	<p style="text-align: center;">प्रधान आयुक्त का कार्यालय Office of the Principal Commissioner केंद्रीय जीएसटी, अहमदाबाद दक्षिण आयुक्तालय Central GST Commissionerate- Ahmedabad South अपराध और अधिनिर्णय खंड, छठी मंजिल, अम्बावाड़ी, GST भवन, अहमदाबाद ३८००२५ 6th Floor, O&A Section, GST Bhavan, Ambawadi 380015 ईमेल: Adjn-cgstahdsouth@gov.in</p>	
F.No. GEXCOM/ADJN/GST/JC/591/2023-ADJN	By SPEED POST/RPAD/EMAIL	
मूल आदेश सं ORDER IN ORIGINAL No. 67/CGST/Ahmd-South/JC/SR/23-24 dated 01/12/2023	आदेश की तारीख / Date of order	01/12/2023
	जारी करने की तारीख / Date of issue	01/12/2023
आदेशकर्ता का नाम: Passed by	SHRAVAN RAM JOINT COMMISSIONER Central Goods & Service Tax Ahmedabad South Commissionerate.	
के संदर्भ में: In the matter of	M/s. Khushbu Vinyl Private Limited 4 th Floor, 12-Kalapurnam, Near Municipal Market, C G Road, Navrangpura, Ahmedabad-380 009. GSTIN:- 24AAACK6182G3ZL	
कारण बताओ नोटीस सं & तिथि Show Cause Notice No. & Date	06/2023-24 dated 22/09/2023 issued from F.No. GEXCOM/ADJN/GST/JC/591/2023-ADJN by the Joint Commissioner, CGST Ahmedabad South Commissionerate	
DIN-20231264WS0000111F00		

1. यह प्रतिलिपि उस व्यक्ति को निजी उपयोग के लिए नि:शुल्क दी गई है जिसे यह जारी किया गया है।
This copy of order is granted free of charges to the person to whom it is issued.

2. इस आदेश से यदि कोई असंतुष्ट है तो इस आदेश के विरुद्ध यथा-संशोधित केंद्रीय माल एवं सेवाकर अधिनियम 2017 की धारा (1)107 के अधीन, इस आदेश/निर्णय के की प्राप्ति की तारीख से तीन महीनों के भीतर (आयुक्त), अपील) केन्द्रीय जीएसटी, केन्द्रीय जीएसटी भवन, आंबावाड़ी, अहमदाबाद-15 को अपील कर सकता है।

Any person deeming himself aggrieved by this order may appeal against this order under Section 107(1) of the CGST Act, 2017 (as amended) to the Commissioner (Appeals), Central GST, Central GST Bhavan, Near Government Polytechnic, Ambawadi, Ahmedabad -15.

3. केंद्रीय माल एवं सेवाकर अधिनियम 2017 की धारा (1)107 के अधीन अपर/संयुक्त आयुक्त) अपील (के समक्ष फार्म GST APL - 01 में किया जाना चाहिए और निर्धारित ढंग से जाँची जानी चाहिए।

The Appeal under Section 107(1) of the CGST Act, 2017 (as amended) to the Additional / Joint Commissioner of Central GST shall be made in the form **GST APL - 01** and shall be verified in the prescribed manner.

4. फार्म GST APL - 01 में अपील दो प्रतियाँ में दायर किए जाने चाहिए और उसके साथ उस निर्णय की प्रति भी संलग्न करें जिसके विरुद्ध अपील किया जा रहा हो।

The appeal in the form **GST APL - 01** shall be filed in duplicate and shall be accompanied by a copy of the decision or the order appealed against.

5. No appeal shall be filed before the appellate authority under Section 107(1) of the CGST Act, 2017 (as amended) unless the appellant has paid: {ref. Section 107(6)}

(a) in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by the appellant, and

(b) a sum equal to ten per cent of the remaining amount of tax in dispute arising from the said order, subject to a maximum of twenty-five crore rupees, in relation to which the appeal has been filed. Proof of payment of duty penalty etc. should also be attached to the original form of appeal.

Notes: [These notes are for broad general guidance only. The original text of the Central GST Act, 2017 and the Rules framed there under may be referred to before taking any action in terms of these Notes. For elaborate, detailed and latest provisions relating to filing of appeal to the appellate authority, the appellate may refer to the departmental website www.cbic.gov.in]

Brief facts of the case:-

M/s. Khushbu Vinyl Private Limited (hereinafter referred to as “the Noticee”) having their declared Principal Place of Business (PPOB) as: 4th Floor, 12, Kalapurnam, Near Municipal Market, C G Road, Navrangpura, Ahmedabad, Gujarat, is engaged in supplies falling under HSN 3921 and 3920. They are registered with GST department and having GST registration bearing No. 24AAACK6182G3ZL.

2. Whereas, the audit of documents of the said taxpayer from July-2017 to March-2018 (F.Y. 2017-18) was conducted by the CERA under the subject head of “Subject Specific Compliance Audit” and the list of taxpayers were intimated to this office in excel sheet. The noticee was also figuring in the excel sheet intimated by CERA in the sheets - Limited Audit Dimension-8 Un-discharged Tax Liability.

3. Whereas, under the above stated dimensions, CERA noticed queries and intimated the same vide **GSTAI_AQ 99** wherein, following discrepancies were noticed:

r1_liab	r9_liab_out	r1_r9_gr_liab	r3b_payment	r9_payments	excess_liab
54451340	0	54451340	5743514	0	48707826

3.1 Limited Audit Dimension 8-Undischarged tax liability - GSTAI AQ 99:-

For the algorithm, tables 4 to 11 of GSTR 1 and tables 4N, 10 and 11 of GSTR 9 were considered. The greater of the tax liability between GSTR 1 and GSTR 9 was compared with the tax paid declared in tables 9 and 14 of GSTR 9 to identify the short payment of tax. In the case of GSTR 3B, tables 3.1(a) and 3.1(b) were taken into account. Therefore, following discrepancies were noticed:

From the above reconciliation it has been observed by the CERA Audit party that the tax payable on the taxable supplies and the tax ascertained to be paid as per GSTR-1 return is less when compared to the tax actually paid by the Noticee as shown in their GSTR 3B & GSTR 9 returns for the period July, 2017 to March, 2018. It therefore appeared that the Noticee had not properly recorded the entire taxable supply in their GSTR-3B & GSTR 9 returns and tax liability thereon. It therefore further appears that there is a short payment of tax paid by the taxpayer during the period from July, 2017 to March, 2018 amounting to **Rs. 4,87,07,826/-**. It, therefore appears that the taxpayer has contravened the provisions of Sections 39(7) of the CGST Act, 2017 read with the provisions of Rules 85(3) of the CGST Rules, 2017 in as much as they have failed to pay the correct tax on all the taxable outward supplies within the prescribed due dates and thereby resulting in short payment of tax liability when compared to the supplies shown in tax liability as per GSTR-1 and the tax liability actually discharged in GSTR-3B. It therefore, appears that the tax payable should be demanded/ recovered from the tax payer along with applicable interest and penalty under the CGST Act, 2017.

4. Whereas, seeking clarification of the above queries, letter to the noticee dated **16.02.2022** was issued to the noticee. However, the noticee has not submitted any reply to the query.

5. LEGAL PROVISIONS

Rule 80. Annual return:-

(3) Every registered person, other than those referred to in the second proviso to section 44, an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person, whose aggregate turnover during a financial year exceeds five crore rupees, shall also furnish a self-certified reconciliation statement as specified under section 44 in FORM GSTR-9C along with the annual return referred to in sub-rule (1), on or before the thirty-first day of December following the end of such financial year, electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner.]

Section 39. Furnishing of returns.-

¹[(1) Every registered person, other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10 or section 51 or section 52 shall, for every calendar month or part thereof, furnish, a return, electronically, of inward and outward supplies of goods or services or both, input tax credit availed, tax payable, tax paid and such other particulars, in such form and manner, and within such time, as may be prescribed:

¹[Rule 61. Form and manner of furnishing of return.-

(1) Every registered person other than a person referred to in section 14 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017) or an Input Service Distributor or a non-resident taxable person or a person paying tax under section 10 or section 51 or, as the case may be, under section 52 shall furnish a return in FORM GSTR-3B, electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner, as specified under -

(i) Sub-section (1) of section 39, for each month, or part thereof, on or before the twentieth day of the month succeeding such month:

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.

(2) The proper officer shall issue the notice under sub-section (1) at least three months prior to the time limit specified in sub-section (10) for issuance of order.

(3) Where a notice has been issued for any period under sub-section (1), the proper officer may serve a statement, containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for such periods other than those covered under sub-section (1), on the person chargeable with tax.

(4) The service of such statement shall be deemed to be service of notice on such person under sub-section (1), subject to the condition that the grounds relied upon for such tax periods other than those covered under sub-section (1) are the same as are mentioned in the earlier notice.

(5) The person chargeable with tax may, before service of notice under subsection (1) or, as the case may be, the statement under sub-section (3), pay the amount of tax along with interest payable thereon under section 50 on the basis of his own ascertainment of such tax or the tax as ascertained by the proper officer and inform the proper officer in writing of such payment.

(6) The proper officer, on receipt of such information, shall not serve any notice under sub-section (1) or, as the case may be, the statement under sub-section (3), in respect of the tax so paid or any penalty payable under the provisions of this Act or the rules made thereunder.

(7) Where the proper officer is of the opinion that the amount paid under sub-section (5) falls short of the amount actually payable, he shall proceed to issue the notice as provided for in sub-section (1) in respect of such amount which falls short of the amount actually payable.

(8) Where any person chargeable with tax under sub-section (1) or sub-section (3) pays the said tax along with interest payable under section 50 within thirty days of issue of show cause notice, no penalty shall be payable and all proceedings in respect of the said notice shall be deemed to be concluded.

(9) The proper officer shall, after considering the representation, if any, made by person chargeable with tax, determine the amount of tax, interest and a penalty equivalent to ten per cent. of tax or ten thousand rupees, whichever is higher, due from such person and issue an order.

(10) The proper officer shall issue the order under sub-section (9) within three years from the due date for furnishing of annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within three years from the date of erroneous refund.

(11) Notwithstanding anything contained in sub-section (6) or sub-section (8), penalty under sub-section (9) shall be payable where any amount of self-assessed tax or any amount collected as tax has not been paid within a period of thirty days from the due date of payment of such tax.

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:

¹**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.

²[(3) Where the input tax credit has been wrongly availed and utilised, the registered person shall pay interest on such input tax credit wrongly availed and utilised, 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. Penalty for certain offences:-

(1) Where a taxable person who-

(xvii) fails to furnish information or documents called for by an officer in accordance with the provisions of this Act or the rules made thereunder or furnishes false information or documents during any proceedings under this Act;

he shall be liable to pay a penalty of ten thousand rupees or an amount equivalent to the tax evaded or the tax not deducted under section 51 or short deducted or deducted but not paid to the Government or tax not collected under section 52 or short collected or collected but not paid to the Government or input tax credit availed of or passed on or distributed irregularly, or the refund claimed fraudulently, whichever is higher.

6. OBSERVATIONS AND CONCLUSION: -

Based on the CERA query, the following observations were made:-

- (i) Whereas, in respect of the query no. **GSTAI_AQ 99**, it appeared that the noticee has not discharged/paid the tax amounting to **Rs. 4,87,07,826/-** as they have failed to show correct value in their returns within the prescribed due dates under Section 44 of the CGST Act-2017 read with the provisions of Rule 80 of the CGST Rules-2017.
- (ii) The Noticee had not submitted any clarification in their defense. Therefore, the short paid tax amounting to **Rs. 4,87,07,826/-** becomes recoverable from the notice under section 73 of the CGST Act 2017.

7. In terms of the provisions of Rule 142(1A) of the CGST Rules, 2017, DRC-01A was issued to the said taxpayer on 06.09.2023 intimating their liability under Section 73(1)/74(1) of the CGST Act, 2017 or to file any submissions against the above ascertainment in Part-B of DRC-01A on or before 15.09.2023. However, no compliance had been received from the said Noticee.

8. It further appeared that by not providing the documents/records/information called for, the Noticee appeared to have violated the provisions of Section 122 of the CGST Act, 2017 and has rendered themselves liable for penal action under the provisions of Section 122 (1) (xvii) of CGST Act, 2017.

9. Therefore, in view of the settled legal position discussed supra, M/s. Khushbu Vinyl Private Limited (hereinafter referred to as "the Noticee") having their declared Principal Place of Business (PPOB) as : 12, 4th Floor, Kalapurnam, Nr Municipal Market C G Road Navrangpura, Ahmedabad, Gujarat, is hereby called upon to show

cause to the **Joint Commissioner, CGST Ahmedabad South, Commissionerate**, having his office at CGST Bhavan, 4th Floor, Ambavadi, Nr, Panjrapole, Ahmedabad, Gujarat 380015 within 30 days of the receipt of this Show Cause Notice as to why:-

- (i) The GST short paid/not paid amounting to **Rs. 4,87,07,826/- (Four Crore Eighty-Seven Lakhs Seven Thousand Eight Hundred Twenty Six) (i.e. CGST Rs.2,43,53,913/- and SGST Rs.2,43,53,913/-)** should not be demanded and recovered from the Noticee under Section 73(1) of the CGST Act, 2017 read with Section 73(1) of the SGST Act, 2017.
- (ii) Interest on the short paid GST mentioned at Sr. No. (i) should not be demanded from the Noticee under the provisions of Section 50 of CGST Act, 2017 read with Section 50 of the SGST Act, 2017.
- (iii) Penalty should not be imposed upon them under the provisions of sub section 9 of Section 73 of CGST Act, 2017 read with sub section 9 of Section 73 of the SGST Act, 2017.
- (iv) Penalty should not be imposed upon the Noticee under the provisions of Section 122(1) (xvii) of the CGST Act, 2017 read with Section 122(1) (xvii) of the SGST Act, 2017.

10. Defense reply :

In response to the Instant Show Cause Notice (SCN) dated 22/09/2023, the noticee was intimated to file their defense reply, if any, within 30 days from the receipt of the said SCN. However, I find that the Noticee has failed to file any defense submission nor they sought any extension of time to file defense reply.

11. Personal Hearing :

In an effort to expedite the adjudication proceedings and uphold the principles of natural justice, the noticee was provided multiple opportunities for a personal hearing. Personal hearing in the matter was fixed on 25/10/2023, 02/11/2023 and 22/11/2023 respectively. Regrettably, neither the noticee nor any of their representatives responded to any of the aforementioned letters, and they failed to attend any of the scheduled personal hearings. Furthermore, no defense reply was submitted. Despite the numerous opportunities provided to the noticee to ensure fairness, natural justice, and the reduction of litigation, it is evident that the noticee displayed a lack of interest in submitting a reply or defending their case. This non-participation by the noticee in the adjudication process raises concerns about their commitment to engaging in a fair and transparent resolution. The absence of any response or representation hampers the adjudication proceedings and leaves the matter without a thorough exploration of the noticee's perspective.

12. Discussion and Findings :

12.1 I have carefully gone through the records of the case viz. Show Cause Notice and the material placed on record. It is evident that multiple opportunities for a personal hearing were granted, adhering to the principles of natural justice. Despite these efforts, neither the noticee nor their authorized representative attended any of the scheduled hearings. Furthermore, it is a matter of fact that the noticee has not submitted any documents or provided a reply in their defense. Notably, no request for an extension of the time limit for filing a written reply has been received by this office to date. In light of the circumstances, where the noticee and their representative have not participated in the scheduled hearings and have not submitted any documents or a defense reply, I do not find that there is any option except to conclude

the adjudication proceedings of the case which is based on the materials available and placed on record, as there is no other option under these circumstances.

12.2 The issues to be decided in the present case are as under:-

- (1) Whether the GST short paid/not paid amounting to **Rs. 4,87,07,826/- (Four Crore Eighty-Seven Lakhs Seven Thousand Eight Hundred Twenty Six) (i.e. CGST Rs.2,43,53,913/- and SGST Rs.2,43,53,913/-)** is required to be recovered from the Noticee under the relevant provisions of CGST Act, 2017, SGST Act, 2017 and IGST Act, 2017 as proposed in the SCN?
- (2) Whether the above amount is required to be recovered along with interest under Section 50 of the CGST Act, 2017 read with Section 50 of the Gujarat GST Act, 2017 and Section 20 of the IGST Act, 2017?
- (3) Whether penalties as proposed in the SCN are required to be imposed upon the Noticee?

12.3 In the present case, ongoing through the contents of the Show Cause Notice, it is found that CERA had conducted audit of documents under the subject head of "Subject Specific Compliance Audit" of the said taxpayer from July-2017 to March- 2018 (F.Y. 2017-18) was conducted by the CERA under the subject head of "Subject Specific Compliance Audit". It had been observed by the CERA Audit party that the tax payable on the taxable supplies and the tax ascertained to be paid as per GSTR-1 return is less when compared to the tax actually paid by the Noticee as shown in their GSTR 3B & GSTR 9 returns for the period July, 2017 to March, 2018. It therefore appeared that the Noticee had not properly recorded the entire taxable supply in their GSTR-3B & GSTR 9 returns and tax liability thereon. It therefore further appeared that there is a short payment of tax paid by the taxpayer during the period from July, 2017 to March, 2018 amounting to **Rs. 4,87,07,826/-**. The taxpayer therefore appeared to have contravened the provisions of Sections 39(7) of the CGST Act, 2017 read with the provisions of Rules 85(3) of the CGST Rules, 2017 in as much as they have failed to pay the correct tax on all the taxable outward supplies within the prescribed due dates and thereby resulting in short payment of tax liability when compared to the supplies shown in tax liability as per GSTR-1 and the tax liability actually discharged in GSTR-3B. The tax payable therefore was required to be demanded/ recovered from the tax payer along with applicable interest and penalty under the CGST Act, 2017 which culminated into issuance of instant Show Cause Notice ("SCN") dated 22/09/2023.

12.4 I find that in the present SCN dated 22/09/2023, it is alleged that the noticee was found contravening Section 39 of the CGST Act, 2017 for failure to file GSTR-3B returns during the financial year 2017-18, Section 44 of the CGST Act, 2017 read with Rule 80 of the CGST Rules, 2017 for failure to show correct value in their returns within the prescribed due dates. Accordingly, they were issued the present Show Cause Notice under Section 73 (1) of the CGST Act, 2017/Gujarat GST Act, 2017.

12.5 Before proceeding further, reliance is placed on the following decisions in pursuance to the ex-parte proceedings:

i) In the case of **M/s. Patel Widecom India Ltd. Versus Commissioner**, as reported at **2015 (321) E.L.T. A153 (All.)**, Hon'ble High Court of Allahabad had held that:

"...It was further held that as the appellant had not filed reply to the show cause notice in spite of ample opportunity afforded to them, they could not take advantage

of their own and seek quashing of impugned order on the ground that the proper opportunity of hearing was not granted and as such the principle of natural justice had been violated. "

ii) In the case of **M/s. Saketh India Limited Versus Union of India**, as reported at **2002 (143) E.L.T. 274 (Del.)**, Hon'ble High Court of Delhi had held that;

"Natural justice - Ex parte order by DGFT - EXIM Policy - Proper opportunity given to appellant to reply to show cause notice issued by Addl. DGFT and to make oral submissions, if any, but opportunity not availed by appellant - Principles of natural justice not violated by Additional DGFT in passing ex parte order - Para 2.8(c) of Export-Import Policy 1992-97 - Section 5 of Foreign Trade (Development and Regulation) Act, 1992. - Admittedly, the appellant herein did not respond to the show cause notice. Thereafter, the appellant was called for personal hearing on six subsequent dates. According to the Additional DGFT nobody appeared on behalf of the appellant inspite of various dates fixed for personal appearance of the appellant and in these circumstances, the Additional DGFT proceeded with the matter ex parte and passed the impugned order. The appellant had the knowledge of the proceedings but neither any reply to the show cause notice was given nor it chose to appear before the Additional DGFT to make oral submissions. Thus it is a clear case where proper opportunity was given to the appellant to reply to show cause notice and to make oral submissions, if any. However, fault lies with the appellant in not availing of these opportunities. The appellant cannot now turn around and blame the respondents by alleging that the Additional DGFT violated principles of natural justice or did not give sufficient opportunity to the appellant to present its case."

12.6 With reference to above, I observe that the department has made earnest efforts in the ongoing proceedings related to the contested show cause notice. The Noticee has been afforded fair opportunities to submit their defense and provide supporting documents for their claims. Ample time has been granted to the Noticee to prepare and submit their reply. Furthermore, the Noticee has been extended sufficient opportunities to participate in a personal hearing, either in physical or virtual mode, in order to present their case and address any concerns. It is emphasized that all aspects of the principles of natural justice have been meticulously adhered to throughout the adjudication process. I therefore find that the adjudication proceedings have been conducted with utmost diligence to ensure the strict observance of the principles of natural justice wherein every effort has been made to provide a fair and transparent platform for the Noticee to present their case and defend their position.

12.7 I find that the present case is a clear cut case of non-filing of statutory GST returns and non-payment of Self-assessed GST by the Noticee, which came to light during the observations raised by CERA. It is also observed that the Noticee has not contested the demand. I find from the statutory GSTR-1 and GSTR-3 returns and the comparison statement of GSTR-1 and GSTR-3B for the financial year 2017-18 available on the GST portal that the Noticee has defaulted in payment of self-assessed tax and the details are as under :-

Tax period	Tax liability declared in GSTR-1			Tax liability declared in GSTR-3B			Shortfall (-)/ Excess (+) in liability (GSTR-3B - GSTR-1)		
	CGST	SGST	Total	CGST	SGST	Total	CGST	SGST	Total
July,17	527045	527045	1054090	2871757	2871757	5743514	2344712	2344712	4689424
Aug,17	5740683.92	5740683.92	11481367.84	0	0	0	-5740683.92	-5740683.92	-11481367.84

Sep,17	5495812.38	5495812.38	10991624.76	0	0	0	-5495812.38	-5495812.38	10991624.76
Oct,17	3741120.99	3741120.99	7482241.98	0	0	0	-3741120.99	-3741120.99	-7482241.98
Nov,17	2737293.45	2737293.45	5474586.9	0	0	0	-2737293.45	-2737293.45	-5474586.9
Dec,17	3019367.91	3019367.91	6038735.82	0	0	0	-3019367.91	-3019367.91	-6038735.82
Jan,18	3015669.73	3015669.73	6031339.46	0	0	0	-3015669.73	-3015669.73	-6031339.46
Feb,18	2007030.91	2007030.91	4014061.82	0	0	0	-2007030.91	-2007030.91	-4014061.82
Mar,18	941645.07	941645.07	1883290.14	0	0	0	-941645.07	-941645.07	-1883290.14
Total	27225669.36	27225669.36	54451338.72				24353912.36	24353912.36	48707824.72

12.8 From the above Table it is clear that the Noticee has self assessed their tax liability under Section 37 of the CGST Act,2017 for the period from July,2017 to March,2018 by filing GSTR-1 returns of the said period and the total tax liability for the said period declared by the Noticee is Rs.5,44,51,339/-. I find that the Noticee has filed GSTR-3B return of July,2017 whereas the GSTR-3B returns for the tax period August,2017 to March,2018 have not been filed by them contravening the provisions of Section 39 of the CGST Act,2017 read with Rule 61 of the CGST Rules,2017 and thereby they failed to discharge the tax liability self assessed under Section 37 of the CGST Act,2017 in the GSTR-1 returns filed by them. I, therefore find that the Noticee is therefore liable for penalty amounting to Rs.4,87,70,826/- under Section 73(9) and interest thereof on the declared tax liability under Section 50(1) of the CGST Act,2017.

12.9 I further find that the show cause notice has proposed to impose penalty under Section 122(1)(xvii) of the CGST Act, 2017 which reads as under:-

“122. Penalty for certain offences.— (1) Where a taxable person who—

(xvii) fails to furnish information or documents called for by an officer in accordance with the provisions of this Act or the rules made thereunder or furnishes false information or documents during any proceedings under this Act;

he shall be liable to pay a penalty of ten thousand rupees or an amount equivalent to the tax evaded or the tax not deducted under section 51 or short deducted or deducted but not paid to the Government or tax not collected under section 52 or short collected or collected but not paid to the Government or input tax credit availed of or passed on or distributed irregularly, or the refund claimed fraudulently, whichever is higher.’

I find that above sub-section deals with the penalty liable to be imposed consequent to failure to furnish information or documents called for or furnishing false information or documents during any proceeding under the CGST Act. In the present case, I find that the Noticee has not submitted any information or produced any documents in connection with the query raised by this office on the observations raised by CERA. Further, the Noticee has also failed to give any reply to DRC-01A in order to decide as to whether any show cause notice is liable to be served

to them or otherwise. I therefore find that the Noticee is liable for penalty equal to the amount of the short paid tax ascertained in the show cause notice in terms of Section 122(1)(xviii) of the CGST Act, 2017.

13. The provisions under CGST Act and under SGST Act are the same except for certain provisions, unless a specific mention is made to such dissimilar provisions, a reference to CGST Act would also mean reference to the same provisions under SGST Act. Further in terms of Section 20 of the IGST Act, 2017 provisions of CGST Act, 2017 relating to the matters as specified in the said Section 20, shall, mutatis mutandis, apply, so far as may be, in relation to integrated tax as they apply in relation to central tax as if they are enacted under IGST Act.

14. From the above discussions, I find that the demand alongwith interest and penalty as proposed in the show cause notice is required to be confirmed as the Noticee has violated the following provisions of the CGST Act, 2017:-

(i) Section 13 of the CGST Act, 2017 wherein the Noticee failed to pay the tax on time in respect of the supply of taxable services during the period from October, 2017 to October, 2018;

(ii) Section 39 of the CGST Act, 2017 wherein the Noticee failed to file the periodical returns for the period from August, 2017 to March, 2018 and thereby failing to discharge their self-assessed tax liability declared under Section 37 of the CGST Act, 2017;

(iii) Section 73 of the CGST Act, 2017 in as much as they failed to pay tax or short-paid tax for any reason, other than the reason of fraud or any wilful misstatement or suppression of facts to evade tax.

(iv) Section 122(1)(xvii) in as much as they failed to furnish information or documents called for by an officer in accordance with the provisions of the CGST Act, 2017.

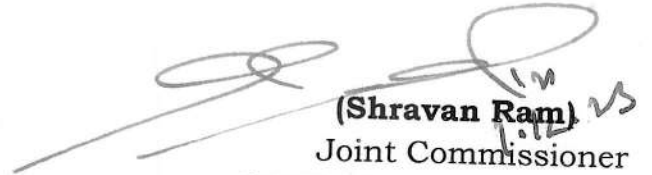
15. In view of the above discussions, I hereby pass the following Order.

ORDER

- (i) I confirm the demand and order to recover GST amount of Rs. 4,87,07,826/- (Four Crore Eighty-Seven Lakhs Seven Thousand Eight Hundred Twenty Six) (i.e. CGST Rs. 2,43,53,913/- and SGST Rs. 2,43,53,913/-) from M/s. Khushbu Vinyl Private Limited under Section 73 of the CGST Act, 2017
- (ii) I order to recover interest on the defaulted/short paid tax-liability confirmed at (i) above from M/s. Khushbu Vinyl Private Limited under Section 50(1) of the CGST Act, 2017.
- (iii) I impose penalty under Section 73(9) of the CGST Act, 2017 of Rs. 48,70,782/- (Rupees Forty Eight Lakhs Seventy Thousand Seven Hundred Eighty Two Only) (i.e. CGST Rs. 24,35,391/- and SGST Rs. 24,35,391/-) on the confirmed demand of Rs. 4,87,07,826/- at (i) above.
- (iv) I impose penalty of Rs. 4,87,07,826/- (Four Crore Eighty-Seven Lakhs Seven Thousand Eight Hundred Twenty Six) (i.e. CGST Rs. 2,43,53,913/-

and SGST Rs.2,43,53,913/-) under Section 122(1)(xvii) of the CGST Act,2017 for the reasons discussed supra.

The show cause notice No. 06/2023-24 dated 22/09/2023 issued from F.No. GEXCOM/ADJN/GST/JC/591/2023-ADJN dated 22/09/2023 is disposed off accordingly.


(Shравan Ram)
Joint Commissioner
CGST Ahmedabad South

DIN-20231264WS0000111F00

By Speed Post/RPAD/Email

To,

**M/s. Khushbu Vinyl Private Limited
(GSTIN : 24AAACK6182G3ZL),
4th Floor,12 Kalapurnam,
Nr Municipal Market C G Road, Navrangpura,
Ahmedabad, Gujarat, 380009.**

Copy to:-

- (1) The Principal Commissioner, CGST, Ahmedabad South
- (2) The Deputy Commissioner, Division-VI, CGST Ahmedabad South Commissionerate.
- (3) The Superintendent, Range-V, Division-VI, CGST, Ahmedabad South Commissionerate, Ahmedabad for uploading DRC-07 on GSTN portal.
- (4) The Assistant Commissioner, Central Tax, TAR Section, HQ, Ahmedabad South
- (5) The Superintendent, Central Tax, Systems HQ, Ahmedabad South for uploading on the website
- (6) Guard File.