



MAHARASHTRA GOODS & SERVICES TAX

Office of the,

Asst. Commissioner of State Tax, (KOL-VAT-D-003), 2nd Floor, Room No. 206,
GST Bhavan, Kasaba Bawada Road, Kolhapur 416003. Phone No. 0231-2689272
E-mail- kolvatd003@gmail.com Website- www.mahagst.gov.in

**Show cause Notice under Section 73 (1) of the Maharashtra Goods & Services Tax Act,
2017 (MGST Act, 2017)**

[Rule 142 of the Maharashtra Goods & Services Tax Rules, 2017]

To,

Legal Name- SURENDRA JINNAPPA CHARATE

Trade Name- ABHIJEET KRISHI SEVA KENDRA

Address- GALA NO 3, MUNICIPIAL MARKET,

KURUNDWAD , TAL- SHIROL,KOLHAPUR, 416106

GSTN-27ADGPC6546C1ZU

Email- abhijitkrishi@gmail.com

No. ACST/KOL-VAT-D-003/GST/Scrutiny18-19/2022-23/B- 776 Kolhapur Dtd.18/10/2022

References-

- 1) Proceedings of Scrutiny of returns initiated u/s 61 of the GST Laws by issuance of Notice in FORM-GST-ASMT 10 vide Reference No ZD271221052216T dated 17/12/2021 which is duly served upon you through Common Portal, intimating the discrepancies noticed in Returns & other electronic records available on Common Portal, for the aforesaid periods.
- (2) Reminders issued from time to time and served through Common Portal requesting explanation, details and information in support of your reply in ASMT-11
- (3) Your explanation on Common portal in FORM-GST-ASMT-11, not received till due date with supporting information or documents.
- (4) Intimation of tax ascertained as being payable under section 73(5)/74(5) r/w Rule 142 in form DRC (01A) issued by this office vide Reference No ZD2703220856739 Date: 28/03/2022 and served upon you electronically.

(A) Background in brief-

M/s. SURENDRA JINNAPPA CHARATE, ABHIJEET KRISHI SEVA KENDRA, GALA NO 3 , MUNCIPIAL MARKET , SHIROL , KURUNDWAD , 416106, having GST No. 27ADGPC6546C1ZU (herein after referred to as "the taxpayer") is engaged in supply of Goods and services viz. The taxpayer has availed ITC on Input & Input Services and utilized the same towards payment of outward Tax.

Whereas, during the proceedings of Scrutiny of Returns initiated in your case, for the F.Y. 2018-19(from APRIL-18 to Mar-19), discrepancies found are communicated to you in form GST-ASMT-10. and accordingly you were directed to furnish on Common Portal, your Explanation in Form GST-ASMT -11 with supporting information and documents online before due date for compliance. As you failed to file the same, reminders as referred at Ref. No. 2 were issued. However, you have failed to furnish the same even after issuance of reminders as aforesaid hence the case is recommended for adjudication under section 73 of GST Act, 2017.

Summary of discrepancies along with tax & applicable interest and penalty

Para No.	Objection in brief	Tax	INTEREST	Penalty	Total
70	Excess outward tax in GSTR 1 compared to GSTR 9/GSTR 3B	2249990/-	2384990/-	As per Law	4634980/-
71	PARAMETER-0071(Tax liability difference Eway Bill Vs GSTR 3B)	2148748/-	2105774/-	As per Law	4254522/-
80	Interest on delayed payments made with GSTR 3B	0	1440/-	As per Law	1440
TOTAL		4398738/-	4492204/-	As per Law	8890942/-

(C) Details of Discrepancies found:

Whereas, it has been found that returns filed by you in FORM-GSTR-3B, GSTR-1, GSTR-9 ,GSTR-9C & System Autopopulated GSTR-2A for the F.Y. 2018-19(from APRIL-18 to Mar-19)were examined in detail by this office and following discrepancies have been noticed.

Para No.	Objection in brief		Tax	Interest	Penalty	Total
70	Excess outward tax in GSTR 1 compared to GSTR 9/GSTR 3B	IGST	0/-	0/-	AS PER LAW	0/-
		CGST	1124995/-	1192495/-	AS PER LAW	2317490/-
		SGST	1124995/-	1192495/-	AS PER LAW	2317490/-
		Total	2249990/-	2384990/-	AS PER LAW	4634980/-

Issue in brief :

During the course of verification of returns for comparing to tax liabilities declared in GSTR-1 and paid through GSTR-3B for the period 2018-19,.It is noticed that the taxpayer has discharged less tax liability in GSTR-3B.compared with GSTR-01. This has resulted in short payment of tax liability .Therefore, in terms of provisions of Section 73 of the CGST Act, 2017.the short disclosed amount is recoverable from the taxpayer along with applicable interest and penalty. The details are as under

Tax liability as per GSTR-1/IFF and as per GSTR-3B			
Tax Period	As per GSTR-1/IFF	As per GSTR-3B	Diff.
Apr-18	2,276,529.04	2,290,321.46	-13,792.00
May-18	3,403,271.52	1,994,275.77	1,408,995.75
Jun-18	1,201,443.46	1,201,442.69	0.77
Jul-18	1,204,600.56	1,197,332.76	7,267.80
Aug-18	2,499,487.72	2,502,618.68	-3,130.96
Sep-18	4,563,392.24	4,573,827.70	-10,435.46
Oct-18	5,359,473.40	4,501,771.74	857,701.66
Nov-18	2,864,249.32	2,867,111.26	-2,861.94
Dec-18	2,633,511.78	2,637,253.66	-3,741.88
Jan-19	568,382.36	561,351.66	7,030.70
Feb-19	55,553.24	52,349.92	3,203.32
Mar-19	610,928.66	611,176.24	-247.58
Total	27,240,823.30	24,990,833.54	2,249,989.76

Legal Position :

In this regard your attention is invited towards the provision of section 73 & 50 of MGST/CGST Act, 2017, which are as under,

Section 73. Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason other than 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 for any reason, other than the 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 leviable under the provisions of this Act or the rules made thereunder.

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.

Contravention of the Law and Provisions: Contravened the provisions of Section 73 of MGST/CGST Act 2017.

Para No.	Objection in brief		Tax	Interest	Penalty	Total
80	Interest on delayed payments made with GSTR 3B	IGST	0	0	0	0
		CGST	0	1440/-	0	1440/-
		SGST	0	0	0	0
		Total	0	1440/-	0	1440/-

Issue in brief: During the course of of scrutiny of return and on verification of GSTR-3B returns and payment particulars, it is observed that the taxpayer have made GST payment after the due dates. Therefore, the taxpayer have to pay interest for late payment of GST. The interest is recovered under Section 50(i) of the CGST Act 2017. The details are as under

PARA 80								
GSTIN_ID	PERIOD	FILING_DATE	DUE_DATE	LATE_BUY_DAYS	IGST	CGST	SGST	TOTAL
27ADGPC6546C1ZU	01/10/2018	15/12/2018	20/11/2018	25	0	164	0	164
27ADGPC6546C1ZU	01/12/2018	15/03/2019	20/01/2019	54	0	1276	0	1276
					0	1440	0	1440

Legal Position :

In this regard your attention is invited towards provision of section 50 (1) & 75(12) of CGST Act,2017, which are as under,

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.

Section 75. General provisions relating to determination of tax.

1.....2.....3.....4.....5.....6.....7.....8.....9.....10.....11

(12) Notwithstanding anything contained in section 73 or section 74, where any amount of self-

assessed tax in accordance with a return furnished under section 39 remains unpaid, either wholly or partly, or any amount of interest payable on such tax remains unpaid, the same shall be recovered under the provisions of section 79.

Contravention of the Law and Provisions: Contravened the provisions of Section 50(1) of MGST/CGST Act 2017.

Para No.	Objection in brief		Tax	Interest	Penalty	Total
71	Tax liability difference Eway Bill Vs GSTR 3B	IGST	0/-	0/-	AS PER LAW	0/-
		CGST	1074374/-	1052887/-	AS PER LAW	2127261/-
		SGST	1074374/-	1052887/-	AS PER LAW	2127261/-
		Total	2148748/-	2105774/-	AS PER LAW	4254522-

Issue in brief: During the course of of scrutiny of return and on verification of GSTR-3B returns and Eway Bill data; it is observed that the taxpayer have generated various Eway Bills during period 2018-19 and mentioned tax values in Eway bills as well; but the same tax has not been paid while filing the GSTR 3B. Hence there is difference in tax liability as per Eway bill generated and GSTR 3B filed. Therefore, the taxpayer has to pay this tax liability difference along with interest. The details of eway bill generated is attached with this showcause notice.

Legal Position :

In this regard your attention is invited towards the provision of section 73 & 50 of MGST/CGST Act, 2017, which are as under,

Section 73. Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason other than 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 for any reason, other than the 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 leviable under the provisions of this Act or the rules made thereunder.

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.

(D). Consequences:

Whereas, it appears that M/s **ABHIJEET KRISHI SEVA KENDRA**, during the course of scrutiny of return in FORM- GSTR-3B, GSTR-1, GSTR-9 , GSTR-9C and GSTR-2A for the F.Y. 2018-19(from APRIL-18 to Mar-19), were examined in detail by this office and above discrepancies have been noticed.

Accordingly, in the light of the facts mentioned above, it appears that that M/s **ABHIJEET KRISHI SEVA KENDRA** had contravened the provisions of 50,73,74 &75 of GST Act,2017 deem fit for demanded and recovered from him under section 73 of the GST Act,2017

(E). Charging Paragraph:

In view of above, M/s ABHIJEET KRISHI SEVA KENDRA having GSTN - 27ADGPC6546C1ZU is hereby required to show cause to the Assistant Commissioner of state tax,GST Bhavan, Yerwada,Pune. within 30 days from the receipt of this notice as to why,-

(i) Total amount payable at Rs. 8890942/- should not be demanded and recovered from him under section 73 of the GST Act,2017

(ii) Interest shall not be imposed thereon under section 50 demanded and recovered from him under Section 73 of the GST Act,2017

(iii) Penalty should not be imposed upon them under section 73 of the GST Act,2017

(F). Concluding Paragraphs:

M/s ABHIJEET KRISHI SEVA KENDRA are also directed to attend at aforesaid office Address at 11.00 am on 18/11/2022.

M/s ABHIJEET KRISHI SEVA KENDRA are also directed to to file or cause to be filed representation in FORM GST DRC 06 along with evidence on which you rely in support of your claim on common portal

If M/s ABHIJEET KRISHI SEVA KENDRA may accept the show-cause and make payment of tax and Interest and submit intimation of such payment in FORM GST DRC 03 within 30 days from service of the notice and no penalty shall be payable section 73 (8). Amount of interest leviable under section 50 be calculated from Date of avail of such ITC to the date of payment of the said amount.

If no cause is shown against the action proposed to be taken against them within the stipulated period as shown above, or if they fail to appear before the adjudicating authority when the case is posted for hearing, the case will be decided ex-parte on the basis of evidence available on the record.

This show cause Notice is issued without prejudice to any other action that may be taken against them or any other person concerned with the matter under the GST Act,2017, or any other law for the time being in force.

Seal
Date- 18/10/2022
Place-KOLHAPUR

SAMEER S. KANTIWAR.
Assistant Commissioner of state tax
(KOL-VAT-D-003/ICHALKARANJI-606)
Kolhapur

Enclosed-

- (i) **Summary of FORM-GST-DRC-01**