th Floor, GST Bhavan, New Building, Mazgaon, Mumbai-400010

Signature

Name: VIDHYADHAR SADASHIV JAGTAP

Designation: Assistant Commissioner of State

Jurisdiction: Tax
Maharashtra



**Office of the
Assistant Commr. of State Tax (D-055),
Investigation -C, Mumbai.
G-05, 8th Floor, GST Bhavan, New Build
Mazgaon, Mumbai-400010.
Phone: 022 23760882.**

FORM GST DRC - 01

[See rule 142(1)]

To

M/s. Vamona Developers Pvt. Ltd.
GSTIN: 27AACCV3425B1ZQ
Address:- 2nd Floor, Survey No. 207,
Phoenix Marketcity Mall, Nagar Road, Viman
Nagar, Pune, Pune, Maharashtra, 411014.

No.: AC (D-055)/INV-C/Vamona/DRC-01/2017-18/B-290 Mumbai,
Dt- 27.09.2023

Tax Period- 01st July 2017 to 31st March 2018 F.Y.2017-18

Act- MGST, CGST& IGST Act 2017

Sub: - SCN is being issued under Section 74 of MGST/CGST Act, 2017 and
Section 20 of IGST Act, 2017 R/w Section 74 of CGST Act, 2017.

Ref: - 1. Investigation visit dated 19/05/2023 u/s 67 of MGST/ CGST Act for the
Period July-2017 to Mar-2023.
2. Intimation of tax letter Reference No. No.: AC (D-055.)/INV-C/ Vamona
/2022-23/DRC-01A/B-246 Mumbai Dt-25/08/2023.

Summary of Show Cause Notice

(a) Brief of facts of the case:

M/s. Vamona Developers Pvt. Ltd is registered Taxpayer under GST Act having registration No. 27AACCV3425B1ZQ, w.e.f. 01/07/2017 having place of business located at 2nd Floor, Survey No. 207, Phoenix Marketcity Mall, Nagar Road, Viman Nagar, Pune, Pune, Maharashtra, 411014 and which is registered address. The Constitution of Business is Private Limited Company and Mr. Amit Kumar, Mr. Ashwin Rikhabraj Singhvi and Mr. Anuraag Srivastava and are the Directors of the company as per GST portal.

As per assignment No. 11, dt. 18/05/2023, given by Dy. Commissioner of State Tax, E-007, INV-C Mumbai. I, Assistant Commissioner of State Tax (D-055) Proper Officer, along with State Tax Inspector, visited registered place of business of M/s. Vamona Developers Pvt. Ltd is registered Taxpayer under GST Act having registration No. 27AACCV3425B1ZQ, w.e.f. 01/07/2017 having place of business located at 2nd Floor, Survey No. 207, Phoenix Marketcity Mall, Nagar Road, Viman Nagar, Pune, Maharashtra, 411014.

During the investigation visit, findings of investigation were communicated to taxpayer. But taxpayer failed to discharge the said liability in DRC-03 after giving sufficient time.

After that this office has issued intimation in Form **DRC-01A on 25.08.2023** and advised to pay the amount of tax as ascertained above along with the amount of interest as applicable and penalty levied u/s 74(5) by 21.09.2023. In response to notice the taxpayer has submitted reply in Part-B of Form DRC-01A but not paid the tax. Hence the same is required to be recovered under the provision of Section 74(1) of CGST ACT read with Rule 142 of the CGST Rules 2017 and also liable for interest under section 50 of CGST Act and penalty under section Penalty u/s 122 (2) of CGST Act, 2017.

(b) Facts noticed during the Investigation & grounds:-

A) GST Liability on account of claiming of Block ITC as per section 17(5) of MGST Act for construction of immovable property, Gift Items, Self-consumption items, Elevators and their parts, Interiors Works, Civil Works and Repair and Maintenance:

1. It is observed from the returns filed by you in Form GSTR-3B and documents submitted by you during Investigation for the F.Y. 2017-18, in the case of M/s. Vamona Developers Pvt. Ltd have received inward supply invoices of goods & services related to Construction, Repair and Maintenance of Civil Structures, Self-Consumption Items, Gifts items, Hardware Items(TMT Bars, Glass, Tapes, Brass Hings, Flowering Carpet, Foam sheet and Mat), Marbles, Granites and Tiles, Wallpaper, Company Printing Bags, Sanitizer Items, Home Renovation, Tour of Employee, Company Event, Dismantling/Debris Removing, Painting Work and Painting oil purchases, Gypsum Works, Carpentry Panelling/Clading Works, Gardening Works, Interior

Designing, Aerome Fragrance/Perfume, Guest Hotel Stay, Chandelier, Interior Works, Wallpaper on all such purchases items, Taxpayer availed corresponding ITC in GSTR-3B.

2. But as per the provision of Section 17 (5) of CGST Act 2017, goods or services or both received for Construction (re-construction, renovation, additions or alterations or repairs) of immovable property which are blocked credit. ITC related to Construction, Repair and Maintenance of Building, self-consumption, Gifts items, Home Renovation, Tour, Company Event outside, Debris Removing, Painting work, Interior Works and Chandelier all these related ITC is not allowable or eligible as per section 17(5).

Clause (c), (d) and (h) of sub-section (5) of section 17 is as below,-

17(5) Notwithstanding anything contained in sub-section (1) of section 16 and sub-section (1) of section 18, input tax credit shall not be available in respect of the following, namely:-

(c) works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service;

(d) goods or services or both received by a taxable person for construction of an immovable property (other than plant or machinery) on his own account including when such goods or services or both are used in the course or furtherance of business.

Explanation.-For the purposes of clauses (c) and (d), the expression "construction" includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalization, to the said immovable property;

(h) goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples;

3. The word "construction" has been explained by explanation appended to clause (c) and clause (d). As per explanation construction includes

"re-construction, renovation, additions or alterations or repairs". The word repair simply means "to restore (something damaged, faulty, or worn) to a good condition. The goods purchased for maintenance is nothing but for repair of the building which houses Mall, Theatre, Food Court and Retail apparel store. A building which has become old would certainly require inward supply of goods such as vitrified tiles, Marble, Granite, ACT sheets, Steel Plates, TMT Tor, bricks, Cement, Paint, Chemicals and other sanitary items like Urinal Pots, Wash Basins and Toilet accessories for restoring it to a usable condition. These purchases are being made it own account for repair of building which is immovable property. Where this repair work is carried out by registered or unregistered suppliers by providing services it would qualify for work contract services.

4. ITC on works contract service is allowable only in case when such works contract service is used as an input service for providing further output service of works contract. It is clear that works contract service for civil work etc. for repair/maintenance/renovation of building is fully consumed at its own and it is not an input services for further provision of output services as works contract. Hence the ITC related to Interiors Works, Civil Works and Repair and Maintenance is not allowed.
5. "Capital Goods" have been defined in clause (19) of section 2. It says, "capital goods means goods, the value of which is capitalized in the books of account of the person claiming the input tax credit and which are used or intended to be used in the course or furtherance of business." It simply means that classification of any goods as capital goods would be dependent / at the sweet will of a taxpayer on making entry in his books of accounts. If the value of goods has been capitalized, it would become capital goods and if it is not capitalized, it would not become capital goods.

The eligibility of ITC does not depend on the treatment given to the expenditure. If the expenditure in nature but subsequently capitalized the books of account it would not make eligible to ITC on such goods.

ITC on such goods used for maintenance/ repair/ renovation of Mall building, an immovable property, shall not be available.

Considering the above facts you have to be reversed the said ITC along with interest and penalty.

6. The taxpayer has disputed to pay the tax liability at Rs.1,16,91,494/- along with consequential interest and penalty thereon. Same issue was communicated to taxpayer during investigation visit and statement recorded under section 70 of CGST Act,2017 in which he deposed as under;

“Said services or inputs have been procured by the named company for repair and maintenance of premises which is integral part of mall business. We have been given understanding that ITC on such inputs or services to the extent not capitalized under books is allowed under the provisions of GST laws. We will provide relevant details to re-assess the availability of ITC on the same “.

Tax Liability as below;

Sr. No.	Description	Tax – CGST	Tax – SGST	Tax – IGST
A	GST Liability on account of claiming of Block ITC as per section 17(5) of MGST Act for construction of immovable property, Gift Items, Self-consumption items, Elevators and their parts, Interiors Works, Civil Works and Repair and Maintenance	5845747	5845747	0
	Total	5845747	5845747	0

The taxpayer has to pay tax along with consequential interest @18% as per u/s 50(3) of CGST Act, 2017 & applicable penalty as per section 122 of CGST Act, 2017.

B. GST Liability on account of GST not collected and deposited on the consideration received in the form of Gift Vouchers:-

- a. During the scrutiny of the record, it is observed in the case of M/s. Vamona Developers Pvt. Ltd received Coupons/Gift Vouchers with face value around Rs. 5000/- from each tenant as per Lease Agreement between Lessor and Lessee. Provision regarding supply of vouchers is included in the terms and conditions of leave and license agreement of each tenant. As per Section 15 (2), 7 & 13(4) of CGST Act 2017, the consideration in the form of

coupons/vouchers worth Rs.5000 shall constitute the value of supply of renting service. However, M/s. Vamona Developers Pvt. Ltd. has not collected and deposited GST on the said consideration received in the form of vouchers. The taxpayer has paid above tax liability with applicable interest and penalty under protest.

b. Liability paid under protest as below;

Sr. No.	Description	Tax – CGST	Tax – SGST	Interest – CGST	Interest – SGST	Penalty – CGST	Penalty – SGST
B	B. GST Liability on account of GST not collected and deposited on the consideration received in the form of Gift Vouchers	1079559	1079559	1117884	1117884	161934	161934
	Total	1079559	1079559	1117884	1117884	161934	161934

The taxpayer has paid above tax liability with applicable interest and penalty under protest through DRC-03 on 05.06.2023. Submit your reply on this issue.

In response to notice the taxpayer has submitted reply in Part-B of Form DRC-01A but not paid the tax. The taxpayer has requested to provide Invoice wise list of block credit. List of block credit is provided herewith.

GSTIN	Purchaser Supplier Name	Account Description	CGST	SGST	Total
27DRHPP5620N1Z8	NILDEEP ENTERPRISES	411002-004 Drainage Clearance - AC	270.00	270.00	540.00
27BJLPS5975H1ZE	R.P.Engineering	101 - Interior & Furnishing	4,661.00	4,661.00	9,322.00
27BJLPS5975H1ZE	R.P.Engineering	120 - Fire Fightings	1,04,372.00	1,04,372.00	2,08,744.00
27AABPA0706G1ZH	M .K. Steel Corporation	120- Other Construction work	50,098.05	50,098.05	1,00,196.10
27ABGPM8717K1Z6	TECHNO BUILT CONSTRUCTIONS AND SUPPLIERS	120- Other Construction work	2,80,419.00	2,80,419.00	5,60,838.00
27AKHPV4083F1ZT	MOLAS ENTERPRISES	123 - Elevators	8,674.00	8,674.00	17,348.00
27DCNPS5200J1ZA	Saudagar Construction	Repairs & Maintenance	4,331.52	4,331.52	8,663.04
27AZCPR7239R1ZF	R. K. ENTERPRISES	Repairs & Maintenance - Others	5,457.11	5,457.11	10,914.22
27AMJPM9502G1ZW	Vishal Interiors	147 - Interior & Furniture	6,772.32	6,772.32	13,544.64
27AMJPM9502G1ZW	Vishal Interiors	Repairs & Maintenance	1,710.00	1,710.00	3,420.00
27ABUPK7668P1ZC	FABRICRAFTS	153 - Interior or Carpentry Work	2,520.00	2,520.00	5,040.00
27DCNPS5200J1ZA	Saudagar Construction	Repairs & Maintenance	3,060.00	3,060.00	6,120.00
27AMJPM9502G1ZW	Vishal Interiors	Repairs & Maintenance	7,001.00	7,001.00	14,002.00
27DCNPS5200J1ZA	Saudagar Construction	155 - other Constriction work	4,675.00	4,675.00	9,350.00
27ABGPM8717K1Z6	TECHNO BUILT CONSTRUCTIONS AND SUPPLIERS	157 Construction Work	43,364.00	43,364.00	86,728.00
27BJLPS5975H1ZE	R.P.Engineering	163 - Interior work	12,554.00	12,554.00	25,108.00
27DCNPS5200J1ZA	Saudagar Construction	163 - Interior work	5,895.00	5,895.00	11,790.00
27BJLPS5975H1ZE	R.P.Engineering	Repairs & Maintenance	14,874.00	14,874.00	29,748.00

27DCNPS5200J1ZA	Saudagar Construction	Repairs & Maintenance	3,096.00	3,096.00	6,192.00
27AABPA0706G1ZH	M .K. Steel Corporation	166 - Road construction work	28,584.90	28,584.90	57,169.80
27AKHPV4083F1ZT	MOLAS ENTERPRISES	166 - Road construction work	3,966.75	3,966.75	7,933.50
27DCNPS5200J1ZA	Saudagar Construction	166 - Road construction work	70,900.83	70,900.83	1,41,801.66
27AKHPV4083F1ZT	MOLAS ENTERPRISES	Repairs & Maintenance	4,537.80	4,537.80	9,075.60
27AAFFM8036P1ZO	Metaphors	Mall Upgradation Consultancy	2,29,696.00	2,29,696.00	4,59,392.00
27BQZPK9039F1Z3	CHECKMATE SECURITY SOLUTIONS	210007-002 Office Equipment	9,229.00	9,229.00	18,458.00
27AABCU6138M1ZX	URBAN LANDSCAPES PRIVATE LIMITED.	210007-002 Office Equipment	10,238.00	10,238.00	20,476.00
27BGPPS0918D1Z8	GPS INFOTECK	210008-003 Equipment & Detectors	33,512.00	33,512.00	67,024.00
27ABNFS2600L1ZY	SILVERLINE ELECTRICALS	210010-001 Electrical Equipment	3,84,415.50	3,84,415.50	7,68,831.00
27ASKPK0494Q1ZZ	VENUS HARDWARE	210010-001 Electrical Equipment	504.00	504.00	1,008.00
27AFZPS3218N1ZH	ARHAM (INDIA)	210011-001 Signages	2,99,210.00	2,99,210.00	5,98,420.00
27AADJC1918J1ZI	JIGSAW DESIGN PVT LTD	210011-001 Signages	1,935.00	1,935.00	3,870.00
27AKHPV4083F1ZT	MOLAS ENTERPRISES	210011-001 Signages	12,608.00	12,608.00	25,216.00
27DRHPP5620N1Z8	NILDEEP ENTERPRISES	210011-001 Signages	270.00	270.00	540.00
27AFZPS3218N1ZH	ARHAM (INDIA)	210011-002 Furniture & Fixtures	19,440.00	19,440.00	38,880.00
27ABDPJ4269J1ZF	DAKSHA ENTERPRISES	210011-002 Furniture & Fixtures	24,678.00	24,678.00	49,356.00
27AKHPV4083F1ZT	MOLAS ENTERPRISES	Repairs & Maintenance	1,692.00	1,692.00	3,384.00
27DRHPP5620N1Z8	NILDEEP ENTERPRISES	Repairs & Maintenance	13,315.08	13,315.08	26,630.16
27AZCPR7239R1ZF	R. K. ENTERPRISES	Repairs & Maintenance	38,675.99	38,675.99	77,351.98
27ASKPK0494Q1ZZ	VENUS HARDWARE	Repairs & Maintenance	2,758.00	2,758.00	5,516.00
27ANSPA4284F1ZU	LITWELL TRADING COMPANY	Repairs & Maintenance	1,718.00	1,718.00	3,436.00
27AKHPV4083F1ZT	MOLAS ENTERPRISES	Repairs & Maintenance	3,603.00	3,603.00	7,206.00
27DRHPP5620N1Z8	NILDEEP ENTERPRISES	Repairs & Maintenance	6,974.50	6,974.50	13,949.00
27AZCPR7239R1ZF	R. K. ENTERPRISES	Repairs & Maintenance	20,008.00	20,008.00	40,016.00
27DCNPS5200J1ZA	Saudagar Construction	Repairs & Maintenance	4,839.00	4,839.00	9,678.00
27ASKPK0494Q1ZZ	VENUS HARDWARE	Repairs & Maintenance	5,084.50	5,084.50	10,169.00
27AACCN9875F1ZO	Nisa Allied Services Pvt Ltd	410100 - 003 - Security Expenses Manpower	18,218.48	18,218.48	36,436.96
27AKHPV4083F1ZT	MOLAS ENTERPRISES	410100-001 Security Expenses - Consumables & Equipments	3,499.00	3,499.00	6,998.00
27ASKPK0494Q1ZZ	VENUS HARDWARE	410100-001 Security Expenses - Consumables & Equipments	16,605.00	16,605.00	33,210.00
27AACCN9875F1ZO	Nisa Allied Services Pvt Ltd	410100-003 Security Expenses - Manpower	3,036.41	3,036.41	6,072.82
27AKHPV4083F1ZT	MOLAS ENTERPRISES	410100-005 Manpower Lift Operator	4,635.00	4,635.00	9,270.00
27DRHPP5620N1Z8	NILDEEP ENTERPRISES	410100-005 Manpower Lift Operator	26,012.00	26,012.00	52,024.00
27AAECC2392J1ZI	CAMBRO NILKAMAL PVT. LTD.	410200-001 Operations Expenses - Consumables	5,850.00	5,850.00	11,700.00
27BGPPS0918D1Z8	GPS INFOTECK	410200-001 Operations Expenses - Consumables	1,37,092.50	1,37,092.50	2,74,185.00
27AKHPV4083F1ZT	MOLAS ENTERPRISES	410200-001 Operations Expenses - Consumables	3,625.50	3,625.50	7,251.00

27DRHPP5620N1Z8	NILDEEP ENTERPRISES	410200-001 Operations Expenses – Consumables	6,904.64	6,904.64	13,809.28
27AABC6138M1ZX	URBAN LANDSCAPES PRIVATE LIMITED.	410200-001 Operations Expenses – Consumables	892.00	892.00	1,784.00
27DRHPP5620N1Z8	NILDEEP ENTERPRISES	410200-003 Housekeeping Expenses - Manpower	12,466.08	12,466.08	24,932.16
27AZCPR7239R1ZF	R. K. ENTERPRISES	410200-003 Housekeeping Expenses - Manpower	46,237.10	46,237.10	92,474.20
27AZCPR7239R1ZF	R. K. ENTERPRISES	410200-004 Horticulture - Garden	567.00	567.00	1,134.00
27AABC6138M1ZX	URBAN LANDSCAPES PRIVATE LIMITED.	410200-004 Horticulture - Garden	96,646.13	96,646.13	1,93,292.26
27DRHPP5620N1Z8	NILDEEP ENTERPRISES	410200-005 Flower Arrangement	6,926.25	6,926.25	13,852.50
27AFIPL8280J1ZX	DATTASAI ENGINEERS	411001-004 Repairs & Maintenance	10,868.00	10,868.00	21,736.00
27ABUPK7668P1ZC	FABRICRAFTS	411001-004 Repairs & Maintenance	688.80	688.80	1,377.60
27AKHPV4083F1ZT	MOLAS ENTERPRISES	411001-004 Repairs & Maintenance	58,517.50	58,517.50	1,17,035.00
27DRHPP5620N1Z8	NILDEEP ENTERPRISES	411001-004 Repairs & Maintenance	75,206.86	75,206.86	1,50,413.72
27AZCPR7239R1ZF	R. K. ENTERPRISES	411001-004 Repairs & Maintenance	2,51,868.05	2,51,868.05	5,03,736.10
27AHKPD2771L1Z3	ROSHAN ENTERPRISES	411001-004 Repairs & Maintenance	4,500.00	4,500.00	9,000.00
27ABGPM8717K1Z6	TECHNO BUILT CONSTRUCTIONS AND SUPPLIERS	411001-004 Repairs & Maintenance	1,80,818.28	1,80,818.28	3,61,636.56
27ASKPK0494Q1ZZ	VENUS HARDWARE	411001-004 Repairs & Maintenance	4,561.00	4,561.00	9,122.00
27DRHPP5620N1Z8	NILDEEP ENTERPRISES	411001-008 Repairs & Maintenance - Painting	16,659.48	16,659.48	33,318.96
27AZCPR7239R1ZF	R. K. ENTERPRISES	411001-008 Repairs & Maintenance - Painting	28,081.80	28,081.80	56,163.60
27AZCPR7239R1ZF	R. K. ENTERPRISES	411001-008 Repairs & Maintenance - Painting	5,978.00	5,978.00	11,956.00
27ABGPM8717K1Z6	TECHNO BUILT CONSTRUCTIONS AND SUPPLIERS	411001-009 Repairs & Maintenance - Plumbing	63,353.00	63,353.00	1,26,706.00
27ASKPK0494Q1ZZ	VENUS HARDWARE	411001-009 Repairs & Maintenance - Plumbing	36,337.50	36,337.50	72,675.00
27AKHPV4083F1ZT	MOLAS ENTERPRISES	411001-052 Repairs & Maintenance - Security Equipments	1,557.00	1,557.00	3,114.00
27AKHPV4083F1ZT	MOLAS ENTERPRISES	411001-053 Repairs & Maintenance - Machineries & Equipments	922.50	922.50	1,845.00
27AACCS2107H1ZO	STERLING & WILSON POWERGEN PVT. LTD.	411001-053 Repairs & Maintenance - Machineries & Equipments	63.00	63.00	126.00
27AABCT6921F1ZE	THYSSENKRUPP ELEVATOR (INDIA)PVT LTD	411001-053 Repairs & Maintenance - Machineries & Equipments	2,07,752.80	2,07,752.80	4,15,505.60
27AKHPV4083F1ZT	MOLAS ENTERPRISES	411001-055 Repairs & Maintenance - HVAC	4,211.00	4,211.00	8,422.00
27ASKPK0494Q1ZZ	VENUS HARDWARE	411001-055 Repairs & Maintenance - HVAC	7,505.00	7,505.00	15,010.00
27AKHPV4083F1ZT	MOLAS ENTERPRISES	411001-056 Repairs & Maintenance - DG	369.00	369.00	738.00
27AACCS2107H1ZO	STERLING & WILSON POWERGEN PVT. LTD.	411001-056 Repairs & Maintenance - DG	1,21,558.00	1,21,558.00	2,43,116.00
27AKHPV4083F1ZT	MOLAS ENTERPRISES	411001-057 Repairs & Maintenance - STP	1,183.00	1,183.00	2,366.00
27ACVFS6220P1Z8	S G WATERTECH	411001-057 Repairs & Maintenance - STP	1,323.00	1,323.00	2,646.00
27ASKPK0494Q1ZZ	VENUS HARDWARE	411001-057 Repairs & Maintenance - STP	562.00	562.00	1,124.00
27AKHPV4083F1ZT	MOLAS ENTERPRISES	411001-102 Repairs & Maintenance - Electricals	5,815.00	5,815.00	11,630.00
27AZCPR7239R1ZF	R. K. ENTERPRISES	411001-102 Repairs & Maintenance - Electricals	1,436.00	1,436.00	2,872.00

27AADCT0071E1ZP	TECH INDIA ENGINEERS PRIVATE LIMITED.	411001-102 Repairs & Maintenance - Electricals	17,246.00	17,246.00	34,492.00
27ASKPK0494Q1ZZ	VENUS HARDWARE	411001-102 Repairs & Maintenance - Electricals	7,053.50	7,053.50	14,107.00
27ASKPK0494Q1ZZ	VENUS HARDWARE	411001-103 Repairs & Maintenance - Pump	1,015.00	1,015.00	2,030.00
27ASKPK0494Q1ZZ	VENUS HARDWARE	411001-152 Repairs & Maintenance - Furniture & Fixtures	6,251.50	6,251.50	12,503.00
27AKHPV4083F1ZT	MOLAS ENTERPRISES	411001-208 Repairs & Maintenance – FLS	39,705.00	39,705.00	79,410.00
27DRHPP5620N1Z8	NILDEEP ENTERPRISES	411001-208 Repairs & Maintenance – FLS	10,724.00	10,724.00	21,448.00
27AABCO4525E1ZP	OMKAR ENGINEERING WORKS PVT. LTD.	411001-208 Repairs & Maintenance – FLS	721.00	721.00	1,442.00
27AACCO5851C1ZL	ONKAR DIESEL WORKS (INDIA) PVT.LTD.	411001-208 Repairs & Maintenance – FLS	10,067.00	10,067.00	20,134.00
27ASKPK0494Q1ZZ	VENUS HARDWARE	411001-208 Repairs & Maintenance – FLS	1,705.50	1,705.50	3,411.00
27DRHPP5620N1Z8	NILDEEP ENTERPRISES	411002-004 Drainage Clearance - AC	30,610.25	30,610.25	61,220.50
27AZCPR7239R1ZF	R. K. ENTERPRISES	411002-004 Drainage Clearance - AC	43,391.00	43,391.00	86,782.00
27ACVFS6220P1Z8	S G WATERTECH	411002-006 Water Tank Cleaning - AC	1,350.00	1,350.00	2,700.00
27AAACJ0838Q1Z6	JOHNSON LIFTS PRIVATE LIMITED	411002-052 AMC - Elevators / Escalators	10,620.00	10,620.00	21,240.00
27AABCT6921F1ZE	THYSSENKRUPP ELEVATOR (INDIA)PVT LTD	411002-052 AMC - Elevators / Escalators	3,00,201.00	3,00,201.00	6,00,402.00
27AACCO5851C1ZL	ONKAR DIESEL WORKS (INDIA) PVT.LTD.	411002-055 AMC - Fire Security Systems	1,089.00	1,089.00	2,178.00
27AKHPV4083F1ZT	MOLAS ENTERPRISES	411002-070 AMC - Water Tank Cleaning	2,025.00	2,025.00	4,050.00
27AADCT0071E1ZP	TECH INDIA ENGINEERS PRIVATE LIMITED.	411002-103 AMC - Transformer	13,379.00	13,379.00	26,758.00
27AACCS2107H1ZO	STERLING & WILSON POWERGEN PVT. LTD.	411002-106 AMC - Diesel Generators	44,978.00	44,978.00	89,956.00
27DRHPP5620N1Z8	NILDEEP ENTERPRISES	411002-108 AMC - Pumps	2,491.00	2,491.00	4,982.00
27ACVFS6220P1Z8	S G WATERTECH	411002-110 AMC -STP	22,194.00	22,194.00	44,388.00
27ACVFS6220P1Z8	S G WATERTECH	411002-111 STP – Consumables	11,538.00	11,538.00	23,076.00
27ATOPK9174A1ZF	SUREKH ENTERPRISES	411002-111 STP – Consumables	23,760.00	23,760.00	47,520.00
27ASKPK0494Q1ZZ	VENUS HARDWARE	411002-111 STP – Consumables	1,688.40	1,688.40	3,376.80
27ASKPK0494Q1ZZ	VENUS HARDWARE	420102-003 Telephone Expenses (Direct)	605.00	605.00	1,210.00
27ABNFS2600L1ZY	SILVERLINE ELECTRICALS Tamarind Global Services Pvt. Ltd.	420109-010 Liaisoning & Coordination Fees	24,750.00	24,750.00	49,500.00
27AACCT4974D1Z8	LAKHANI JAIN & ASSOCIATES	420109-015 Professional Charges	9,00,000.00	9,00,000.00	18,00,000.00
27AAEFL9736G1ZO	ASL Enterprises	420109-017 Revenue Share Audit Fees	24,525.00	24,525.00	49,050.00
27ADDP8955A2ZT	PVR LIMITED	420113-008 Office Expenses	25,956.18	25,956.18	51,912.36
27AAACP4526D1ZQ	JIGSAW DESIGN PVT LTD	420201-001 Advertisement Expenses	65,393.00	65,393.00	1,30,786.00
27AADCJ1918J1ZI	MOLAS ENTERPRISES	420202-004 Event Expenses	2,03,328.50	2,03,328.50	4,06,657.00
27AKHPV4083F1ZT	NILDEEP ENTERPRISES	420202-004 Event Expenses	3,645.00	3,645.00	7,290.00
27DRHPP5620N1Z8	R. K. ENTERPRISES	420202-004 Event Expenses	52,030.87	52,030.87	1,04,061.74
27AZCPR7239R1ZF	Saudagar Construction	420202-004 Event Expenses	45,247.22	45,247.22	90,494.44
27DCNPS5200J1ZA	VENUS HARDWARE	420202-004 Event Expenses	4,598.00	4,598.00	9,196.00
27ASKPK0494Q1ZZ	VISHWA ELELCTRICALS	420202-004 Event Expenses	3,997.00	3,997.00	7,994.00
27DDPPM3687A1Z8		420202-004 Event Expenses	2,78,730.00	2,78,730.00	5,57,460.00

27AAACX1125G1ZN	XTREME MEDIA PRIVATE LIMITED	420202-004 Event Expenses	4,050.00	4,050.00	8,100.00
27AADCI1918J1ZI	JIGSAW DESIGN PVT LTD	420202-007 Miscellaneous Cost – Marketing	47,163.00	47,163.00	94,326.00
27AKHPV4083F1ZT	MOLAS ENTERPRISES	420202-007 Miscellaneous Cost – Marketing	7,438.00	7,438.00	14,876.00
27DRHPP5620N1Z8	NILDEEP ENTERPRISES	420202-007 Miscellaneous Cost – Marketing	7,209.00	7,209.00	14,418.00
27AAACX1125G1ZN	XTREME MEDIA PRIVATE LIMITED	420202-007 Miscellaneous Cost – Marketing	8,100.00	8,100.00	16,200.00
27AADCI1918J1ZI	JIGSAW DESIGN PVT LTD	420204-002 Festival Expenses	38,610.00	38,610.00	77,220.00
27ADCPJ1608G1ZY	PAREKH DRY FRUITS	420204-002 Festival Expenses	8,418.00	8,418.00	16,836.00
27CQKPS9024C1ZM	AURAA TRADING COMPANY	Repairs & Maintenance - Civil	78,082.00	78,082.00	1,56,164.00
27AAACS6249Q1ZO	Korindo Plywood Pvt.Ltd.	411001-253 Repairs & Maintenance - Others	85,116.15	85,116.15	1,70,232.30
27AAGFI2820N1Z7	Integrated Business Solutions	Basement Lobby Upgrade	47,845.84	47,845.84	95,691.68
			58,45,747.42	58,45,747.42	116,91,494.84

Relevant legal provisions of Section 74, 50 & 122 of the CGST/MGST Act and Section 20 of IGST Act, 2017 are given below;

Section 74. Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized by reason of fraud or any willful- misstatement or suppression of facts.-

(1) Where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded or where input tax credit has been wrongly availed or utilised by reason of fraud, or any wilful- misstatement or suppression of facts to evade tax, he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under section 50 and a penalty equivalent to the tax specified in the notice.

Section 50. Interest on delayed payment of tax.-

(1) Every person who is liable to pay tax in accordance with the provisions of this Act or the rules made thereunder, but fails to pay the tax or any part thereof to the Government within the period prescribed, shall for the period for which the tax or any part thereof remains unpaid, pay, on his own, interest at such rate, not exceeding eighteen per cent., as may be notified by the Government on the recommendations of the Council:

[Provided that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period

	From	To						
1	01-07-2017	31-03-2018	IGST	-----	0	0	0	0
2	01-07-2017	31-03-2018	CGST	-----	6925306	7697272	1623371	16245949
	01-07-2017	31-03-2018	SGST	-----	6925306	7697272	1623371	16245949
			Total		138,50,612	15394544	3246742	324,91,898

The tax liability on account of GST not collected and deposited on the consideration received in the form of Gift Vouchers, the taxpayer has paid tax liability with applicable interest and penalty under protest through DRC-03 on 05.06.2023. Submit your reply on this issue. And taxpayer has to be paid tax, interest, penalty liability on remaining issue.

The taxpayer is further directed to produce all the evidence upon which they intend to rely upon in support of their defense, at the time of showing cause. The taxpayer is also required to state in their written submission, as to whether they would like to be heard in person by the proper officer before the case is adjudicated. If no such request is made in their written reply, it will be presumed that they do not wish/ desire to be heard in person and the case shall be adjudicated accordingly, without any further reference to them.

If no cause is shown by them against the action proposed to be taken, within 30 days of receipt of this notice and/or if they do not appear before the adjudicating authority when the case is posted for hearing, the case will be decided ex-parte on the basis of evidences on record and on the merits of the case without any further reference to them.

This show cause cum demand notice is issued without prejudice to any Other/further action that may be taken against the recipient of the notice, or any other person/s concerned with the acts, Commission as mentioned in this notice or any other law for the time being in force in India.

Place: Mumbai

Date: 27/09/2023

(Vidhyadhar S. Jagtap)
Assist. Commissioner of State Tax,
(D-055), INV-C, Mumbai

FORM GST DRC - 01
[See rule 100(2) & 142(1)(a)]

Reference No. - ZD270923067269U

Date - 27-09-2023

To

GSTIN/ID: 27AABCG2308P1ZH

Name: GRACEWORKS REALTY & LEISURE PRIVATE LIMITED

Address : CST NO-124, PHOENIX ENCLAVE, LBS MARG, NR KAMANI JUNCTION, KURLA WEST, Mumbai Suburban, Maharashtra, 400070

Tax Period : JUL 2017 - MAR 2018

F.Y.- 2017-2018

Act/ Rules Provisions - Relevant legal provisions of Section 74, 50 & 122 of the CGST/MGST Act and Section 20 of IGST Act, 2017

Section / sub-section under which SCN is being issued - 74

Summary of Show Cause Notice

(a) Brief Fact of the Case : Investigation visit dated 19/05/2023 u/s 67 of MGST/ CGST Act for the Period July-2017 to Mar-2023. Intimation of tax letter Reference No. No.: AC (D-055.)/INV-C/Gracework /2022-23/DRC-01A/B-247 Mumbai Dt-25/08/2023

(b) Grounds : A) GST Liability on account of claiming of Block ITC as per section 17(5) of MGST Act for construction of immovable property, Gift Items, Self-consumption items, Elevators and their parts, Interiors Works, Civil Works and Repair and Maintenance

(c) Tax and other dues :

(Amount in Rs.)

Sr. No.	Tax Rate (%)	Turnover	Tax Period		Act	POS (Place of Supply)	Tax	Interest	Penalty	Fee	Others	Total
			From	To								
1	2	3	4	5	6	7	8	9	10	11	12	13
1	0	0.00	JUL	MAR	CGST	NA	5,63,313.00	6,34,009.00	1,40,828.00	0.00	0.00	13,38,150.00

			2017	2018								
2	0	0.00	JUL 2017	MAR 2018	SGST	NA	5,63,313.00	6,34,009.00	1,40,828.00	0.00	0.00	13,38,150.00
Total							11,26,626. 00	12,68,018. 00	2,81,656.00	0.00	0.00	26,76,300.00

Show Cause Notice is attached.

Supporting documents attached by officer:

DRC-01 Gracework 2017-18.pdf : DRC-01 Grace

Details of personal hearing and due date to file reply:

Sr. No.	Description	Particulars
1	Date by which reply has to be submitted	21-11-2023
2	Date of personal hearing	20-11-2023
3	Time of personal hearing	11:00 am
4	Venue where personal hearing will be held	Office of the Assistant Commr. of State Tax (D-055), Investigation -C, Mumbai.G-0 5, 8th Floor, GST Bhavan, New Building, Mazgaon, Mumbai-400010

Signature

Name: VIDHYADHAR SADASHIV JAGTAP

Designation: Assistant Commissioner of State

Jurisdiction: Tax

Maharashtra



**Office of the
Assistant Commr. of State Tax (D-055),
Investigation -C, Mumbai.
G-05, 8th Floor, GST Bhavan, New Build
Mazgaon, Mumbai-400010.
Phone: 022 23760882.**

FORM GST DRC - 01

[See rule 142(1)]

To

M/s. Graceworks Realty & Leisure Pvt. Ltd.

GSTIN: 27AABCG2308P1ZH

Address: - Cst No-124, Phoenix Enclave, Lbs Marg,
Nr Kamani Junction, Kurla West, Mumbai Suburban,
Maharashtra, 400070.

No.: AC (D-055)/INV-C/Gracework/DRC-01/2017-18/B-287 Mumbai,
Dt- 27.09.2023

Tax Period- 01st July 2017 to 31st March 2018 F.Y.2017-18

Act- MGST, CGST& IGST Act 2017

Sub: - SCN is being issued under Section 74 of MGST/CGST Act, 2017 and
Section 20 of IGST Act, 2017 R/w Section 74 of CGST Act, 2017.

Ref: - 1. Investigation visit dated 19/05/2023 u/s 67 of MGST/ CGST Act for the
Period July-2017 to Mar-2023.
2. Intimation of tax letter Reference No. No.: AC (D-055.)/INV-C/Gracework
/2022-23/DRC-01A/B-247 Mumbai Dt-25/08/2023.

Summary of Show Cause Notice

(a) Brief of facts of the case:

M/s. Graceworks Realty & Leisure Pvt. Ltd is registered Taxpayer under GST Act having registration No. 27AABCG2308P1ZH, w.e.f. 01/07/2017 having place of business located at Cst No-124, Phoenix Enclave, Lbs Marg, Nr Kamani Junction, Kurla West, Mumbai Suburban, Maharashtra, 400070 and which is registered address. The Constitution of Business is Private Limited Company and Mr. Nilesh Jude Louzado, Mr. Rajesh Maruti Patil and Mr. Gaurav Sharma and are the Directors of the company as per GST portal.

As per assignment No. 11, dt. 18/05/2023, given by Dy.

Commissioner of State Tax, E-007, INV-C Mumbai. I, Assistant Commissioner of State Tax (D-055) Proper Officer, along with State Tax Inspector, visited registered place of business of M/s. Market City Resources Pvt. Ltd having GSTIN: 27AACCB8932B1ZW on DT. 19.05.2023 at 11.00 AM, at Ground Floor, G-13, R. R. Hosiery Bldg., Shree Laxmi Woollen Mills Estate, Shakti Mill Lane, Dr. E Moses Road, Mahalaxmi, Mumbai, Maharashtra, 400011.

During the investigation visit, findings of investigation were communicated to taxpayer. But taxpayer failed to discharge the said liability in DRC-03 after giving sufficient time.

After that this office has issued intimation in Form **DRC-01A on 25.08.2023** and advised to pay the amount of tax as ascertained above along with the amount of interest as applicable and penalty levied u/s 74(5) by 22.09.2023. In response to notice the taxpayer has submitted reply in Part-B of Form DRC-01A but not paid the tax. Hence the same is required to be recovered under the provision of Section 74(1) of CGST ACT read with Rule 142 of the CGST Rules 2017 and also liable for interest under section 50 of CGST Act and penalty under section Penalty u/s 122 (2) of CGST Act, 2017.

(b) Facts noticed during the Investigation & grounds:-

A) GST Liability on account of claiming of Block ITC as per section 17(5) of MGST Act for construction of immovable property, Gift Items, Self-consumption items, Elevators and their parts, Interiors Works, Civil Works and Repair and Maintenance:

1. It is observed from the returns filed by you in Form GSTR-3B and documents submitted by you during Investigation for the F.Y. 2017-18, in the case of M/s. Graceworks Realty & Leisure Pvt. Ltd have received inward supply invoices of goods & services related to Construction, Repair and Maintenance of Civil Structures, Self-Consumption Items, Gifts items, Hardware Items(TMT Bars, Glass, Tapes, Brass Hings, Flowering Carpet, Foam sheet and Mat), Marbles, Granites and Tiles, Wallpaper, Company Printing Bags, Sanitizer Items, Home Renovation, Tour of Employee, Company Event, Dismantling/Debris Removing, Painting Work and Painting oil purchases, Gypsum Works, Carpentry Panelling/Clading Works, Gardening Works, Interior Designing, Aerome Fragrance/Perfume, Guest Hotel Stay, Chandelier, Interior Works, Wallpaper on all such

purchases items, Taxpayer availed corresponding ITC in GSTR-3B.

2. But as per the provision of Section 17 (5) of CGST Act 2017, goods or services or both received for Construction (re-construction, renovation, additions or alterations or repairs) of immovable property which are blocked credit. ITC related to Construction, Repair and Maintenance of Building, self-consumption, Gifts items, Home Renovation, Tour, Company Event outside, Debris Removing, Painting work, Interior Works and Chandelier all these related ITC is not allowable or eligible as per section 17(5).

Clause (c), (d) and (h) of sub-section (5) of section 17 is as below,-

17(5) Notwithstanding anything contained in sub-section (1) of section 16 and sub-section (1) of section 18, input tax credit shall not be available in respect of the following, namely:-

(c) works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service;

(d) goods or services or both received by a taxable person for construction of an immovable property (other than plant or machinery) on his own account including when such goods or services or both are used in the course or furtherance of business.

Explanation.-For the purposes of clauses (c) and (d), the expression "construction" includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalization, to the said immovable property;

(h) goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples;

3. The word "construction" has been explained by explanation appended to clause (c) and clause (d). As per explanation construction includes

"re-construction, renovation, additions or alterations or repairs". The word repair simply means "to restore (something damaged, faulty, or worn) to a good condition. We are sure that that goods purchased for maintenance is nothing but for repair of the building which houses Mall, Theatre, Food Court and Retail apparel store. A building which has become old would certainly require inward supply of goods such as vitrified tiles, Marble, Granite, ACT sheets, Steel Plates, TMT Tor, bricks, Cement, Paint, Chemicals and other sanitary items like Urinal Pots, Wash Basins and Toilet accessories for restoring it to a usable condition. These purchases are being made it own account for repair of building which is immovable property. Where this repair work is carried out by registered or unregistered suppliers by providing services it would qualify for work contract services.

4. ITC on works contract service is allowable only in case when such works contract service is used as an input service for providing further output service of works contract. It is clear that works contract service for civil work etc. for repair/maintenance/renovation of building is fully consumed at its own and it is not an input services for further provision of output services as works contract. Hence the ITC related to Interiors Works, Civil Works and Repair and Maintenance is not allowed.
5. "Capital Goods" have been defined in clause (19) of section 2. It says, "capital goods means goods, the value of which is capitalized in the books of account of the person claiming the input tax credit and which are used or intended to be used in the course or furtherance of business." It simply means that classification of any goods as capital goods would be dependent / at the sweet will of a taxpayer on making entry in his books of accounts. If the value of goods has been capitalized, it would become capital goods and if it is not capitalized, it would not become capital goods.

The eligibility of ITC does not depend on the treatment given to the expenditure. If the expenditure in nature but subsequently capitalized the books of account it would not make eligible to ITC on such goods.

ITC on such goods used for maintenance/ repair/ renovation of Mall building, an immovable property, shall not be available.

Considering the above facts you have to be reversed the said ITC along with interest and penalty.

6. The taxpayer has disputed to pay the tax liability at Rs.1126626/- along with consequential interest and penalty thereon. Same issue was communicated to taxpayer during investigation visit and statement recorded under section 70 of CGST Act,2017 in which he deposed as under;

“Said services or inputs have been procured by the named company for repair and maintenance of premises which is integral part of mall business. We have been given understanding that ITC on such inputs or services to the extent not capitalized under books is allowed under the provisions of GST laws. We will provide relevant details to re-assess the availability of ITC on the same “.

Considering the reply submitted by taxpayer the tax liability is as below,-

Tax Liability as below;

Sr. No.	Description	Tax – CGST	Tax – SGST	Tax – IGST
A	GST Liability on account of claiming of Block ITC as per section 17(5) of MGST Act for construction of immovable property, Gift Items, Self-consumption items, Elevators and their parts, Interiors Works, Civil Works and Repair and Maintenance	563313	563313	0
	Total	563313	563313	0

The taxpayer has to pay tax along with consequential interest @18% as per u/s 50(3) of CGST Act, 2017 & applicable penalty as per section 122 of CGST Act, 2017.

In response to notice the taxpayer has submitted reply in Part-B of Form DRC-01A but not paid the tax. The taxpayer has requested to provide Block credit list. Block credit list is as below.

Name	GSTIN	CGST Amount	SGST Amount
A to Z Facade Solutions	27AAVFA1158Q1ZP	26123	26123
CBRE South Asia Pvt. Ltd	27AAACC9308A1Z3	7650	7650

City Lift (India) Ltd.	27AAACC1684K1ZJ	71889.12	71889.12
Dattasai Engineers	27AFIPL8280J1ZX	40931	40931
Elixir Home Care P. Ltd.	27AABCE8515G1ZP	1638	1638
Focus Lighting & Fixture Ltd.	27AAACF9268J1Z6	34128	34128
Key One Interiors Pvt Ltd	27AAFCK8469F1Z4	221803	221803
Komal Sanitary & Tiles	27AAEFK3800E1ZS	2331	2331
Kuber Corporation	27AANFK4440R1ZM	10834.1	10834.1
NewAge Fire Protection Ind. P. Ltd.	27AADCN3668F1ZC	2250	2250
Prerna Gardens	27ARCPK7732J2ZJ	26619.03	26619.03
S.K. Enterprises	27AXOPK3543M1ZX	9783	9783
Samrat Electric & Hardware	27ASWPR4920L1ZV	3409	3409
Shri Gurudev Decorators	27AGAPB1727H1ZW	87143	87143
Sonmoxr Electricals	27AACPD0482D1ZA	16781.94	16781.94
Grand Total	#N/A	563313.19	563313.19

Relevant legal provisions of Section 74, 50 & 122 of the CGST/MGST Act and Section 20 of IGST Act, 2017 are given below;

Section 74. Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized by reason of fraud or any willful- misstatement or suppression of facts.-

(1) Where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded or where input tax credit has been wrongly availed or utilised by reason of fraud, or any wilful-misstatement or suppression of facts to evade tax, he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under section 50 and a penalty equivalent to the tax specified in the notice.

Section 50. Interest on delayed payment of tax.-

(1) Every person who is liable to pay tax in accordance with the provisions of this Act or the rules made thereunder, but fails to pay the tax or any part thereof to the Government within the period prescribed, shall for the period for which the tax or any part thereof remains unpaid, pay, on his own, interest at such rate, not exceeding eighteen per cent., as may be notified by the Government on the recommendations of the Council:

[Provided that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period, shall be levied on that portion of the tax that is paid by debiting the electronic cash ledger.]

(2) The interest under sub-section (1) shall be calculated, in such manner as may be prescribed, from the day succeeding the day on which such tax was due to be paid.

(3) Where the input tax credit has been wrongly availed and utilized, the registered person shall pay interest on such input tax credit wrongly availed and utilized, at such rate not exceeding twenty-four per cent. as may be notified by the Government, on the recommendations of the Council, and the interest shall be calculated, in such manner as may be prescribed]

Section 122 of CGST/MGST act,

(2) Any registered person who supplies any goods or services or both on which any tax has not been paid or short-paid or erroneously refunded, or where the input tax credit has been wrongly availed or utilized,-

(a) for any reason, other than the reason of fraud or any wilful misstatement or suppression of facts to evade tax, shall be liable to a penalty of ten thousand rupees or ten per cent. of the tax due from such person, whichever is higher;

(b) for reason of fraud or any wilful misstatement or suppression of facts to evade tax, shall be liable to a penalty equal to ten thousand rupees or the tax due from such person, whichever is higher.

(c) Tax and other dues:

Considering above facts and grounds, I, Assistant Commissioner of State Tax (MUM-INV-D-055) Proper Officer, required to issue show cause to pay the amount specified in the following table along with interest payable thereon under section 50 and a penalty equivalent to the tax within 30 days of receipt of this notice i.e. on or before **21/11/2023**.

Sr. No	Tax Period		Act	POS (Place of Supply)	Tax	Interest	Penalty	Total
	From	To						
1	01-07-2017	31-03-2018	IGST	-----	0	0	0	0
2	01-07-2017	31-03-2018	CGST	-----	563313	634009	140828	1338150
	01-07-2017	31-03-2018	SGST	-----	563313	634009	140828	1338150
			Total		1126626	1268018	281657	2676301

The taxpayer is further directed to produce all the evidence upon which they intend to rely upon in support of their defense, at the time of showing cause. The taxpayer is also required to state in their written submission, as to whether they would like to be heard in person by the proper officer before the case is adjudicated. If no such request is made in their written reply, it will be presumed that they do not wish/ desire to be heard in person and the case shall be adjudicated accordingly, without any further reference to them.

If no cause is shown by them against the action proposed to be taken, within 30 days of receipt of this notice and/or if they do not appear before the adjudicating authority when the case is posted for hearing, the case will be decided ex-parte on the basis of evidences on record and on the merits of the case without any further reference to them.

This show cause cum demand notice is issued without prejudice to any Other/further action that may be taken against the recipient of the notice, or any other person/s concerned with the acts, Commission as mentioned in this notice or any other law for the time being in force in India.

Place: Mumbai

Date: 27/09/2023

(Vidhyadhar S. Jagtap)
Assist. Commissioner of State Tax,
(D-055), INV-C, Mumbai

FORM GST DRC - 01
[See rule 100(2) & 142(1)(a)]

Reference No. - ZD270923066350C

Date - 27-09-2023

To

GSTIN/ID: 27AACCB8932B1ZW

Name: MARKET CITY RESOURCES PRIVATE LIMITED

Address : G-13, GROUND FLOOR, R. R. HOISERY BLDG., SHREE LAXMI WOOLLEN MILLS ESTATE, SHAKTI MILL LANE, DR. E MOSES ROAD,, MAHALAXMI, Mumbai, Maharashtra, 400011

Tax Period : JUL 2017 - MAR 2018

F.Y.- 2017-2018

Act/ Rules Provisions - Relevant legal provisions of Section 74, 50 & 122 of the CGST/MGST Act and Section 20 of IGST Act, 2017

Section / sub-section under which SCN is being issued - 74

Summary of Show Cause Notice

(a) Brief Fact of the Case : Investigation visit dated 19/05/2023 u/s 67 of MGST/ CGST Act for the Period July-2017 to Mar-2023
Intimation of tax letter Reference No. No.: AC (D-055.)/INV-C/Market City /2022-23/DRC-01A/B-241 Mumbai Dt-25/08/2023

(b) Grounds : A) GST Liability on account of claiming of Block ITC as per section 17(5) of MGST Act for construction of immovable property, Gift Items, Self-consumption items, Elevators and their parts, Interiors Works, Civil Works and Repair and Maintenance

(c) Tax and other dues :

(Amount in Rs.)

Sr. No.	Tax Rate (%)	Turnover	Tax Period		Act	POS (Place of Supply)	Tax	Interest	Penalty	Fee	Others	Total
			From	To								
1	2	3	4	5	6	7	8	9	10	11	12	13

1	0	0.00	JUL 2017	MAR 2018	IGST	Maharashtra	21,600.00	24,311.00	5,400.00	0.00	0.00	51,311.00
2	0	0.00	JUL 2017	MAR 2018	CGST	NA	2,76,934.00	3,11,689.00	69,234.00	0.00	0.00	6,57,857.00
3	0	0.00	JUL 2017	MAR 2018	SGST	NA	2,76,934.00	3,11,689.00	69,234.00	0.00	0.00	6,57,857.00
Total							5,75,468.00	6,47,689.00	1,43,868.00	0.00	0.00	13,67,025.00

Show Cause Notice is attached.

Supporting documents attached by officer:

DRC-01 Market City 2017-18.pdf : DRC-01 Market

Details of personal hearing and due date to file reply:

Sr. No.	Description	Particulars
1	Date by which reply has to be submitted	21-11-2023
2	Date of personal hearing	20-11-2023
3	Time of personal hearing	11:00 am
4	Venue where personal hearing will be held	Office of the Assistant Commr. of State Tax (D-055), Investigation -C, Mumbai.G-0 5, 8th Floor, GST Bhavan, New Building, Mazgaon, Mumbai-400010

Signature

Name: VIDHYADHAR SADASHIV JAGTAP

Designation: Assistant Commissioner of State

Jurisdiction: Tax
Maharashtra

Notice



**Office of the
Assistant Commr. of State Tax (D-055),
Investigation -C, Mumbai.
G-05, 8th Floor, GST Bhavan, New Build
Mazgaon, Mumbai-400010.
Phone: 022 23760882.**

FORM GST DRC - 01

[See rule 142(1)]

To

M/s. Market City Resources Pvt. Ltd
GSTIN: 27AACCB8932B1ZW

Address:- Ground Floor, G-13, R. R. Hoisery Bldg.,
Shree Laxmi Woollen Mills Estate, Shakti Mill Lane,
Dr. E Moses Road,, Mahalaxmi, Mumbai - 400011.

No.: AC (D-055)/INV-C/Market City/DRC-01/2017-18/B-286 Mumbai,
Dt- 27.09.2023

Tax Period- 01st July 2017 to 31st March 2018 F.Y.2017-18

Act- MGST, CGST& IGST Act 2017

Sub: - SCN is being issued under Section 74 of MGST/CGST Act, 2017 and
Section 20 of IGST Act, 2017 R/w Section 74 of CGST Act, 2017.

Ref: - 1. Investigation visit dated 19/05/2023 u/s 67 of MGST/ CGST Act for the
Period July-2017 to Mar-2023.
2. Intimation of tax letter Reference No. No.: AC (D-055.)/INV-C/Market City
/2022-23/DRC-01A/B-241 Mumbai Dt-25/08/2023.

Summary of Show Cause Notice

(a) Brief of facts of the case:

M/s. Market City Resources Pvt. Ltd is registered Taxpayer under GST Act having registration No. 27AACCB8932B1ZW, w.e.f. 01/07/2017 having place of business located at Ground Floor, G-13, R. R. Hosiery Bldg., Shree Laxmi Woollen Mills Estate, Shakti Mill Lane, Dr. E Moses Road,, Mahalaxmi, Mumbai, Maharashtra, 400011 and which is registered address. The Constitution of Business is Private Limited Company and Mr. Prashant Shriram Khandelwal and Mr. Harshal Atul Vohra are the Directors of the company as per GST portal.

As per assignment No. 11, dt. 18/05/2023, given by Dy. Commissioner of State Tax, E-007, INV-C Mumbai. I, Assistant Commissioner

of State Tax (D-055) Proper Officer, along with State Tax Inspector, visited registered place of business of M/s. Market City Resources Pvt. Ltd having GSTIN: 27AACCB8932B1ZW on DT. 19.05.2023 at 11.00 AM, at Ground Floor, G-13, R. R. Hosiery Bldg., Shree Laxmi Woollen Mills Estate, Shakti Mill Lane, Dr. E Moses Road, Mahalaxmi, Mumbai, Maharashtra, 400011.

During the investigation visit, findings of investigation were communicated to taxpayer. But taxpayer failed to discharge the said liability in DRC-03 after giving sufficient time.

After that this office has issued intimation in Form **DRC-01A on 25.08.2023** and advised to pay the amount of tax as ascertained above along with the amount of interest as applicable and penalty levied u/s 74(5) by 21.09.2023. In response to notice the taxpayer has submitted reply in Part-B of Form DRC-01A but not paid the tax. The taxpayer has requested to provide invoice wise list. Hence the same is required to be recovered under the provision of Section 74(1) of CGST ACT read with Rule 142 of the CGST Rules 2017 and also liable for interest under section 50 of CGST Act and penalty under section Penalty u/s 122 (2) of CGST Act, 2017.

(b) Facts noticed during the Investigation & grounds:-

A) GST Liability on account of claiming of Block ITC as per section 17(5) of MGST Act for construction of immovable property, Gift Items, Self-consumption items, Elevators and their parts, Interiors Works, Civil Works and Repair and Maintenance:

1. It is observed from the returns filed by you in Form GSTR-3B and scrutiny of books of accounts during Investigation for the F.Y. 2017-18, in the case of M/s. Market City Resources Pvt. Ltd have received inward supply invoices of goods & services related to Construction, Repair and Maintenance of Civil Structures, Self-Consumption Items, Gifts items, Hardware Items(TMT Bars, Glass, Tapes, Brass Hings, Flowering Carpet, Foam sheet and Mat), Marbles, Granites and Tiles, Wallpaper, Company Printing Bags, Sanitizer Items, Home Renovation, Tour of Employee, Company Event, Dismantling/Debris Removing, Painting Work and Painting oil purchases, Gypsum Works, Carpentry Panelling/Clading Works, Gardening Works, Interior Designing, Aerome Fragrance/Perfume, Guest Hotel Stay, Chandelier, Interior Works, Wallpaper on all such purchases items, Taxpayer

availed corresponding ITC in GSTR-3B on all such purchases items.

2. As per the provision of Section 17 (5) of CGST Act 2017, goods or services or both received for Construction (re-construction, renovation, additions or alterations or repairs) of immovable property which are blocked credit. ITC related to Construction, Repair and Maintenance of Building, self-consumption, Gifts items, Home Renovation, Tour, Company Event outside, Debris Removing, Painting work, Interior Works and Chandelier all these related ITC is not allowable or eligible as per section 17(5).

Clause (c), (d) and (h) of sub-section (5) of section 17 is as below,-

17(5) Notwithstanding anything contained in sub-section (1) of section 16 and sub-section (1) of section 18, input tax credit shall not be available in respect of the following, namely:-

(c) works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service;

(d) goods or services or both received by a taxable person for construction of an immovable property (other than plant or machinery) on his own account including when such goods or services or both are used in the course or furtherance of business.

Explanation.-*For the purposes of clauses (c) and (d), the expression "construction" includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalization, to the said immovable property;*

(h) goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples;

3. The word "construction" has been explained by explanation appended to clause (c) and clause (d). As per explanation construction includes "re-

construction, renovation, additions or alterations or repairs". The word repair simply means "to restore (something damaged, faulty, or worn) to a good condition. We are sure that that goods purchased for maintenance is nothing but for repair of the building which houses Mall, Theatre, and Food Court and Retail apparel store. A building which has become old would certainly require inward supply of goods such as vitrified tiles, Marble, Granite, ACT sheets, Steel Plates, TMT Tor, bricks, Cement, Paint, Chemicals and other sanitary items like Urinal Pots, Wash Basins and Toilet accessories for restoring it to a usable condition. These purchases are being made it own account for repair of building which is immovable property. Where this repair work is carried out by registered or unregistered suppliers by providing services it would qualify for work contract services.

4. ITC on works contract service is allowable only in case when such works contract service is used as an input service for providing further output service of works contract. It is clear that works contract service for civil work etc. for repair/maintenance/renovation of building is fully consumed at its own and it is not an input services for further provision of output services as works contract. Hence the ITC related to Interiors Works, Civil Works and Repair and Maintenance is not allowed.
5. "Capital Goods" have been defined in clause (19) of section 2. It says, "capital goods means goods, the value of which is capitalized in the books of account of the person claiming the input tax credit and which are used or intended to be used in the course or furtherance of business." It simply means that classification of any goods as capital goods would be dependent / at the sweet will of a taxpayer on making entry in his books of accounts. If the value of goods has been capitalized, it would become capital goods and if it is not capitalized, it would not become capital goods.

The eligibility of ITC does not depend on the treatment given to the expenditure. If the expenditure in nature but subsequently capitalized the books of account it would not make eligible to ITC on such goods. ITC on such goods used for maintenance/ repair/ renovation of Mall building,

an immovable property, shall not be available.

Considering the above facts you have to be reversed the said ITC along with interest and penalty.

6. The taxpayer has disputed to pay the tax liability at Rs. 5,75,468/- along with consequential interest and penalty thereon. Same issue was communicated to taxpayer during investigation visit and statement recorded under section 70 of CGST Act,2017 in which he deposed as under;

“Kindly allow us to re-assess the availability of ITC and revert on the same “

7. Tax Liability as below;

S. No.	Description	Tax – CGST	Tax – SGST	Tax – IGST
A	GST Liability on account of claiming of Block ITC as per section 17(5) of MGST Act for construction of immovable property, Gift Items, Self-consumption items, Elevators and their parts, Interiors Works, Civil Works and Repair and Maintenance	276934	276934	21600
	Total	276934	276934	21600

The taxpayer has to pay tax along with consequential interest @18% as per u/s 50(3) of CGST Act, 2017 & applicable penalty as per section 122 of CGST Act, 2017.

In response to notice the taxpayer has submitted reply in Part-B of Form DRC-01A but not paid the tax. The taxpayer has requested to provide invoice wise list.

As per taxpayer’s request invoice wise list of block credit is provided herewith.

Supplier GSTIN	Supplier Name	Invoice Number	Invoice Date	Description	Taxable Value	IGST Amount	CGST Amount	SGST Amount	Total Tax
27AAACP3325J1ZI	The Phoenix Mills Ltd. (CAM)	270117180100675	15/07/2017	CAM Charges	36,975.00		3,327.75	3,327.75	6,655.50
27AAACP3325J1ZI	The Phoenix Mills Ltd. (CAM)	270117180100676	15/07/2017	CAM Charges	22,200.00		1,998.00	1,998.00	3,996.00
27ADQPR3700F1ZH	Gayatri A. Ruia	07/17-18	02/08/2017	Professional Fees	2,50,000.00		22,500.00	22,500.00	45,000.00
27AAACP3325J1ZI	The Phoenix Mills Ltd. (CAM)	270117180101466	03/08/2017	CAM Charges	22,200.00		1,998.00	1,998.00	3,996.00
27AAACP3325J1ZI	The Phoenix Mills Ltd. (CAM)	270117180101465	03/08/2017	CAM Charges	36,975.00		3,327.75	3,327.75	6,655.50
27ABAFM8539P1ZJ	Mantra Hospitality Services - Firm	064/2017-18	18/08/2017	Input GST - 2.5%	15,000.00		375.00	375.00	750.00

				Register - Expenses					
27ABAFM8539P1ZJ	Mantra Hospitality Services - Firm	063/2017-18	18/08/2017	Input GST - 2.5% Register - Expenses	1,16,845.00		2,921.13	2,921.13	5,842.26
27ADQPR3700F1ZH	Gayatri A. Ruia	09/17-18	30/08/2017	Professional Fees	2,50,000.00		22,500.00	22,500.00	45,000.00
27AAACP3325J1ZI	The Phoenix Mills Ltd. (CAM)	270117180102661	22/09/2017	CAM Charges	22,200.00		1,998.00	1,998.00	3,996.00
27AAACP3325J1ZI	The Phoenix Mills Ltd. (CAM)	270117180102660	22/09/2017	CAM Charges	36,975.00		3,327.75	3,327.75	6,655.50
27ADQPR3700F1ZH	Gayatri A. Ruia	11/17-18/28-08-2017	29/09/2017	Professional Fees	2,50,000.00		22,500.00	22,500.00	45,000.00
27AAACP3325J1ZI	The Phoenix Mills Ltd. (CAM)	270117180103938	03/10/2017	CAM Charges	36,975.00		3,327.75	3,327.75	6,655.50
27AAACP3325J1ZI	The Phoenix Mills Ltd. (CAM)	270117180103939	03/10/2017	CAM Charges	22,200.00		1,998.00	1,998.00	3,996.00
27ADQPR3700F1ZH	Gayatri A. Ruia	13/17-18/26.10.2017	30/10/2017	Professional Fees	2,50,000.00		22,500.00	22,500.00	45,000.00
27AAACP3325J1ZI	The Phoenix Mills Ltd. (CAM)	270117180105433	21/11/2017	CAM Charges	36,975.00		3,327.75	3,327.75	6,655.50
27AAACP3325J1ZI	The Phoenix Mills Ltd. (CAM)	270117180105434	21/11/2017	CAM Charges	22,200.00		1,998.00	1,998.00	3,996.00
06AADCN8705D1ZO	Neuro Leadership Training Pvt Ltd.	NL/GST/17-18/057	22/11/2017	Professional Fees	1,20,000.00	21,600.00			21,600.00
27ADQPR3700F1ZH	Gayatri A. Ruia	15/2017-18	02/12/2017	Professional Fees	2,50,000.00		22,500.00	22,500.00	45,000.00
27AABCR1718E1ZP	Reliance Retail Limited.	913411517900010	22/12/2017	Office Equipment	62,571.43		3,754.29	3,754.29	7,508.58
27AAACP3325J1ZI	The Phoenix Mills Ltd. (CAM)	270117180107225	26/12/2017	CAM Charges	36,975.00		3,327.75	3,327.75	6,655.50
27AAACP3325J1ZI	The Phoenix Mills Ltd. (CAM)	270117180107226	26/12/2017	CAM Charges	22,200.00		1,998.00	1,998.00	3,996.00
27AAACE9592J1Z4	Pallazzio Hotels & Leisure Limited.-Cr	4195-20500	28/12/2017	Recruitment Exps	10,000.00		1,400.00	1,400.00	2,800.00
27AAACE9592J1Z4	Pallazzio Hotels & Leisure Limited.-Cr	4195-20500	28/12/2017	Recruitment Exps	1,680.00		151.20	151.20	302.40
27ADQPR3700F1ZH	Gayatri A. Ruia	17/2017-18	29/12/2017	Professional Fees	2,50,000.00		22,500.00	22,500.00	45,000.00
27AAACE9592J1Z4	Pallazzio Hotels & Leisure Limited.-Cr	4195-19788	30/12/2017	Business Promotion	10,000.00		1,400.00	1,400.00	2,800.00
27AAACE9592J1Z4	Pallazzio Hotels & Leisure Limited.-Cr	4195-19788	30/12/2017	Staff Welfare	290.00		26.10	26.10	52.20
27AAACE9592J1Z4	Pallazzio Hotels & Leisure Limited.-Cr	4195-19789	30/12/2017	Business Promotion	10,000.00		1,494.50	1,494.50	2,989.00
27AAACE9592J1Z4	Pallazzio Hotels & Leisure Limited.-Cr	4195-19789	30/12/2017	Staff Welfare	1,050.00		94.50	94.50	189.00
27AAACE9592J1Z4	Pallazzio Hotels & Leisure Limited.-Cr	4195-19790	30/12/2017	Business Promotion	10,000.00		1,400.00	1,400.00	2,800.00
27AAACE9592J1Z4	Pallazzio Hotels & Leisure Limited.-Cr	4195	09/01/2018	Business Promotion	43,995.00		3,959.55	3,959.55	7,919.10
27AAACE9592J1Z4	Pallazzio Hotels & Leisure Limited.-Cr	4195	09/01/2018	Business Promotion	46,746.00		4,207.14	4,207.14	8,414.28
27AAACP3325J1ZI	The Phoenix Mills Ltd. (CAM)	270117180108513	19/01/2018	CAM Charges	36,975.00		3,327.75	3,327.75	6,655.50
27AAACP3325J1ZI	The Phoenix Mills Ltd. (CAM)	270117180108514	19/01/2018	CAM Charges	22,200.00		1,998.00	1,998.00	3,996.00
27ADQPR3700F1ZH	Gayatri A. Ruia	19/2017-18	01/02/2018	Professional Fees	2,50,000.00		22,500.00	22,500.00	45,000.00
27AAACP3325J1ZI	The Phoenix Mills Ltd. (CAM)	270117180110127	27/02/2018	CAM Charges	36,975.00		3,327.75	3,327.75	6,655.50

27AAACP3325J1ZI	The Phoenix Mills Ltd. (CAM)	270117180110128	27/02/2018	CAM Charges	22,200.00		1,998.00	1,998.00	3,996.00	
27AAACP3325J1ZI	The Phoenix Mills Ltd. (CAM)	270117180111414	03/03/2018	CAM Charges	36,975.00		3,327.75	3,327.75	6,655.50	
27AAACP3325J1ZI	The Phoenix Mills Ltd. (CAM)	270117180111415	03/03/2018	CAM Charges	22,200.00		1,998.00	1,998.00	3,996.00	
27ADQPR3700F1ZH	Gayatri A. Ruia	21/2017-2018	06/03/2018	Professional Fees	2,50,000.00		22,500.00	22,500.00	45,000.00	
27AAACE9592J1Z4	Pallazzo Hotels & Leisure Limited.-Cr	419520513	26/03/2018	Business Promotion	59,100.00		5,319.00	5,319.00	10,638.00	
27ADQPR3700F1ZH	Gayatri A. Ruia	23/2017-18	27/03/2018	Professional Fees	2,50,000.00		22,500.00	22,500.00	45,000.00	
							21,600.00	2,76,934.16	2,76,934.16	5,75,468.32

Relevant legal provisions of Section 74, 50 & 122 of the CGST/MGST Act and Section 20 of IGST Act, 2017 are given below;

Section 74. Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized by reason of fraud or any willful- misstatement or suppression of facts.-

(1) Where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded or where input tax credit has been wrongly availed or utilised by reason of fraud, or any wilful-misstatement or suppression of facts to evade tax, he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under section 50 and a penalty equivalent to the tax specified in the notice.

Section 50. Interest on delayed payment of tax.-

(1) Every person who is liable to pay tax in accordance with the provisions of this Act or the rules made thereunder, but fails to pay the tax or any part thereof to the Government within the period prescribed, shall for the period for which the tax or any part thereof remains unpaid, pay, on his own, interest at such rate, not exceeding eighteen per cent., as may be notified by the Government on the recommendations of the Council:

[Provided that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of section 39, except where such return is furnished after commencement of any

proceedings under section 73 or section 74 in respect of the said period, shall be levied on that portion of the tax that is paid by debiting the electronic cash ledger.]

(2) The interest under sub-section (1) shall be calculated, in such manner as may be prescribed, from the day succeeding the day on which such tax was due to be paid.

(3) Where the input tax credit has been wrongly availed and utilized, the registered person shall pay interest on such input tax credit wrongly availed and utilized, at such rate not exceeding twenty-four per cent. as may be notified by the Government, on the recommendations of the Council, and the interest shall be calculated, in such manner as may be prescribed]

Section 122 of CGST/MGST act,

(2) Any registered person who supplies any goods or services or both on which any tax has not been paid or short-paid or erroneously refunded, or where the input tax credit has been wrongly availed or utilized,-

(a) for any reason, other than the reason of fraud or any wilful misstatement or suppression of facts to evade tax, shall be liable to a penalty of ten thousand rupees or ten per cent. of the tax due from such person, whichever is higher;

(b) for reason of fraud or any wilful misstatement or suppression of facts to evade tax, shall be liable to a penalty equal to ten thousand rupees or the tax due from such person, whichever is higher.

(c) Tax and other dues:

Considering above facts and grounds, I, Assistant Commissioner of State Tax (MUM-INV-D-055) Proper Officer, required to issue show cause to pay the amount specified in the following table along with interest payable thereon under section 50 and a penalty equivalent to the tax within 30 days of receipt of this notice i.e. on or before **21/11/2023**.

Sr. No	Tax Period		Act	POS (Place of Supply)	Tax	Interest	Penalty	Total
	From	To						
1	01-07-2017	31-03-2018	IGST	-----	21600	24311	5400	51311
2	01-07-2017	31-03-2018	CGST	-----	276934	311689	69234	657857
	01-07-2017	31-03-2018	SGST	-----	276934	311689	69234	657857
			Total		575468	647689	143867	1367024

The taxpayer is further directed to produce all the evidence upon which they intend to rely upon in support of their defense, at the time of showing cause. The taxpayer is also required to state in their written submission, as to whether they would like to be heard in person by the proper officer before the case is adjudicated. If no such request is made in their written reply, it will be presumed that they do not wish/ desire to be heard in person and the case shall be adjudicated accordingly, without any further reference to them.

If no cause is shown by them against the action proposed to be taken, within 30 days of receipt of this notice and/or if they do not appear before the adjudicating authority when the case is posted for hearing, the case will be decided ex-parte on the basis of evidences on record and on the merits of the case without any further reference to them.

This show cause cum demand notice is issued without prejudice to any Other/further action that may be taken against the recipient of the notice, or any other person/s concerned with the acts, Commission as mentioned in this notice or any other law for the time being in force in India.

Place: Mumbai

Date: 27/09/2023

(Vidhyadhar S. Jagtap)
Assist. Commissioner of State Tax,
(D-055), INV-C, Mumbai

FORM GST DRC - 01
[See rule 100(2) & 142(1)(a)]

Reference No. - ZD2709230665061

Date - 27-09-2023

To

GSTIN/ID: 27AAACE9592J1Z4

Name: PALLAZZIO HOTELS & LEISURE LIMITED

Address : 462, PHOENIX MILLS PREMISES, SENAPATI BAPAT MARG, LOWER PAREL, Mumbai, Maharashtra, 400013

Tax Period : JUL 2017 - MAR 2018

F.Y.- 2017-2018

Act/ Rules Provisions - Relevant legal provisions of Section 74, 50 & 122 of the CGST/MGST Act and Section 20 of IGST Act, 2017

Section / sub-section under which SCN is being issued - 74

Summary of Show Cause Notice

(a) Brief Fact of the Case : Investigation visit dated 19/05/2023 u/s 67 of MGST/ CGST Act for the Period July-2017 to Mar-2023. Intimation of tax letter Reference No. No.: AC (D-055.)/INV-C/ Pallazio /2022-23/DRC-01A/B-248 Mumbai Dt-25/08/2023.

(b) Grounds : A) GST Liability on account of claiming of Block ITC as per section 17(5) of MGST Act for construction of immovable property, Gift Items, Self-consumption items, Elevators and their parts, Interiors Works, Civil Works and Repair and Maintenance

(c) Tax and other dues :

(Amount in Rs.)

Sr. No.	Tax Rate (%)	Turnover	Tax Period		Act	POS (Place of Supply)	Tax	Interest	Penalty	Fee	Others	Total
			From	To								
1	2	3	4	5	6	7	8	9	10	11	12	13
1	0	0.00	JUL	MAR	IGST	Maharashtra	6,00,390.00	6,75,739.00	1,50,098.00	0.00	0.00	14,26,227.00

			2017	2018								
2	0	0.00	JUL 2017	MAR 2018	CGST	NA	58,26,947. 00	65,58,229. 00	14,56,737. 00	0.00	0.00	1,38,41,913. 00
3	0	0.00	JUL 2017	MAR 2018	SGST	NA	58,26,947. 00	65,58,229. 00	14,56,737. 00	0.00	0.00	1,38,41,913. 00
Total							1,22,54,284 .00	1,37,92,197 .00	30,63,572. 00	0.00	0.00	2,91,10,053. 00

Show Cause Notice is attached.

Supporting documents attached by officer:

DRC-01 Pallazio 2017-18.pdf : DRC-01 PALAZIO

Details of personal hearing and due date to file reply:

Sr. No.	Description	Particulars
1	Date by which reply has to be submitted	22-11-2023
2	Date of personal hearing	21-11-2023
3	Time of personal hearing	11:00 am
4	Venue where personal hearing will be held	Office of the Assistant Commr. of State Tax (D-055), Investigation -C, Mumbai.G-0 5, 8th Floor, GST Bhavan, New Building, Mazgaon, Mumbai-400010

Signature

Name: VIDHYADHAR SADASHIV JAGTAP

Designation: Assistant Commissioner of State

Jurisdiction: Tax
Maharashtra

Notice



**Office of the
Assistant Commr. of State Tax (D-055),
Investigation -C, Mumbai.
G-05, 8th Floor, GST Bhavan, New Build
Mazgaon, Mumbai-400010.
Phone: 022 23760882.**

FORM GST DRC - 01

[See rule 142(1)]

To

M/s. Pallazzio Hotels & Leisure Ltd.

GSTIN: -27AAACE9592J1Z4

Address:- 462, Phoenix Mills Premises, Senapati Bapat
Marg, Lower Parel, Mumbai, Maharashtra, 400013.

No.: AC (D-055)/INV-C/Pallzzio/DRC-01/2017-18/B-288 Mumbai,
Dt- 27.09.2023

Tax Period- 01st July 2017 to 31st March 2018 F.Y.2017-18

Act- MGST, CGST& IGST Act 2017

Sub: - SCN is being issued under Section 74 of MGST/CGST Act, 2017 and
Section 20 of IGST Act, 2017 R/w Section 74 of CGST Act, 2017.

Ref: - 1. Investigation visit dated 19/05/2023 u/s 67 of MGST/ CGST Act for the
Period July-2017 to Mar-2023.
2. Intimation of tax letter Reference No. No.: AC (D-055.)/INV-C/ Pallazio
/2022-23/DRC-01A/B-248 Mumbai Dt-25/08/2023.

Summary of Show Cause Notice

(a) Brief of facts of the case:

M/s. Pallazzio Hotels & Leisure Ltd is registered Taxpayer under GST Act having registration No. 27AAACE9592J1Z4, w.e.f. 01/07/2017 having place of business located at 462, Phoenix Mills Premises, Senapati Bapat Marg, Lower Parel, Mumbai, Maharashtra, 400013 and which is registered address. The Constitution of Business is Limited Company and Mr. Shishir Ashok Shrivastava, Mr. Varun Parwal and are the Directors of the company as per GST portal

As per assignment No. 11, dt. 18/05/2023, given by Dy.
Commissioner of State Tax, E-007, INV-C Mumbai. I, Assistant Commissioner

of State Tax (D-055) Proper Officer, along with State Tax Inspector, visited registered place of business of M/s. Pallazzio Hotels & Leisure Ltd is registered Taxpayer under GST Act having registration No. 27AAACE9592J1Z4, w.e.f. 01/07/2017 having place of business located at 462, Phoenix Mills Premises, Senapati Bapat Marg, Lower Parel, Mumbai, Maharashtra, 400013.

During the investigation visit, findings of investigation were communicated to taxpayer. But taxpayer failed to discharge the said liability in DRC-03 after giving sufficient time.

After that this office has issued intimation in Form **DRC-01A** on **25.08.2023** and advised to pay the amount of tax as ascertained above along with the amount of interest as applicable and penalty levied u/s 74(5) by 22.09.2023. In response to notice the taxpayer has submitted reply in Part-B of Form DRC-01A but not paid the tax. Hence the same is required to be recovered under the provision of Section 74(1) of CGST ACT read with Rule 142 of the CGST Rules 2017 and also liable for interest under section 50 of CGST Act and penalty under section Penalty u/s 122 (2) of CGST Act, 2017.

(b) Facts noticed during the Investigation & grounds:-

A) GST Liability on account of claiming of Block ITC as per section 17(5) of MGST Act for construction of immovable property, Gift Items, Self-consumption items, Elevators and their parts, Interiors Works, Civil Works and Repair and Maintenance:

1. It is observed from the returns filed by you in Form GSTR-3B and documents submitted by you during Investigation for the F.Y. 2017-18, in the case of i. M/s. Pallazzio Hotels & Leisure Ltd. have received inward supply invoices of goods & services related to Construction, Repair and Maintenance of Civil Structures, Self-Consumption Items, Gifts items, Hardware Items(TMT Bars, Glass, Tapes, Brass Hings, Flowering Carpet, Foam sheet and Mat), Marbles, Granites and Tiles, Wallpaper, Company Printing Bags, Sanitizer Items, Home Renovation, Tour of Employee, Company Event, Dismantling/Debris Removing, Painting Work and Painting oil purchases, Gypsum Works, Carpentry Panelling/Clading Works, Gardening Works, Interior Designing, Aerome Fragrance/Perfume, Guest Hotel Stay, Chandelier, Interior Works, Wallpaper on all such

purchases items, Taxpayer availed corresponding ITC in GSTR-3B.

2. But as per the provision of Section 17 (5) of CGST Act 2017, goods or services or both received for Construction (re-construction, renovation, additions or alterations or repairs) of immovable property which are blocked credit. ITC related to Construction, Repair and Maintenance of Building, self-consumption, Gifts items, Home Renovation, Tour, Company Event outside, Debris Removing, Painting work, Interior Works and Chandelier all these related ITC is not allowable or eligible as per section 17(5).

Clause (c), (d) and (h) of sub-section (5) of section 17 is as below,-

17(5) Notwithstanding anything contained in sub-section (1) of section 16 and sub-section (1) of section 18, input tax credit shall not be available in respect of the following, namely:-

(c) works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service;

(d) goods or services or both received by a taxable person for construction of an immovable property (other than plant or machinery) on his own account including when such goods or services or both are used in the course or furtherance of business.

Explanation.-For the purposes of clauses (c) and (d), the expression "construction" includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalization, to the said immovable property;

(h) goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples;

3. The word "construction" has been explained by explanation appended

to clause (c) and clause (d). As per explanation construction includes "re-construction, renovation, additions or alterations or repairs". The word repair simply means "to restore (something damaged, faulty, or worn) to a good condition. The goods purchased for maintenance is nothing but for repair of the building which houses Mall, Theatre, Food Court and Retail apparel store. A building which has become old would certainly require inward supply of goods such as vitrified tiles, Marble, Granite, ACT sheets, Steel Plates, TMT Tor, bricks, Cement, Paint, Chemicals and other sanitary items like Urinal Pots, Wash Basins and Toilet accessories for restoring it to a usable condition. These purchases are being made it own account for repair of building which is immovable property. Where this repair work is carried out by registered or unregistered suppliers by providing services it would qualify for work contract services.

4. ITC on works contract service is allowable only in case when such works contract service is used as an input service for providing further output service of works contract. It is clear that works contract service for civil work etc. for repair/maintenance/renovation of building is fully consumed at its own and it is not an input services for further provision of output services as works contract. Hence the ITC related to Interiors Works, Civil Works and Repair and Maintenance is not allowed.
5. "Capital Goods" have been defined in clause (19) of section 2. It says, "capital goods means goods, the value of which is capitalized in the books of account of the person claiming the input tax credit and which are used or intended to be used in the course or furtherance of business." It simply means that classification of any goods as capital goods would be dependent / at the sweet will of a taxpayer on making entry in his books of accounts. If the value of goods has been capitalized, it would become capital goods and if it is not capitalized, it would not become capital goods.

The eligibility of ITC does not depend on the treatment given to the expenditure. If the expenditure in nature but subsequently capitalized

the books of account it would not make eligible to ITC on such goods. ITC on such goods used for maintenance/ repair/ renovation of Mall building, an immovable property, shall not be available.

Considering the above facts you have to be reversed the said ITC along with interest and penalty.

6. The taxpayer has disputed to pay the tax liability at Rs.12254284/- along with consequential interest and penalty thereon. Same issue was communicated to taxpayer during investigation visit and statement recorded under section 70 of CGST Act,2017 in which he deposed as under;

“Said services or inputs have been procured by the named company for repair and maintenance of premises which is integral part of mall business. We have been given understanding that ITC on such inputs or services to the extent not capitalized under books is allowed under the provisions of GST laws. We will provide relevant details to re-assess the availability of ITC on the same “.

Tax Liability as below;

Sr. No.	Description	Tax – CGST	Tax – SGST	Tax – IGST
A	GST Liability on account of claiming of Block ITC as per section 17(5) of MGST Act for construction of immovable property, Gift Items, Self-consumption items, Elevators and their parts, Interiors Works, Civil Works and Repair and Maintenance	5826947	5826947	600390
	Total	5826947	5826947	600390

The taxpayer has to pay tax along with consequential interest @18% as per u/s 50(3) of CGST Act, 2017 & applicable penalty as per section 122 of CGST Act, 2017.

In response to notice the taxpayer has submitted reply in Part-B of Form DRC-01A but not paid the tax. The taxpayer has requested to provide invoice wise list. Invoice wise list is provided herewith.

GSTIN	Name	Sum of IGST	Sum of CGST	Sum of SGST	Total
06AAECR9860J1ZW	R.V. Interiors PVT LTD	443779			443779
08AIVPL2446A2Z7	rakeshkumar shantilal labana	156268.38	0	0	156268.38
27AAACN1252A1Z5	Navnit Motors Pvt Ltd		1418918.91	1418918.91	2837837.8

27AAACN1283H1ZK	NISA INDUSTRIAL SERVICES PRIVATE LIMITED	0	511264.83	511264.83	1022529.7
27AAACO2563P1Z1	ORIX AUTO INFRASTRUCTURE SERVICES LIMITED	343.29	115138.49	115138.49	230620.27
27AAAFD4754A1ZW	DEEPAK GAS SERVICES	0	276329.59	276329.59	552659.18
27AABCL9950A1ZL	LIBERTY GENERAL INSURANCE LIMITED	0	14143.84	14143.84	28287.68
27AABCS4308P1Z1	SHAMAN CARS INDIA PRIVATE LIMITED	0	4797.42	4797.42	9594.84
27AABCT3518Q1ZW	Tata AIG General Insurance	0	271078.48	271078.48	542156.96
27AABPD1268N1ZO	MANOHAR YESHWANT DUBALE	0	43308.84	43308.84	86617.68
27AADCM9124H1ZE	MADHUBAN MOTORS PRIVATE LIMITED	0	6482.18	6482.18	12964.36
27AADFV5555A1ZA	VIRCHAND KHIMJI AND COMPANY	0	375491.7245	375491.7245	750983.45
27AAECM7288D1Z8	MURASPEC DISTRIBUTORS INDIA PRIVATE LIMITED	0	131961.58	131961.58	263923.16
27AAGCC1297A1ZX	CANARA FACILITIES MANAGEMENT PRIVATE LIMITED	0	131117.96	131117.96	262235.92
27AAGCT1983J1ZW	TCW TEA PRIVATE LIMITED	0	492.5	492.5	985
27AAGPM8516P1Z1	VINAY MANHARLAL MEHTA	0	4343.76	4343.76	8687.52
27AAICM1338G1ZJ	MITSUBISHI ELEVATOR INDIA PRIVATE LIMITED	0	219655.02	219655.02	439310.04
27AAZPF1485F1ZC	ALEX CAMILO FERNANDES	0	460151.01	460151.01	920302.02
27ABSPY0240R1ZQ	LALASA FAKIR YADAV	0	54667.45	54667.45	109334.9
27ACIPC0978R1ZZ	SUNIL DILIP CHOPRA		9000	9000	18000
27ACYPT5259J1ZI	UDAY PANDURANG THAKUR	0	44834.57	44834.57	89669.14
27ADHPJ5369F1ZD	RAJU VITHAL JANGLE	0	41444.08	41444.08	82888.16
27ADTPY5267D1ZT	Awadh Furnishing		6783	6783	13566
27AFJJP6765K1ZU	AMIT KISHOR JAGAD	0	216191.89	216191.89	432383.78
27AFJPM4306B1ZT	FAIYAZ AHMED ABDULLA MIR	0	18868.41	18868.41	37736.82
27AGCPA2607D1Z6	ANAND JITENDRA AGARWAL	0	164453.32	164453.32	328906.64
27AJWPG2239A1ZB	Dinesh Kanaiyalal Gupta	0	194944.03	194944.03	389888.06
27AKHPK7109H1Z3	MAHAVIR PRASAD KUMAVAT	0	205700.63	205700.63	411401.26
27AKQPK3045D1Z7	DYANESHWAR NAMDEO KAMBLE	0	16481.41	16481.41	32962.82
27ALMPS5909H1ZK	SHAILESH BABULAL SHAH	0	28388.91	28388.91	56777.82
27ANBPS5443D1Z2	ASIT VINODCHANDRA SIRIYA	0	20518.35	20518.35	41036.7
27ASQPK4696L2ZQ	Mohamed Husain Mustafa Khan	0	245690.85	245690.85	491381.7
27BCZPS6830E1ZX	DHAVAL RAJESH SHAH	0	231156.32	231156.32	462312.64
27BVEPS8719N1ZO	MOHD SIRAJ ISHAK SAYANI	0	43530.96	43530.96	87061.92
27CCRPB7953G1Z7	ASHISH RAMESH BANSHWARTI	0	56649.5	56649.5	113299
27CKIPS9482C1ZM	HARSHA BHADRESH SHAH	0	221526.81	221526.81	443053.62
27CQIPM5028A1Z2	SAKSHI SUDHIR MASURKAR	0	21440.88	21440.88	42881.76
		600390.67	5826947.505	5826947.505	12254286

Relevant legal provisions of Section 74, 50 & 122 of the CGST/MGST Act and Section 20 of IGST Act, 2017 are given below;

Section 74. Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized by reason of fraud or any willful- misstatement or suppression of facts.-

(1) Where it appears to the proper officer that any tax has not been paid or

short paid or erroneously refunded or where input tax credit has been wrongly availed or utilised by reason of fraud, or any wilful-misstatement or suppression of facts to evade tax, he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under section 50 and a penalty equivalent to the tax specified in the notice.

Section 50. Interest on delayed payment of tax.-

(1) Every person who is liable to pay tax in accordance with the provisions of this Act or the rules made thereunder, but fails to pay the tax or any part thereof to the Government within the period prescribed, shall for the period for which the tax or any part thereof remains unpaid, pay, on his own, interest at such rate, not exceeding eighteen per cent., as may be notified by the Government on the recommendations of the Council:

[Provided that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period, shall be levied on that portion of the tax that is paid by debiting the electronic cash ledger.]

(2) The interest under sub-section (1) shall be calculated, in such manner as may be prescribed, from the day succeeding the day on which such tax was due to be paid.

(3) Where the input tax credit has been wrongly availed and utilized, the registered person shall pay interest on such input tax credit wrongly availed and utilized, at such rate not exceeding twenty-four per cent. as may be notified by the Government, on the recommendations of the Council, and the interest shall be calculated, in such manner as may be prescribed]

Section 122 of CGST/MGST act,

(2) Any registered person who supplies any goods or services or both on which any tax has not been paid or short-paid or erroneously refunded, or where the input tax credit has been wrongly availed or utilized,-

(a) for any reason, other than the reason of fraud or any wilful misstatement or suppression of facts to evade tax, shall be liable to a

penalty of ten thousand rupees or ten per cent. of the tax due from such person, whichever is higher;

(b) for reason of fraud or any wilful misstatement or suppression of facts to evade tax, shall be liable to a penalty equal to ten thousand rupees or the tax due from such person, whichever is higher.

(c) Tax and other dues:

Considering above facts and grounds, I, Assistant Commissioner of State Tax (MUM-INV-D-055) Proper Officer, required to issue show cause to pay the amount specified in the following table along with interest payable thereon under section 50 and a penalty equivalent to the tax within 30 days of receipt of this notice i.e. on or before **22/11/2023**.

Sr. No	Tax Period		Act	POS (Place of Supply)	Tax	Interest	Penalty	Total
	From	To						
1	01-07-2017	31-03-2018	IGST	-----	600390	675739	150098	1426227
2	01-07-2017	31-03-2018	CGST	-----	5826947	6558229	1456737	13841913
	01-07-2017	31-03-2018	SGST	-----	5826947	6558229	1456737	13841913
			Total		12254284	13792197	3063571	29110052

The taxpayer is further directed to produce all the evidence upon which they intend to rely upon in support of their defense, at the time of showing cause. The taxpayer is also required to state in their written submission, as to whether they would like to be heard in person by the proper officer before the case is adjudicated. If no such request is made in their written reply, it will be presumed that they do not wish/ desire to be heard in person and the case shall be adjudicated accordingly, without any further reference to them.

If no cause is shown by them against the action proposed to be taken, within 30 days of receipt of this notice and/or if they do not appear before the adjudicating authority when the case is posted for hearing, the case will be

decided ex-parte on the basis of evidences on record and on the merits of the case without any further reference to them.

This show cause cum demand notice is issued without prejudice to any Other/further action that may be taken against the recipient of the notice, or any other person/s concerned with the acts, Commission as mentioned in this notice or any other law for the time being in force in India.

Place: Mumbai

Date: 27/09/2023

(Vidhyadhar S. Jagtap)
Assist. Commissioner of State Tax,
(D-055), INV-C, Mumbai