

Proceedings of the Assistant Commissioner(State Tax), Tuticorin-2
Present :- Thiru.R.Murugan.

GSTIN. 33AANFR6387G1ZR
TAX Period- 2019-2020

Dt.08.05.2023

Sub:- TNGST Act 2017 – Office of The Assistant Commissioner(ST)
Tuticoin-2 – Tvl.Ramakrishna Enterprises, 4/194-6,Krishna
Cottage, Sundar Nagar, Muthaiah Puram, Thoothukudi-
628005, -order passed U/s 73 of the TNGST Act 2017.

Ref:- 1. This Office Notice ASMT -10 dt 15.03.2022.
2. This office Notice in DRC -01A dated 18.11.2022.
3. This office Show Cause Notice dated 20.12.2022.
4. This office Personal Hearing Notice dt.25.01.2023.
5. This Office Personal Hearing Notice dated 21.02.2023.
6. This office Personal Hearing Notice dated 10.03.2023.

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ORDER:

1. Tvl.Ramakrishna Enterprises, 4/194-6, Krishna Cottage, Sundar Nagar, Muthaiahpuram, Tuticorin- 628005, are a registered normal taxpayer under the provisions of TNGST Act 2017 and in the books of this office, They had reported a total and taxable supplies of ₹.1,07,74,423/- and ₹.1,07,74,423/- respectively for the year 2019-2020 under Tamilnadu Goods and Service Act 2017.

2.On scrutiny of their monthly returns in form GSTR-3B Vs GSTR-2A, TNGST Act 2017 for the tax period 2019-2020, it was revealed that the following discrepancies were noticed.

Defect No.1:- GSTR-3B Vs GSTR-2A

3. On verification of the monthly return in GSTR-3B with reference to GSTR-2A auto populated statement, it was revealed that they have claimed excess claim of ITC of ₹.1,721/-(SGST) & ₹.1,721/-(CGST). Hence, they were requested to rectify the above discrepancies within 30 days from the communicated of this notice through GSTIN portal in ASMT-10.

	SGST	CGST
GSTR-3B Turnover (As per Table-No4C)	: ₹.39,280/-	: ₹.39,280/-
GSTR-2A Turnover	: ₹.37,559/-	: ₹.37,559/-
Difference	: ₹. 1,729/-	: ₹. 1,729/-

4. The above excess claim of ITC is payable along with the interest of 18% under section 50(1) of the TNGST Act, 2017 calculated from the date of claim of ITC(the Date of filing of GSTR-3B) as noted against each month till the date on which you will make actual payment.

Defect No.2:-

5. On reconciliation of the turnover was reported by their supplier in GSTR-7 of ₹.69,41,475/-. But they have not reported in their GSTR-1 is ₹.9,21,544/- Hence, the rate of tax could not be ascertained. Hence, they were requested to furnish the details of their output supply. It is was informed that If they have failed to furnish the above particulars in stipulated time, it will be proceeded action under section 73 of the TNGST Act 2017.

Particulars	Turnover	SGST	CGST
Turnover as per GSTR-7	₹.69,41,475/-	₹.6,24,733/-	₹.6,24,733/-
Turnover as per GSTR-1	₹. 9,21,544/-	₹. 82,939/-	₹. 82,939/-
Difference Turnover	₹. 60,19,91/-	₹.5,41,794/-	₹.5,41,794/-

Defect No.3:- (Non-payment of Interest on Belated Filing of GSTR-3B returns)

6. On perusal of the returns filed by them , it is noticed that they have filed GSTR-3B for tax periods April 2019 to March 2020 belatedly in contrary to the statutory time period (stipulated due date) already communicated in this office ASMT-10 in the reference cited.

7. Section 39(7) of the TNGST Act, 2017 mandates every registered person who is required to furnish a return shall pay to the Government the tax due as per such return not later than the last date on which he is required to furnish such return. But they have failed to do so.

8. Further, Section 50(1) of the TNGST reads as "*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*".

9. Based on the above noted statutory provisions, it is very well concluded that the interest is ought to be paid along with the self-assessed tax paid belatedly to the exchequer. Hence, it was proposed to levy interest u/s 50 of the Tamilnadu Goods and Service Act 2017.

SGST Interest Due	: ₹. 3,305/-
CGST Interest Due	: ₹. 3,305/-

10. Hence, the above discrepancies were already intimated to them vide this office ASMT-10 in the reference cited through our department web-site to setright according to law. After communication of the notice in ASMT-10, they have not response till the date.

11. In this situation, it is assumed that they have no martials available with supporting of the discrepancies pointed out by the department in this office in ASMT-10. Hence, the under signed authority have decided to determine the liability of tax, interest and penalty u/s 73 of the Tamilnadu Goods and Service Act 2017 for the tax period 2019-2020 as details below:

	TAX	PENALTY	INTEREST
Due SGST	: ₹.5,43,527/-	₹.54,353/-	₹.3,04,963/-
Due CGST	: ₹.5,43,527/-	₹.54,353/-	₹.3,04,963/-

12. To a notice issued to the dealer in the reference 2nd cited, calling no objections if any to the above proposals. After receipt this notice, they have not filed any reply upto stipulated time.

Personal Hearing:-

13. In this situation, I was pushed to make an adverse decision. However, the taxpayer was offered following three opportunities for a personal hearing in the reference 4th , 5th & 6th cited, as per section 75(4) of the Tamilnadu Goods and Service Act 2017. These opportunities were communicated through our GSTIN portal. Despite being informed of these opportunities, the taxpayer has neither appeared before the undersigned authority nor filed any adjournment letter to till date.

Date of intimation	Hearing Date
1. 25.01.2023	14.02.2023
2. 21.02.2023	08.03.2023
3. 10.03.2023	27.03.2023

14. The department has issued notices on five occasions, and I, as the undersigned authority, have made every effort to elicit a response or facilitate payment of the owed tax, but the taxpayer has consistently failed to comply. It is now evident that they have not maintained proper accounts in accordance with the provisions of the Act. Given this situation, I am left with no choice but to proceed with the proposed course of action.

Conclusion: -

12. In this juncture, It is presumed that they have nothing to say in this regard and proposal in accordance with 73 as proposed in the reference 2nd cited is confirmed and determine tax, interest & Penalty for the period 2019-2020 as detailed below:-

Details	SGST(T)	CGST(T)	SGST(P)	CGST(P)	SGST(I)	CGST(I)
Due	₹.5,43,527/-	₹.5,43,527/-	₹.54,353/-	₹.54,353/-	₹.3,04,963/-	₹.3,04,963/-
Paid	--- Nil ---	--- Nil ---	-- Nil --	-- Nil --	-- Nil --	-- Nil --
Balance	₹.5,43,527/-	₹.5,43,527/-	₹.54,353/-	₹.54,353/-	₹.3,04,963/-	₹.3,04,963/-

Summary of order in DRC – 07 is issued through GSTIN Portal.

ASSISTANT COMMISSIONER(ST),
TUTICORIN-2 CIRCLE
TUTICORIN.

To

Tvl.Ramakrishna Enterprises,
4/194-6, Krishna Cottage, Sundar Nagar,
Muthaiah Puram,
Thoothukudi- 628 005.

Statutory Appeal Provision:-

An appeal against this order lies before the Appellate Deputy Commissioner(GST), 4th floor, Commercial Taxes Buildings, Dr.S.V.K.S.Thangaraj Salai, Madurai, Pincode-625020 or Camp office at 1st Floor, Commercial Taxes Buildings, South High Ground Road, Palayamkottai, Tirunelveli pincode-627002 within 90 days from the receipt of this order.