



DRAFTING OF SHOW CAUSE NOTICE UNDER GST

Compendium of 51 Practical e-Exercises

Contravention • Consequences • Charged Persons • Charging Paragraph • Evidence



OCTOBER 25, 2026

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Drafting of Show Cause Notice under GST

Compendium of 51 e-Exercises

Before doing these class exercises, the learner may carefully go through the contents of the note given below.

Note for the reader:

- These exercises on drafting of Show Cause Notice have been developed for the purpose of teaching departmental officers so as to explain the basics of drafting of Show Cause Notice.
- These exercises are based on **4C-1E approach**. 4Cs include contraventions, consequences, charging paragraph(s), and charged person. E stands for evidence(s).
- These exercises can be used by the reader to self-read, and learn the requisite skills required for drafting of SCN. Understanding these exercises will also enable taxpayers to fully understand the consequences of non-compliance of GST law.
- The draft SCNs included in these exercises are a simplified version. It must be kept in mind that Show Cause Notices issued in the field are much more detailed ones.
- In these exercises, attempts have been made to explain **four 'C's - Contraventions, Consequences, Charged persons and Charging paragraph**. The proper understanding of the four "C"s is a must for officers to draft good quality SCN.
- The critical aspect of any SCN is the evidence collected during investigation based on which the allegation of contravention has been made in the SCN. Therefore, one must remember that necessary evidences supporting the allegations must be included and discussed in the body of the SCN.
- After reading the situation given, the trainee officer may identify the legal provisions which have been contravened; consequences of such contravention of each of the legal provisions; person(s) to be charged in the SCN; and finally, draft the Charging Paragraph of the SCN.
- After completion of each exercise, the trainee officer may compare his/her answer with the model answer given at the end of that exercise.

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Exercise 1

Conducting Business without obtaining GST Registration in spite of outward supplies of taxable goods exceeding Rs. 40 lakhs

Exercise 1: Conducting Business without obtaining GST Registration in spite of outward supplies of taxable goods exceeding Rs. 40 lakhs

Situation in Brief:

1. Acting on specific intelligence received indicating that M/s XXX, a proprietary firm of Mr. Z and located at YYYY, Rajasthan is supplying taxable goods without obtaining GST registration in spite of his turnover exceeding Rs. 40 lakhs during 2025-26, the premises was visited and searched by the CGST officers on 21.08.2026 under proper search authorisation issued by the Joint Commissioner, Alwar CGST Commissionerate.

2. During the search proceedings, the private records indicating purchase and sale of taxable goods were recovered. Further, stock of taxable goods valued at Rs. 50 lakhs were also seized. The proceedings were conducted under panchnama and documents as well as goods were seized under panchnama dated 21.08.2026.

3. Statement of Prop. Z was recorded on 21.08.2026 under Section 70 of the CGST Act, 2017 wherein Mr. Z admitted his mistake that he has started business from 1.7.2025 only. As he was not aware of GST law, he could not take GST registration. He also stated that he has not availed any input tax credit and nor has collected any tax from buyers at the time of outward supply. He agreed to pay the tax, interest and penalty determined by the officer and also promised to get registered under GST and conduct business as per law.

4. Scrutiny of seized private records indicated that the M/s XXX has sold taxable goods valued at Rs. 1.0 crores during the FY 2025-26 and in FY 2026-27, till 20.08.2026, the outward supply is valued at Rs. 41 lakhs. The taxable goods supplied are subjected to GST rate of 5%.

5. Now in the light of above, -

(i) Identify the provision of GST law contravened by M/s XXX (under heading **Contravention**).

(ii) Identify the provision of GST law under which action is to taken against M/s X (under heading **Consequences of Contravention of legal Provisions**).

(iii) Draft **Charging Paragraph** of the Show Cause Notice proposed to be issued to M/s XXX asking M/s XXX and Mr. Z as to why action should not be taken against him while listing proposed action to be taken against M/s XXX and Mr. Z.

(iv) Also prepare **draft Show cause notice** for issuance to M/s XXX.

***

SUGGESTED SOLUTION

(Search, Determination of Tax Liability under Section 74A, and Draft Show Cause Notice — M/s XXX, Prop. Mr. Z, Alwar CGST Commissionerate)

A. CONTRAVENTION

On the facts as recorded, the following provisions of law stand contravened:

1. **Section 22(1)** of the CGST Act, 2017, read with Notification No.10/2019-Central Tax dated 07.03.2019 (and the corresponding provisions of the RGST Act, 2017) — failure to obtain registration despite aggregate turnover in FY 2025-26 exceeding the notified threshold of Rs.40 lakh applicable to a person engaged exclusively in the supply of goods.
2. **Section 25(1)** of the CGST Act, 2017 — failure to apply for registration within thirty days of becoming liable to registration, i.e., from the date aggregate turnover crossed Rs.40 lakh during FY 2025-26.
3. **Section 9(1)** of the CGST Act, 2017 (charging section) — non-payment of tax due on outward taxable supplies of goods made on and after the date when the Noticee became a "taxable person", taxable at the applicable rate of 5% (2.5% CGST + 2.5% RGST).
4. **Section 31(1)** of the CGST Act, 2017 — failure to issue a tax invoice in respect of outward taxable supplies of goods.
5. **Section 37(1)** of the CGST Act, 2017 — failure to furnish details of outward supplies in FORM GSTR-1 for the tax periods concerned.
6. **Section 39(1) and (7)** of the CGST Act, 2017 — failure to furnish the periodic return in FORM GSTR-3B and to pay the self-assessed tax by the due date for each tax period.
7. **Section 35(1)** of the CGST Act, 2017, read with Rule 56 of the CGST Rules, 2017 — failure to keep and maintain true and correct accounts and records in the manner prescribed (only informal "private" records of purchase and sale were maintained, not the statutory records required of a registered person).

Note: *On the facts as stated — in particular, Mr. Z's statement that no tax was collected from buyers — Section 76 (amount collected but not deposited with the Government) is not attracted; this is a case of non-levy/non-payment of tax by an unregistered person, not of tax collected and retained.*

B. CONSEQUENCES OF CONTRAVENTION OF LEGAL PROVISIONS

The contraventions at (A) above expose M/s XXX/Mr. Z to the following action under the CGST Act, 2017 (read with the corresponding provisions of the RGST Act, 2017):

1. **Registration** — suo-motu registration of the Noticee under Section 25(8) of the CGST Act, 2017, read with Rule 16 of the CGST Rules, 2017, with effect from the date the Noticee became liable to registration.
2. **Search and seizure (already exercised)** — the search dated 21.08.2026 is referable to Section 67(1) of the CGST Act, 2017 (authorisation by the Joint Commissioner, Alwar CGST Commissionerate, on "reasons to believe" that goods liable to confiscation and documents/ records relevant to proceedings were secreted at the premises), and the seizure of private records and of stock valued at Rs.50 lakh under panchnama dated 21.08.2026 is referable to Section 67(2), read with Rule 139 of the CGST Rules, 2017.

   Note: Consequential action includes:

   (a) return of seized documents/records within the time permitted by Section 67(3), save those relied upon in the notice;

(b) the Noticee's entitlement to seek provisional release of the seized goods under Section 67(6) read with Rule 140, on execution of a bond and furnishing of security/payment of applicable tax, interest and penalty; and

(c) confiscation proceedings under Section 130, to be considered separately and only if it is further established, on verification of the seized records, that the seized stock represents goods held/removed in contravention of the Act with intent to evade tax.

3. **Statement under Section 70** — the statement of Mr. Z dated 21.08.2026 was recorded in an inquiry deemed to be a "judicial proceeding" for the purposes of Sections 193 and 228 of the Indian Penal Code, 1860 (corresponding provisions of the Bharatiya Nyaya Sanhita, 2023 read with Section 70(2) of the CGST Act, 2017), and constitutes relevant, admissible material. Mr. Z's plea of ignorance of law does not, by itself, absolve the liability to register and pay tax — ignorance of law is well recognised as no valid excuse (*ignorantia juris non excusat*), particularly for a business of this scale (turnover of about Rs.1 crore in the very first year).

4. **Determination and recovery of tax** — under Section 74A(1)/(2)/(6) of the CGST Act, 2017. Because the demand pertains to FY 2025-26 and FY 2026-27, i.e., "Financial Year 2024-25 onwards", Section 74A applies (in place of Sections 73/74, which stand confined to periods up to FY 2023-24), by virtue of Section 74A(12) and Notification No.17/2024-Central Tax dated 27.09.2024 (appointing 01.11.2024 as the date Section 74A came into force). The notice may be issued within 42 months of the due date for furnishing the annual return for the relevant financial year [Section 74A(2)] — well within time on the facts.

5. **Interest** — under Section 50(1) of the CGST Act, 2017, at 18% per annum, on the tax so determined, from the due date on which such tax would have been payable for each tax period (had the Noticee been registered) until the date of actual payment.

6. **Penalty** — under Section 74A(5) of the CGST Act, 2017. On the facts — continued, unregistered operation of the business for over thirteen months, non-collection and non-payment of tax, non-filing of any return, and the default coming to light only through intelligence-based search rather than voluntary disclosure — this is properly treated as a case of wilful suppression of the fact of liability to registration and payment of tax, attracting penalty equal to 100% of the tax so determined, rather than the lower 10%-of-tax/Rs.10,000 (whichever is higher) non-fraud penalty.

This is, however, subject to the statutory concession under Section 74A(9):

- nil additional consequence beyond 15% penalty if tax, interest and 15% penalty are paid before notice;
- 25% penalty if paid within 60 days of the notice; and
- 50% penalty if paid within 60 days of the order —

an aspect the Noticee should be specifically informed of in the notice, given his stated willingness to pay.

7. **Specific offence penalties** — Section 122(1)(xi) (failure to obtain registration despite being liable) and Section 122(1)(i) (supply of goods without issue of invoice) of the CGST Act, 2017 may also be invoked in the notice, in the alternative/without prejudice to (6) above, subject to Section 75(13) of the CGST Act, 2017 (which, on general principle, bars imposition of penalty for the same act or omission under more than one provision of the Act once penalty is imposed under the demand provision) — to be finally applied by the adjudicating authority.

8. **Recovery** — under Sections 78 and 79 of the CGST Act, 2017, in the event the sums confirmed by the adjudication order are not paid within the period allowed therein.

9. **Prosecution** — Section 132 of the CGST Act, 2017 has been considered and is not proposed at this stage, the quantum of tax involved on the present facts (approximately Rs.5.05 lakh) being well below

the level at which prosecution is ordinarily warranted; this may be revisited if the quantum is revised substantially upon further investigation.

Illustrative working of the tax proposed to be demanded (subject to reconciliation against the seized private records, in particular for the exact date in FY 2025-26 on which the Rs.40-lakh threshold was crossed):

Period	Declared turnover (Rs.)	Basis of taxable turnover	Taxable turnover (Rs.)	CGST @2.5% (Rs.)	RGST @2.5% (Rs.)
FY 2025-26 (01.07.2025 to 31.03.2026)	1,00,00,000	Total turnover less Rs.40 lakh threshold exemption available in the year of first crossing the Sec.22 limit (Section 22 r/w Notification No.10/2019-CT)	60,00,000	1,50,000	1,50,000
FY 2026-27 (01.04.2026 to 20.08.2026)	41,00,000	Full turnover taxable — Noticee already a person 'liable to be registered' continuing the same business without a break; no fresh threshold exemption available	41,00,000	1,02,500	1,02,500
TOTAL	**1,41,00,000**		**1,01,00,000**	**2,52,500**	**2,52,500**

Basis: the Rs.40-lakh threshold under Section 22 operates, in the year a supplier first crosses it, as an exemption for turnover up to that limit (on the same principle as the erstwhile small-scale exemption schemes) — tax is payable only on the turnover in excess of Rs.40 lakh in FY 2025-26. Once that liability has arisen, it continues into subsequent years for the same, continuing business without a fresh threshold test; the entire FY 2026-27 turnover is accordingly taxable from 01.04.2026. If the exact month-wise break-up in the seized ledger shows a different crossing date, the FY 2025-26 figure above stands to be revised accordingly; the FY 2026-27 figure is unaffected by that exercise.

C. CHARGING PARAGRAPH OF THE SHOW CAUSE NOTICE

[The following is the operative charging paragraph proposed for incorporation in the Show Cause Notice at Part D below.]

Now, therefore, M/s XXX, a proprietary concern of Mr. Z, situated at YYYY, Rajasthan, and Mr. Z, Proprietor of M/s XXX, in his personal capacity as the 'person' and 'taxable person' constituting the said proprietary concern (M/s XXX and Mr. Z being one and the same person in law), are hereby called upon to show cause in writing to the Superintendent, CGST Range – [•], Alwar CGST Division, Alwar CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) the turnover of Rs.1,00,00,000/- effected during FY 2025-26 and of Rs.41,00,000/- effected during FY 2026-27 (upto 20.08.2026), aggregating Rs.1,41,00,000/-, should not be held to be outward taxable supplies of goods effected by them in contravention of Section 22 read with Section 25 of the CGST Act, 2017/RGST Act, 2017, without obtaining registration;

(ii) they should not be registered suo-motu under Section 25(8) of the CGST Act, 2017 read with Rule 16 of the CGST Rules, 2017, with effect from the date they became liable to registration during FY 2025-26;

(iii) an amount of Rs.2,52,500/- (Central tax) and Rs.2,52,500/- (Rajasthan State tax), total Rs.5,05,000/- (Rupees Five Lakh Five Thousand only), being tax not paid on the taxable turnover of Rs.1,01,00,000/- as detailed in Annexure-A to this notice, should not be demanded and recovered from them under Section 74A(1)/(6) of the CGST Act, 2017 and the corresponding provisions of the RGST Act, 2017;

(iv) interest at the applicable rate under Section 50(1) of the CGST Act, 2017/RGST Act, 2017, should not be charged and recovered on the tax at (iii) above, from the respective due dates till the date of payment;

(v) a penalty equal to the tax at (iii) above, i.e. Rs.5,05,000/-, should not be imposed on them under Section 74A(5) of the CGST Act, 2017/RGST Act, 2017 for wilful suppression of the fact of their liability to registration and to tax, with intent to evade payment of tax (without prejudice to the reduced penalty to which they may become entitled under Section 74A(9) on payment within the time therein specified);

(vi) penalty should not separately be imposed on them under Section 122(1)(xi) of the CGST Act, 2017/RGST Act, 2017 for failure to obtain registration despite being liable, and under Section 122(1)(i) of the CGST Act, 2017/RGST Act, 2017 for supply of goods without issue of a tax invoice, without prejudice to (v) above and subject to Section 75(13) of the CGST Act, 2017;

(vii) the stock of taxable goods valued at Rs.50,00,000/- seized vide panchnama dated 21.08.2026 should not be dealt with in accordance with law, including under Section 130 of the CGST Act, 2017 if warranted on further verification.

D. DRAFT SHOW CAUSE NOTICE

F. No. GEXCOM/ADJN/SCN/[•]/2026-ALWAR

DIN: [Document Identification Number to be auto-generated on issue]

Office of the Superintendent, CGST Range – [•], Alwar CGST Division, Alwar CGST Commissionerate, Rajasthan

Date: [•].2026

SHOW CAUSE NOTICE

(Issued under Section 74A of the Central Goods and Services Tax Act, 2017 read with Section 74A of the Rajasthan Goods and Services Tax Act, 2017)

To,
Mr. Z,
Proprietor, M/s XXX,
YYYY, Rajasthan.

(hereinafter referred to as "the Noticee", which expression shall, unless the context otherwise requires, include M/s XXX and Mr. Z, the two being one and the same 'person' within the meaning of Section 2(84) of the CGST Act, 2017)

1. WHEREAS specific intelligence was received to the effect that M/s XXX, a proprietary firm of Mr. Z, located at YYYY, Rajasthan, is engaged in the supply of taxable goods without obtaining registration under the CGST Act, 2017/RGST Act, 2017, despite its turnover having exceeded the threshold limit of Rs.40 lakh prescribed under Section 22 of the said Acts during FY 2025-26;

2. AND WHEREAS, acting on the said intelligence, the business premises of the Noticee at YYYY, Rajasthan, was searched by officers of CGST on 21.08.2026, under proper authorisation for search issued under Section 67(1) of the CGST Act, 2017 by the Joint Commissioner, Alwar CGST Commissionerate;

3. AND WHEREAS, during the search, private records indicating purchase and sale of taxable goods by the Noticee were recovered, and stock of taxable goods valued at Rs.50,00,000/- (Rupees Fifty Lakh only) was found and seized, the entire proceedings, including seizure of the said documents and goods, having been conducted under, and recorded in, a panchnama dated 21.08.2026, drawn up under Section 67(2) of the CGST Act, 2017 read with Rule 139 of the CGST Rules, 2017 (A copy of panchnama is enclosed as RUD-1);

4. AND WHEREAS the statement of Mr. Z, Proprietor of M/s XXX, was recorded on 21.08.2026 under Section 70 of the CGST Act, 2017, wherein he, inter alia, admitted and stated that:

- he commenced the business of M/s XXX from 01.07.2025;
- he had not obtained registration under the CGST Act, 2017/RGST Act, 2017, stating that he was not aware of the requirements of GST law;
- he had not availed any input tax credit;
- he had not collected any amount as tax from his buyers at the time of outward supply;
- he agreed to pay the tax, interest and penalty as may be determined by the proper officer, and undertook to obtain registration and conduct business in accordance with law henceforth;

A copy of the statement of Proprietor is enclosed as RUD-2.

5. AND WHEREAS scrutiny of the said seized private records further revealed that M/s XXX had effected outward supply of taxable goods valued at Rs.1,00,00,000/- (Rupees One Crore only) during FY 2025-26, and further outward supply valued at Rs.41,00,000/- (Rupees Forty-One Lakh only) during FY 2026-

27, upto 20.08.2026; the said taxable goods being liable to GST at the rate of 5% (2.5% CGST + 2.5% RGST);

6. AND WHEREAS it appears therefrom that the Noticee's aggregate turnover exceeded the threshold limit of Rs.40 lakh prescribed under Section 22(1) of the CGST Act, 2017 (read with Notification No.10/2019-Central Tax dated 07.03.2019) during FY 2025-26 itself, whereupon the Noticee became liable to obtain registration under Section 22 read with Section 25(1) of the CGST Act, 2017/RGST Act, 2017 within thirty days of becoming so liable, but failed to do so, and has continued to conduct business and effect taxable supplies of goods, without registration, without payment of applicable tax, without issuance of tax invoices, and without filing any statutory return, upto the date of search;

7. AND WHEREAS the tax payable by the Noticee is worked out as under (basis explained in the accompanying Annexure-A, which forms part of this notice):

Period	Declared turnover (Rs.)	Basis of taxable turnover	Taxable turnover (Rs.)	CGST @2.5% (Rs.)	RGST @2.5% (Rs.)
FY 2025-26 (01.07.2025 to 31.03.2026)	1,00,00,000	Total turnover less Rs.40 lakh threshold exemption available in the year of first crossing the Sec.22 limit (Section 22 r/w Notification No.10/2019-CT)	60,00,000	1,50,000	1,50,000
FY 2026-27 (01.04.2026 to 20.08.2026)	41,00,000	Full turnover taxable — Noticee already a person 'liable to be registered' continuing the same business without a break; no fresh threshold exemption available	41,00,000	1,02,500	1,02,500
TOTAL	**1,41,00,000**		**1,01,00,000**	**2,52,500**	**2,52,500**

8. AND WHEREAS the said turnover of taxable goods, on which applicable tax has not been paid, has come to light only on account of specific intelligence and the search dated 21.08.2026, and not through any voluntary disclosure by the Noticee; the Noticee continued to conduct business without registration, without collecting or paying tax and without filing any return, for a period exceeding thirteen months from the date of commencement of business; and the plea of ignorance of law, even if true, does not absolve the Noticee of the liability to register and to pay tax that arose in law upon the aggregate turnover exceeding the prescribed threshold; it therefore appears that the non-payment of tax has occurred by reason of wilful suppression of the fact of liability to registration and to tax, with intent to evade payment of tax, within the meaning of Section 74A of the CGST Act, 2017/RGST Act, 2017;

9. AND WHEREAS it thus appears that the Noticee has contravened the following provisions of the CGST Act, 2017 (and the corresponding provisions of the RGST Act, 2017):

- Section 22(1) read with Notification No.10/2019-Central Tax dated 07.03.2019 — failure to obtain registration despite the aggregate turnover exceeding Rs.40 lakh;
- Section 25(1) — failure to apply for registration within the prescribed time;
- Section 9(1) — non-payment of tax due on outward taxable supplies;
- Section 31(1) — failure to issue tax invoices;
- Section 37(1) — failure to furnish details of outward supplies in FORM GSTR-1;
- Section 39(1)/(7) — failure to furnish returns in FORM GSTR-3B and to pay self-assessed tax by the due date;
- Section 35(1) read with Rule 56 of the CGST Rules, 2017 — failure to maintain the accounts and records required to be maintained by a registered person.

10. AND WHEREAS the aforesaid acts and omissions of the Noticee render it liable to:

(a) suo-motu registration under Section 25(8) of the CGST Act, 2017;

(b) demand and recovery of tax under Section 74A of the CGST Act, 2017/RGST Act, 2017;

(c) interest under Section 50(1) of the CGST Act, 2017/RGST Act, 2017;

(d) penalty under Section 74A(5) of the CGST Act, 2017/RGST Act, 2017; and

(e) penalty under Section 122(1)(i) and Section 122(1)(xi) of the CGST Act, 2017/RGST Act, 2017 (without prejudice to, and subject to Section 75(13) in relation to, the penalty at (d) above);

and further, that the goods seized vide panchnama dated 21.08.2026, valued at Rs.50,00,000/-, are liable to be dealt with in accordance with law;

NOW, THEREFORE

M/s XXX, a proprietary concern of Mr. Z, situated at YYYY, Rajasthan, and Mr. Z, Proprietor of M/s XXX, are hereby called upon to show cause in writing to the Superintendent, CGST Range – [•], Alwar CGST Division, Alwar CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) the turnover of Rs.1,00,00,000/- effected during FY 2025-26 and of Rs.41,00,000/- effected during FY 2026-27 (upto 20.08.2026), aggregating Rs.1,41,00,000/-, should not be held to be outward taxable supplies of goods effected by them in contravention of Section 22 read with Section 25 of the CGST Act, 2017/RGST Act, 2017, without obtaining registration;

(ii) they should not be registered suo-motu under Section 25(8) of the CGST Act, 2017 read with Rule 16 of the CGST Rules, 2017, with effect from the date they became liable to registration during FY 2025-26;

(iii) an amount of Rs.2,52,500/- (Central tax) and Rs.2,52,500/- (Rajasthan State tax), total Rs.5,05,000/- (Rupees Five Lakh Five Thousand only), being tax not paid on the taxable turnover of Rs.1,01,00,000/- as detailed in Annexure-A to this notice, should not be demanded and recovered from them under Section 74A(1)/(6) of the CGST Act, 2017 and the corresponding provisions of the RGST Act, 2017;

(iv) interest at the applicable rate under Section 50(1) of the CGST Act, 2017/RGST Act, 2017, should not be charged and recovered on the tax at (iii) above, from the respective due dates till the date of payment;

(v) a penalty equal to the tax at (iii) above, i.e. Rs.5,05,000/-, should not be imposed on them under Section 74A(5) of the CGST Act, 2017/RGST Act, 2017 for wilful suppression of the fact of their liability to registration and to tax, with intent to evade payment of tax (without prejudice to the reduced penalty to which they may become entitled under Section 74A(9) on payment within the time therein specified);

(vi) penalty should not separately be imposed on them under Section 122(1)(xi) of the CGST Act, 2017/RGST Act, 2017 for failure to obtain registration despite being liable, and under Section 122(1)(i) of the CGST Act, 2017/RGST Act, 2017 for supply of goods without issue of a tax invoice, without prejudice to (v) above and subject to Section 75(13) of the CGST Act, 2017;

(vii) the stock of taxable goods valued at Rs.50,00,000/- seized vide panchnama dated 21.08.2026 should not be dealt with in accordance with law, including under Section 130 of the CGST Act, 2017 if warranted on further verification.

11. The Noticee is further informed that:

- a written reply to this notice, along with all documents relied upon, must be furnished within thirty (30) days of receipt of this notice, failing which the case will be decided ex parte on the basis of available records, on merits;

- an opportunity of personal hearing will be granted before adjudication, on a date to be separately intimated, and the Noticee (or an authorised representative) may appear in person or through counsel;
- attention is drawn to the concession available under Section 74A(9) of the CGST Act, 2017/RGST Act, 2017, whereby, if the tax at (iii) above, interest at (iv) above, and a penalty equal to 15% of such tax are paid before issue of this notice, no notice shall be deemed to be issued in respect of the said tax; and if the said tax, interest and a penalty equal to 25% of such tax are paid within sixty (60) days of receipt of this notice, all proceedings in respect of the said tax shall be deemed to be concluded;
- this notice is issued without prejudice to any other action that may be taken against the Noticee or any other person under the CGST Act, 2017/RGST Act, 2017, or any other law for the time being in force.

List of Relied Upon Documents (RUDs):

RUD-1: Panchnama dated 21.08.2026 (with inventory of documents and goods seized);
RUD-2: Statement of Mr. Z recorded under Section 70 of the CGST Act, 2017 on 21.08.2026;
Annexure-A: Statement of turnover and tax calculation for FY 2025-26 and FY 2026-27 (upto 20.08.2026).

(_____)
Superintendent, CGST
Range – [•], Alwar CGST Division, Alwar CGST Commissionerate

Copy to: The Deputy/Assistant Commissioner, CGST Division, Alwar, for information.

Drafting note (not part of the notice):

- *The addressee, jurisdictional range/officer, C. No./DIN, and dates shown in square brackets/blanks are illustrative placeholders and must be completed with the correct particulars before issue.*
- *The tax, interest and penalty figures are worked out on the reasoned basis explained in Part B and are subject to correlation with the exact month-wise turnover recorded in the seized private records, in particular to fix the precise date in FY 2025-26 on which the Rs.40-lakh threshold was crossed (relevant chiefly to the interest computation) and to confirm the Rajasthan-specific threshold position (Rajasthan is not among the States excluded from the enhanced Rs. 40-lakh limit under Notification No.10/2019-Central Tax).*
- *This draft should be settled by the jurisdictional Range/Division before issue (DRC-1), including verification of the monetary-limit-based issuing/ adjudicating authority under Circular No. 31/05/2018-GST (Superintendent's adjudication powers being limited to tax not exceeding Rs.10 lakh, which the Central-tax component here).*
- *Return of non-RUDs (Non- Relied upon Documents): When SCN is issued to the taxpayer in the form of DRC-1 (uploaded on portal if registered) as well as delivered as per provisions of law), non -RUDs must be returned to the noticee under due acknowledgement within seven days of issuance of SCN.*

***

Exercise 2

Supply of taxable services without obtaining GST Registration in spite of aggregate turnover exceeding Rs. 20 lakh

Exercise 2: Supply of taxable services without obtaining GST Registration in spite of aggregate turnover exceeding Rs. 20 lakh

Situation in Brief:

1. Information was received from the Income Tax Department, under the inter-agency data-sharing arrangement, that Mr. Z, proprietor of M/s XXX located at YYYY, Pune, Maharashtra, was receiving professional/technical fees from corporate clients for software development and IT support services, with tax deducted at source by the clients, but was not registered under GST. The information showed receipts of Rs.48,00,000/- during FY 2025-26 and Rs.22,00,000/- during FY 2026-27 (up to 31.08.2026). Verification on the GST common portal on 01.09.2026 showed that no registration existed against the PAN of Mr. Z.

2. A summons dated 02.09.2026 under Section 70 of the CGST Act, 2017 was issued to Mr. Z, requiring him to appear on 15.09.2026 and produce documents relating to his business. Mr. Z appeared on the due date and voluntarily produced (a) 58 bills issued to clients (carrying his name and PAN but no GSTIN and no tax), (b) three service agreements with business clients located in Maharashtra, (c) TDS certificates (Form 16A) issued by the clients, and (d) the statement of his current account for October 2025 to August 2026.

3. The statement of Mr. Z was recorded on 15.09.2026 under Section 70 of the CGST Act, 2017, wherein he stated that he had started the business of software development and IT support services on 01.10.2025; that all his clients are business entities located in Maharashtra; that he had been issuing simple bills without GST as he was under the impression that GST was not applicable to a individual professional whose clients were deducting income-tax; that he had not collected any amount as GST from any client; that he had not availed any input tax credit; that all his receipts had been disclosed in his income-tax return; and that he was willing to pay the tax, interest and penalty determined and to obtain GST registration immediately.

4. Scrutiny of the bills, agreements, TDS certificates and bank statement showed that the entire turnover related to taxable services of the nature of IT design, development and support (SAC Group 9983), rendered to business clients within Maharashtra, and that the bank credits reconcile with the bills and TDS certificates. The month-wise value of services billed is as follows:

Month	Value of services billed (Rs.)	Month	Value of services billed (Rs.)
Oct-2025	4,00,000	Apr-2026	3,00,000
Nov-2025	6,00,000	May-2026	4,00,000
Dec-2025	7,00,000	Jun-2026	5,00,000
Jan-2026	9,00,000	Jul-2026	4,50,000
Feb-2026	10,00,000	Aug-2026	5,50,000
Mar-2026	12,00,000		
FY 2025-26 (Oct-Mar)	**48,00,000**	**FY 2026-27 (Apr-Aug)**	**22,00,000**

5. Now in the light of the above, -

(i) Identify the provision(s) of GST law contravened by M/s XXX (under heading **Contravention**).

(ii) Identify the provision(s) of GST law under which action is to be taken against M/s XXX (under heading **Consequences of Contravention of legal Provisions**).

(iii) Draft the **Charging Paragraph** of the Show Cause Notice proposed to be issued to M/s XXX, calling upon M/s XXX and Mr. Z to show cause as to why action should not be taken against them, while listing the proposed action to be taken against M/s XXX and Mr. Z.

(iv) Also prepare the **draft Show Cause Notice** for issuance to M/s XXX.

***

SUGGESTED SOLUTION

(Inquiry on summons, Determination of Tax Liability under Section 74A, and Draft Show Cause Notice - M/s XXX, Prop. Mr. Z, Pune CGST Commissionerate)

A. CONTRAVENTION

On the facts as recorded, the following provisions of law stand contravened (in each case read with the corresponding provisions of the Maharashtra Goods and Services Tax Act, 2017 [MGST Act] and the Rules made under the two Acts):

1. **Section 22(1) of the CGST Act, 2017** - failure to obtain registration although the aggregate turnover of the Noticee, a supplier of services only, exceeded the threshold of Rs.20 lakh in FY 2025-26 (Maharashtra is not a special category State; the higher limit of Rs.40 lakh under Notification No.10/2019-Central Tax is available only to persons exclusively engaged in the supply of goods and is therefore not available here).
2. **Section 25(1) of the CGST Act, 2017** - failure to apply for registration within thirty days from the date on which the Noticee became liable to registration, i.e. from the date on which the aggregate turnover crossed Rs.20 lakh (January 2026).
3. **Section 9(1) of the CGST Act, 2017** (charging section) - non-payment of tax at the rate of 18% (9% CGST + 9% MGST) on the outward supplies of taxable services made on and after the date the Noticee became liable to registration.
4. **Section 31(2) of the CGST Act, 2017 read with Rule 46 and Rule 47** - failure to issue tax invoices containing the prescribed particulars within the prescribed time for the taxable services supplied (only simple bills without GSTIN and tax were issued).
5. **Section 37(1) and Section 39(1) of the CGST Act, 2017** - failure to furnish the statement of outward supplies (FORM GSTR-1) and the return (FORM GSTR-3B) with payment of self-assessed tax by the due dates for the tax periods from January 2026 onwards.
6. **Section 35(1) of the CGST Act, 2017 read with Rule 56** - failure to maintain accounts and records in the manner prescribed (no GST-compliant books were maintained).

Note: *Section 76 (amount collected as tax but not paid to Government) is not attracted because, on the evidence, the Noticee did not collect any amount as tax from his clients. Likewise, no input tax credit is involved and no ITC-related provision has been invoked. The Noticee is not a registered person on the date of the proceedings; the obligations at items 4 to 6 are therefore invoked in respect of the period from the date on which he became liable to registration, i.e. as a 'taxable person' within the meaning of Section 2(107) of the CGST Act, 2017.*

B. CONSEQUENCES OF CONTRAVENTION OF LEGAL PROVISIONS

The contraventions at (A) above expose M/s XXX/Mr. Z to the following action under the CGST Act, 2017 (read with the corresponding provisions of the MGST Act, 2017):

1. Registration - the proper officer may proceed to register the Noticee under **Section 25(8) of the CGST Act, 2017 read with Rule 16 of the CGST Rules, 2017**. Registration so granted is temporary, is issued in FORM GST REG-12 and is effective from the date of that order [Rule 16(2)]; the Noticee must then apply for registration in the normal manner within ninety days under Rule 8 [Rule 16(3)]. It follows that the registration does not operate retrospectively, but the *liability to pay tax* arises from the date on which the Noticee became liable to registration (January 2026) and is therefore demanded for the earlier period under the demand provision below.
2. Determination and recovery of tax - under **Section 74A(1) of the CGST Act, 2017** (and the MGST Act). The demand pertains to FY 2025-26 and FY 2026-27, i.e. to periods 'FY 2024-25 onwards', for which

Section 74A (and not Sections 73/74) is the demand provision [Section 74A(12) and Notification No.17/2024-Central Tax dated 27.09.2024]. The notice may be issued within forty-two months from the due date of furnishing the annual return for the financial year [Section 74A(2)]; for FY 2025-26 the annual return is due on 31.12.2026, so the notice is well within time. The order must be passed within twelve months from the date of notice [Section 74A(7)] (extendable by six months in the manner provided therein).

3. Interest - under **Section 50(1) of the CGST Act, 2017** at the notified rate of 18% per annum on the tax so determined, from the day following the due date on which the tax for each tax period would have been payable (20th of the following month), up to the date of actual payment.

4. Penalty - under **Section 74A(5)(i) of the CGST Act, 2017**, i.e. ten per cent of the tax due or Rs.10,000/-, whichever is higher, under each Act. *Why not Section 74A(5)(ii)?* A penalty equal to the tax is leviable only if the non-payment is by reason of fraud, wilful misstatement or suppression of facts to evade tax. In this case the Noticee disclosed all his receipts in his income-tax return, the clients deducted tax at source in his PAN, he issued bills in his own name, he produced his records voluntarily on summons, and no evidence of an intention to evade GST has come on record. The default is therefore treated, on the present evidence, as arising from ignorance of the registration requirement (a case of non-fraud). The concession under **Section 74A(8)** is available - no penalty if the tax and interest are paid before the notice [clause (i)] or within sixty days of issue of the notice [clause (ii)], whereupon the proceedings are concluded. Section 74A(11) is not attracted since no 'self-assessed tax' or tax collected from customers is involved.

5. Specific offence penalties - Section 122(1)(xi) (being liable to be registered, failure to obtain registration) and Section 122(1)(i) (supply of services without issue of invoice) of the CGST Act, 2017 are also attracted. Since a penalty is proposed under Section 74A(5), these are proposed in the alternative and without prejudice, subject to the bar on double penalty for the same act or omission [Section 75(13)] and to the general disciplines on penalty under Section 126 of the CGST Act, 2017.

6. Recovery - under Sections 78 and 79 of the CGST Act, 2017, if the amount confirmed is not paid within the time allowed.

7. Alternative route (not adopted) - assessment of an unregistered person to the best of judgment under Section 63 (FORM GST ASMT-14/ASMT-15) is available where the person does not furnish records or co-operate. Since the Noticee has furnished complete records and the turnover is reconciled, the regular demand route under Section 74A is preferred.

8. Prosecution - Section 132 has been considered and is not proposed, as the tax involved (Rs.9,00,000/- including the State tax) is far below the monetary limits specified in Section 132(1), and no intention to evade tax is established.

Illustrative working of the tax proposed to be demanded (taxable value is the turnover in excess of Rs.20 lakh in FY 2025-26, and the full turnover in FY 2026-27, following the approach explained in Exercise-01):

Month	Value billed (Rs.)	Cumulative in FY (Rs.)	Taxable value (Rs.)	CGST @9% (Rs.)	MGST @9% (Rs.)	GSTR-3B due date
Oct-2025	4,00,000	4,00,000	-	-	-	-
Nov-2025	6,00,000	10,00,000	-	-	-	-
Dec-2025	7,00,000	17,00,000	-	-	-	-
Jan-2026	9,00,000	26,00,000	6,00,000	54,000	54,000	20.02.2026
Feb-2026	10,00,000	36,00,000	10,00,000	90,000	90,000	20.03.2026
Mar-2026	12,00,000	48,00,000	12,00,000	1,08,000	1,08,000	20.04.2026
Apr-2026	3,00,000	3,00,000	3,00,000	27,000	27,000	20.05.2026

May-2026	4,00,000	7,00,000	4,00,000	36,000	36,000	20.06.2026
Jun-2026	5,00,000	12,00,000	5,00,000	45,000	45,000	20.07.2026
Jul-2026	4,50,000	16,50,000	4,50,000	40,500	40,500	20.08.2026
Aug-2026	5,50,000	22,00,000	5,50,000	49,500	49,500	20.09.2026
TOTAL	**70,00,000**		**50,00,000**	**4,50,000**	**4,50,000**	

Basis: *The Rs.20 lakh threshold under Section 22(1) operates, in the year in which a supplier first crosses it, as an exemption for turnover up to that limit; tax is payable on the turnover in excess of Rs.20 lakh. Once liability has arisen, it continues in later years for the same continuing business, with no fresh threshold test. Cumulative billing reached Rs.26,00,000/- in January 2026, so taxable value for that month is Rs.6,00,000/-. If the invoice-wise ledger shows a different date of crossing, the working should be revised accordingly. Tax for FY 2025-26: Rs.2,52,000 each (CGST/MGST) on taxable value of Rs.28,00,000; for FY 2026-27: Rs.1,98,000 each on taxable value of Rs.22,00,000.*

C. CHARGING PARAGRAPH OF THE SHOW CAUSE NOTICE

[The following is the operative charging paragraph proposed for incorporation in the Show Cause Notice at Part D below.]

Now, therefore, M/s XXX, a proprietary concern of Mr. Z, situated at YYYY, Pune, Maharashtra, and Mr. Z, Proprietor of M/s XXX, in his personal capacity as the 'person' and 'taxable person' constituting the said proprietary concern (M/s XXX and Mr. Z being one and the same person in law), are hereby called upon to show cause in writing to the Superintendent, CGST Range - [•], Pune CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) *the services of aggregate value of Rs.70,00,000/- supplied during FY 2025-26 (Rs.48,00,000/-) and FY 2026-27 up to 31.08.2026 (Rs.22,00,000/-) should not be held to be taxable supplies of services made in contravention of Section 22(1) read with Section 25(1) of the CGST Act, 2017/MGST Act, 2017, without obtaining registration;*

(ii) *they should not be registered under Section 25(8) of the CGST Act, 2017 read with Rule 16 of the CGST Rules, 2017;*

(iii) *an amount of Rs.4,50,000/- (Central tax) and Rs.4,50,000/- (Maharashtra State tax), total Rs.9,00,000/- (Rupees Nine Lakh only), being tax not paid on the taxable value of Rs.50,00,000/- as detailed in Annexure-A to this notice, should not be demanded and recovered from them under Section 74A(1) of the CGST Act, 2017 and the corresponding provisions of the MGST Act, 2017;*

(iv) *interest at the applicable rate under Section 50(1) of the CGST Act, 2017/MGST Act, 2017 should not be charged and recovered on the tax at (iii) above, from the respective due dates till the date of payment;*

(v) *a penalty of Rs.45,000/- (Central tax) and Rs.45,000/- (Maharashtra State tax), total Rs.90,000/- , being ten per cent of the tax due, should not be imposed on them under Section 74A(5)(i) of the CGST Act, 2017/MGST Act, 2017 (without prejudice to the benefit of nil penalty to which they may become entitled under Section 74A(8) on payment of tax and interest within the time therein specified);*

(vi) *penalty should not separately be imposed on them under Section 122(1)(xi) and Section 122(1)(i) of the CGST Act, 2017/MGST Act, 2017, without prejudice to (v) above and subject to Section 75(13) and Section 126 of the CGST Act, 2017.*

D. DRAFT SHOW CAUSE NOTICE

F. No. GEXCOM/ADJN/SCN/[•]/2026-PUNE

DIN: [Document Identification Number to be auto-generated on issue]

Office of the Superintendent, CGST Range - [•], Division - [•], Pune CGST Commissionerate, Maharashtra

Date: [•].11.2026

SHOW CAUSE NOTICE

(Issued under Section 74A of the Central Goods and Services Tax Act, 2017 read with Section 74A of the Maharashtra Goods and Services Tax Act, 2017)

To,
Mr. Z,
Proprietor, M/s XXX,
YYYY, Pune, Maharashtra.

(hereinafter referred to as 'the Noticee', which expression shall, unless the context otherwise requires, include M/s XXX and Mr. Z, the two being one and the same 'person' within the meaning of Section 2(84) of the CGST Act, 2017)

WHEREAS information was received from the Income Tax Department to the effect that Mr. Z, proprietor of M/s XXX, located at YYYY, Pune, Maharashtra, was receiving professional/technical fees for software development and IT support services from corporate clients, with tax deducted at source by the clients, but was not registered under the CGST Act, 2017/MGST Act, 2017. The data showed receipts of Rs.48,00,000/- during FY 2025-26 and Rs.22,00,000/- during FY 2026-27 (up to 31.08.2026) (RUD-1);

2. AND WHEREAS verification of the GST common portal on 01.09.2026 revealed that no registration existed against the PAN of Mr. Z; a summons dated 02.09.2026 under Section 70 of the CGST Act, 2017 was therefore issued to him (RUD-2), in response to which he appeared on 15.09.2026 and voluntarily produced 58 bills issued to clients, three service agreements, TDS certificates (Form 16A) and the statement of his current account for October 2025 to August 2026 (RUD-4 and RUD-5);

3. AND WHEREAS the statement of Mr. Z was recorded on 15.09.2026 under Section 70 of the CGST Act, 2017 (RUD-3), wherein he, inter alia, admitted and stated that:

- he commenced the business of software development and IT support services under the name M/s XXX on 01.10.2025, and all his clients are business entities located in Maharashtra;
- he issued simple bills without GSTIN and without GST, under the impression that GST was not applicable to an individual professional whose clients deducted income-tax at source;
- he had not collected any amount as GST from any client and had not availed any input tax credit;
- all receipts had been disclosed in his income-tax return; and
- he is willing to pay the tax, interest and penalty determined by the proper officer and to obtain GST registration immediately;

4. AND WHEREAS scrutiny of the bills, agreements, TDS certificates and bank statement revealed that the entire turnover relates to taxable services of the nature of IT design, development and support (SAC Group 9983) supplied to business clients within Maharashtra, and that the bank credits reconcile fully with the bills and the TDS certificates. The month-wise value of the services supplied was Rs.48,00,000/- in FY 2025-26 (October 2025 to March 2026) and Rs.22,00,000/- in FY 2026-27 (April 2026 to August 2026), aggregating Rs.70,00,000/-;

5. AND WHEREAS it appears that the aggregate turnover of the Noticee, a supplier of services, exceeded the threshold limit of Rs.20 lakh prescribed under Section 22(1) of the CGST Act, 2017 in January 2026 (cumulative value of Rs.26,00,000/-), whereupon the Noticee became liable to registration and was required to apply for registration within thirty days under Section 25(1) of the Act, but failed to do so, and has continued to supply taxable services, without registration, without payment of the applicable tax, without issuing tax invoices and without filing any return, up to the date of the inquiry;

6. AND WHEREAS the tax payable by the Noticee at the rate of 18% (9% CGST + 9% MGST) is worked out as under (basis explained in Annexure-A, which forms part of this notice):

Period	Value billed (Rs.)	Taxable value (Rs.)	CGST @9% (Rs.)	MGST @9% (Rs.)
FY 2025-26 (01.10.2025 to 31.03.2026)	48,00,000	28,00,000	2,52,000	2,52,000
FY 2026-27 (01.04.2026 to 31.08.2026)	22,00,000	22,00,000	1,98,000	1,98,000
TOTAL	**70,00,000**	**50,00,000**	**4,50,000**	**4,50,000**

7. AND WHEREAS the Noticee disclosed his receipts in his income-tax return, issued bills in his own name and PAN, and produced his records voluntarily on summons; no evidence has been found to show that the non-payment of tax was by reason of fraud, wilful misstatement or suppression of facts to evade tax. The non-payment of tax is, therefore, appearing to be a case other than fraud, wilful misstatement or suppression of facts, attracting penalty under Section 74A(5)(i) of the CGST Act, 2017/MGST Act, 2017;

8. AND WHEREAS it thus appears that the Noticee has contravened the following provisions of the CGST Act, 2017 (and the corresponding provisions of the MGST Act, 2017):

- Section 22(1) - failure to obtain registration despite aggregate turnover of services exceeding Rs.20 lakh;
- Section 25(1) - failure to apply for registration within the prescribed time;
- Section 9(1) - non-payment of tax due on outward taxable supplies of services;
- Section 31(2) read with Rules 46 and 47 - failure to issue tax invoices;
- Sections 37(1) and 39(1) - failure to furnish FORM GSTR-1 and FORM GSTR-3B and to pay the self-assessed tax by the due dates;
- Section 35(1) read with Rule 56 - failure to maintain the prescribed accounts and records;

9. AND WHEREAS the aforesaid acts and omissions of the Noticee render him liable to:

(a) registration under Section 25(8) of the CGST Act, 2017 read with Rule 16 of the CGST Rules, 2017;

(b) demand and recovery of tax under Section 74A of the CGST Act, 2017/MGST Act, 2017;

(c) interest under Section 50(1) of the CGST Act, 2017/MGST Act, 2017;

(d) penalty under Section 74A(5)(i) of the CGST Act, 2017/MGST Act, 2017; and

(e) penalty under Sections 122(1)(xi) and 122(1)(i) of the CGST Act, 2017/MGST Act, 2017 (without prejudice to, and subject to Section 75(13) in relation to, the penalty at (d) above);

NOW, THEREFORE

M/s XXX, a proprietary concern of Mr. Z, situated at YYYY, Pune, Maharashtra, and Mr. Z, Proprietor of M/s XXX, are hereby called upon to show cause in writing to the Superintendent, CGST Range - [•], Pune CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) the services of aggregate value of Rs.70,00,000/- supplied during FY 2025-26 (Rs.48,00,000/-) and FY 2026-27 up to 31.08.2026 (Rs.22,00,000/-) should not be held to be taxable supplies of services made in contravention of Section 22(1) read with Section 25(1) of the CGST Act, 2017/MGST Act, 2017, without obtaining registration;

(ii) they should not be registered under Section 25(8) of the CGST Act, 2017 read with Rule 16 of the CGST Rules, 2017;

(iii) an amount of Rs.4,50,000/- (Central tax) and Rs.4,50,000/- (Maharashtra State tax), total Rs.9,00,000/- (Rupees Nine Lakh only), being tax not paid on the taxable value of Rs.50,00,000/- as detailed in Annexure-A to this notice, should not be demanded and recovered from them under Section 74A(1) of the CGST Act, 2017 and the corresponding provisions of the MGST Act, 2017;

(iv) interest at the applicable rate under Section 50(1) of the CGST Act, 2017/MGST Act, 2017 should not be charged and recovered on the tax at (iii) above, from the respective due dates till the date of payment;

(v) a penalty of Rs.45,000/- (Central tax) and Rs.45,000/- (Maharashtra State tax), total Rs.90,000/- , being ten per cent of the tax due, should not be imposed on them under Section 74A(5)(i) of the CGST Act, 2017/MGST Act, 2017 (without prejudice to the benefit of nil penalty to which they may become entitled under Section 74A(8) on payment of tax and interest within the time therein specified);

(vi) penalty should not separately be imposed on them under Section 122(1)(xi) and Section 122(1)(i) of the CGST Act, 2017/MGST Act, 2017, without prejudice to (v) above and subject to Section 75(13) and Section 126 of the CGST Act, 2017.

10. The Noticee is further informed that:

- a written reply to this notice, along with all documents relied upon, must be furnished within thirty (30) days of receipt of this notice, failing which the case will be decided ex parte on the basis of available records, on merits;
- an opportunity of personal hearing will be granted before adjudication, on a date to be separately intimated, and the Noticee (or an authorised representative) may appear in person or through counsel;
- attention is drawn to the benefit available under Section 74A(8) of the CGST Act, 2017/MGST Act, 2017, whereby, if the tax at (iii) above and the interest at (iv) above are paid before the issue of this notice, no notice shall be served in respect of the said tax; and if they are paid within sixty (60) days of the issue of this notice, no penalty shall be payable and all proceedings in respect of the said notice shall be deemed to be concluded;
- this notice is issued without prejudice to any other action that may be taken against the Noticee or any other person under the CGST Act, 2017/MGST Act, 2017, or any other law for the time being in force.

List of Relied Upon Documents (RUDs):

RUD-1: Information received from the Income Tax Department (TDS/AIS summary) in respect of PAN of Mr. Z;

RUD-2: Summons dated 02.09.2026 issued under Section 70 of the CGST Act, 2017, with proof of service;

RUD-3: Statement of Mr. Z recorded under Section 70 of the CGST Act, 2017 on 15.09.2026;

RUD-4: 58 bills, three service agreements and TDS certificates (Form 16A) produced by Mr. Z on 15.09.2026;

RUD-5: Statement of the current account of M/s XXX for October 2025 to August 2026;

Annexure-A: Month-wise statement of turnover and tax calculation for FY 2025-26 and FY 2026-27 (up to 31.08.2026) [as per the working in Part B].

(_____)
Superintendent, CGST
Range - [•], Division - [•], Pune CGST Commissionerate

Copy to: The Deputy/Assistant Commissioner, CGST Division, Pune, for information.

Drafting note (not part of the notice):

- *The addressee, jurisdictional range/officer, F. No./DIN and dates shown in square brackets/blanks are illustrative placeholders and must be completed with the correct particulars before issue.*
- *The tax, interest and penalty figures are worked out on the reasoned basis explained in Part B. They are subject to correlation with the invoice-wise billing ledger, in particular to fix the exact date in FY 2025-26 on which the Rs.20 lakh threshold was crossed (relevant chiefly for the interest computation).*
- ***Fraud or non-fraud?*** *Exercise-01 (goods, unregistered trader, concealed records found in search) was treated as a case of wilful suppression (penalty equal to tax). Here the facts differ - receipts disclosed in the income-tax return, bills issued in the supplier's own name, records produced voluntarily - so penalty under Section 74A(5)(i) is proposed. If evidence emerges that the Noticee knew of the requirement and deliberately avoided it (for example, refusing a GSTIN to clients who asked for one), the charge may be altered to Section 74A(5)(ii) with the concessions of Section 74A(9) cited in the notice. The charge must always be supported by the evidence discussed in the body of the notice.*
- *Temporary registration under Rule 16 is effective only from the date of the REG-12 order; the demand for earlier periods is made under Section 74A irrespective of the date of registration.*
- *The draft should be settled by the jurisdictional Range/Division before issue (DRC-01), including verification of the monetary-limit-based issuing/adjudicating authority under Circular No. 31/05/2018-GST dated 09.02.2018 (Superintendent: central tax up to Rs.10 lakh; Deputy/Assistant Commissioner: above Rs.10 lakh up to Rs.1 crore; Additional/Joint Commissioner: above Rs.1 crore). Here the central tax demand is Rs.4,50,000/-, within the Superintendent's limit.*
- *Return of non-RUDs (Non-Relied Upon Documents): When the SCN is issued to the taxpayer in the form of DRC-01 (uploaded on the portal if registered, as well as delivered as per the provisions of law), non-RUDs must be returned to the noticee under due acknowledgement within seven days of issuance of the SCN.*

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Exercise 3

Availment and utilisation of input tax credit on invoices of non-existent suppliers without receipt of goods by a manufacturer



Exercise 3: Availment and utilisation of input tax credit on invoices of non-existent suppliers without receipt of goods by a manufacturer

Situation in Brief:

1. The Directorate General of Analytics and Risk Management (DGARM) shared a risk report dated 12.08.2026 (RUD-1) with the Rajkot CGST Commissionerate on M/s XXX Pvt. Ltd., a manufacturer of aluminium extrusions and castings at YYYY, Rajkot, Gujarat (Director: Mr. Z). During FY 2025-26 (June 2025 to January 2026) it had taken credit of integrated tax of Rs.2,16,00,000/- on 54 inter-State invoices of three suppliers - M/s AAA (Delhi), M/s BBB (Haryana) and M/s CCC (Rajasthan) - for aluminium ingots. All three were registered only weeks before their first supply to M/s XXX Pvt. Ltd., had no other significant customer, and discharged their own output tax almost wholly through credit.

2. Jurisdictional CGST formations verified the registered places of the three suppliers between 24.08.2026 and 04.09.2026 (RUD-2): the Delhi address was a residential flat never let out, the Haryana address a vacant shop and the Rajasthan address an agricultural plot. The proprietors, in statements under Section 70 of the CGST Act, 2017 (RUD-3), stated that they were daily-wage labourers who had parted with their Aadhaar/PAN and mobile OTPs for Rs.5,000/- to Rs.10,000/- each and had never carried on business or supplied any goods. The registrations were cancelled suo motu by orders dated 18.09.2026 (prospective).

3. On an authorisation dated 08.09.2026 issued by the Additional/Joint Commissioner under Section 67(1), the factory and registered office of M/s XXX Pvt. Ltd. were searched on 09.09.2026 in presence of panchas (RUD-4). The purchase and sales registers, stock ledger, weighbridge and gate registers, the GRN file, the accountant's laptop and Mr. Z's mobile phone were seized under Section 67(2). The device data, copied before the panchas and accompanied by the certificate under Section 145 (RUD-5), includes chats between Mr. Z and a broker, Mr. P, on 'bill arrangement at 2.5%', 'bills ready, send RTGS' and 'cash will reach by angadia tomorrow'.

4. Mr. Z (Director, 70% shareholder) in statements under Section 70 dated 10.09.2026 and 24.09.2026 (RUD-6) stated that the Company needed credit to stay cost-competitive; that through Mr. P he got 'bills' of the three firms without any goods being received; that the actual aluminium was bought from local dealers in cash, without invoices; that the RTGS payments (with IGST) came back to him in cash through an angadia network after commission of 2.5% of the taxable value; and that he personally instructed the accountant Mr. S to book the invoices and take credit, which was then used to pay GST on sales. Mr. S (RUD-7) confirmed this and added that he prepared the GRNs on Mr. Z's instructions although no goods arrived.

5. The month-wise taxable value of the purchases covered by the 54 impugned invoices (16 from M/s AAA, 18 from M/s BBB and 20 from M/s CCC; quantity billed: 480 MT at Rs.2,50,000/- per MT, supported by 54 e-way bills), the integrated tax charged at 18%, the genuine IGST credit taken from other sources, the IGST credit set off by M/s XXX Pvt. Ltd. in its monthly FORM GSTR-3B (against its IGST, CGST and State tax liabilities in the order prescribed) and the closing balance of IGST credit in the electronic credit ledger after each return are as follows (the opening IGST balance on 01.06.2025 was Rs.4,00,000/-):

Month	M/s AAA taxable value (Rs.)	M/s BBB taxable value (Rs.)	M/s CCC taxable value (Rs.)	IGST @18% (Rs.)	Genuine IGST ITC (Rs.)	IGST credit set off in GSTR-3B (Rs.)	Closing IGST credit balance (Rs.)
Jun-2025	1,10,00,000	-	-	19,80,000	3,00,000	14,00,000	12,80,000
Jul-2025	60,00,000	80,00,000	-	25,20,000	3,00,000	20,00,000	21,00,000
Aug-2025	-	90,00,000	70,00,000	28,80,000	3,00,000	22,00,000	30,80,000
Sep-2025	50,00,000	60,00,000	70,00,000	32,40,000	3,00,000	24,00,000	42,20,000
Oct-2025	60,00,000	60,00,000	70,00,000	34,20,000	3,00,000	25,00,000	54,40,000

Nov-2025	-	80,00,000	90,00,000	30,60,000	3,00,000	24,00,000	64,00,000
Dec-2025	60,00,000	-	80,00,000	25,20,000	3,00,000	22,00,000	70,20,000
Jan-2026	40,00,000	30,00,000	40,00,000	19,80,000	3,00,000	27,00,000	66,00,000
TOTAL	**3,80,00,000**	**4,00,00,000**	**4,20,00,000**	**2,16,00,000**	**24,00,000**	**1,78,00,000**	

6. FORM GSTR-3B for each month was due on the 20th of the following month. The returns for June 2025 to January 2026 were filed on 19.07.2025, 20.08.2025, 19.09.2025, **25.10.2025**, 18.11.2025, 20.12.2025, 20.01.2026 and 19.02.2026 respectively.

7. Data from the e-way bill portal, Vahan and FASTag (certified under Section 145; RUD-8) for the 54 e-way bills showed 41 vehicle numbers: 13 two-wheelers, 9 cars/autos/buses, 6 non-existent numbers, 4 tractors and 9 goods carriers - none of which recorded any FASTag transaction on the route to Rajkot within the e-way bill validity. The weighbridge, gate and GRN records (RUD-9) have no entry for any of the 54 consignments, and the weighbridge operator and security supervisor (RUD-7) stated that no truck of ingots arrived from Delhi, Haryana or Rajasthan in the period.

8. The raw material reconciliation for June 2025 to January 2026 (RUD-10) shows: opening stock 120 MT; physical receipts with weighbridge slips from other sources (other registered suppliers and local dealers) 1,480 MT; closing stock (physically verified) 93 MT; finished goods dispatched 1,462 MT. At a conversion yield of 97.0%, production is fully accounted for without the 480 MT billed by AAA, BBB and CCC.

9. Bank statements (RUD-11) show RTGS payments of Rs.14,16,00,000/- (taxable value plus IGST) to the three suppliers, which were withdrawn in cash or routed through 11 other accounts and withdrawn in cash within one to three days. Cash returned through angadia, net of commission of Rs.30,00,000/- (2.5% of taxable value), was Rs.13,86,00,000/-.

10. On 20.09.2026, during the investigation, M/s XXX Pvt. Ltd. reversed Rs.66,00,000/- (the balance of the impugned credit lying in the ledger) through Table 4(B)(2) of FORM GSTR-3B for August 2026 (RUD-12), without interest or penalty. It did not reverse the credit already used. An intimation in FORM GST DRC-01A dated 05.10.2026 of the balance tax, interest and penalty payable under Section 74A(9)(i) brought no payment.

11. Now in the light of the above, -

(i) Identify the provision(s) of GST law contravened by M/s XXX Pvt. Ltd. (under heading **Contravention**).

(ii) Identify the provision(s) of GST law under which action is to be taken against M/s XXX Pvt. Ltd. (under heading **Consequences of Contravention of legal Provisions**).

(iii) Draft the **Charging Paragraph** of the Show Cause Notice proposed to be issued to M/s XXX Pvt. Ltd., calling upon M/s XXX Pvt. Ltd. and its Director Mr. Z to show cause as to why action should not be taken against them, while listing the proposed action to be taken against M/s XXX Pvt. Ltd. and its Director Mr. Z.

(iv) Also prepare the **draft Show Cause Notice** for issuance to M/s XXX Pvt. Ltd..

***

SUGGESTED SOLUTION

(Investigation by search and summons, Determination of Tax Liability under Section 74A, and Draft Show Cause Notice - M/s XXX Pvt. Ltd. and its Director Mr. Z, Rajkot CGST Commissionerate)

A. CONTRAVENTION

On the facts as recorded, the following provisions of law stand contravened (in each case read with Section 20 of the Integrated Goods and Services Tax Act, 2017 [IGST Act], the corresponding provisions of the Gujarat Goods and Services Tax Act, 2017 [GGST Act] and the Rules made under the Acts):

1. **Section 16(2)(b) of the CGST Act, 2017** - taking ITC although the goods were never received by the Noticee; receipt is a condition of eligibility, and there was no delivery to the Noticee or to any person on its direction (Explanation to Section 16(2)(b)).
2. **Section 16(2)(a) and 16(2)(c) of the CGST Act, 2017** - the invoices were not issued by a supplier who made any supply, and the tax charged in them was never actually paid to the Government by a real supplier. Even on the Noticee's own version that aluminium was bought in cash from local dealers, there is no tax invoice from those dealers and no tax paid by them, so the credit would not be admissible in any case (see Note below).
3. **Section 16(1) of the CGST Act, 2017** - credit is allowed only subject to the conditions and restrictions prescribed and in the manner specified in Section 49; the credit was taken in contravention of the above conditions.
4. **Section 39(1) of the CGST Act, 2017** - furnishing monthly FORM GSTR-3B returns declaring ineligible ITC in Table 4(A) and discharging the self-assessed liability with that credit, i.e., a return that does not correctly declare the credit eligible and the tax payable.
5. **Section 35(1) of the CGST Act, 2017** - the books of account (purchase register, stock ledger and GRNs) were made to show receipt of goods that were never received, i.e., the accounts do not correctly record the particulars of inward supply and stock (considered together with Section 122(1)(x) - see Note).

Note: *Cancellation of registration under Rule 21(e) (ITC claimed in violation of Section 16) is available but not proposed for a genuine manufacturer with real production; the proportionate response is recovery and penalty. Section 122(1)(x) (false accounts/information) has been considered; because the Section 74A(5)(ii) penalty already equals the entire credit, it is mentioned only as a 'without prejudice' alternative in view of Section 75(13).*

Important: *Goods may in fact have been bought in cash from unregistered dealers; that does not rescue the credit. Section 16(2) conditions are cumulative: a tax invoice from the supplier who actually supplied (clause (a)), receipt (clause (b)) and payment of tax by that supplier (clause (c)). A 'bill' of a third party for goods bought from an unregistered dealer fails (a) and (c). The case is therefore put on both footings: no receipt from the invoicing suppliers, and alternatively no valid invoice and no tax paid.*

B. CONSEQUENCES OF CONTRAVENTION OF LEGAL PROVISIONS

The contraventions at (A) above expose M/s XXX Pvt. Ltd. and Mr. Z to the following action under the CGST Act, 2017, read with Section 20 of the IGST Act, 2017 and the corresponding provisions of the GGST Act, 2017:

1. Demand of ITC wrongly availed and utilised - under **Section 74A(1) of the CGST Act, 2017** read with **Section 20 of the IGST Act, 2017**. The credit pertains to FY 2025-26, for which Section 74A (not Sections 73/74) is the demand provision [Section 74A(12); Notification No. 17/2024-Central Tax dated 27.09.2024]. The amount is Rs.2,16,00,000/- of integrated tax, of which Rs.1,50,00,000/- was utilised and Rs.66,00,000/- remained in the ledger and was reversed on 20.09.2026. That reversal was made without the 15% penalty and so is not a payment under Section 74A(9)(i); the whole amount is

therefore demanded, the reversal being appropriated against it, leaving Rs.1,50,00,000/- to be recovered. The notice must issue within forty-two months from the due date of the annual return for FY 2025-26 (31.12.2026), i.e. by 30.06.2030 [Section 74A(2)]; the order within twelve months of the notice, extendable by six months for reasons recorded before expiry [Section 74A(7)].

2. Interest - under **Section 50(3)** at the notified 24% per annum (Notification No. 13/2017-Central Tax), computed under **Rule 88B(3)** on the credit wrongly availed *and utilised*, from the date of utilisation till reversal or payment. Under the Explanation to Rule 88B(3) credit is treated as utilised when the ledger balance falls below the amount wrongly availed, to the extent of the shortfall, and the date of utilisation is the earlier of the due date and the actual date of filing of the return. The shortfall builds up to Rs.1,50,00,000/- and interest up to 31.10.2026 is Rs.34,24,569/- (table below), continuing till payment. *No* Section 50(3) interest is leviable on the Rs.66,00,000/- never utilised and reversed. *Why not Section 50(1)?* That provision applies to tax not paid by the due date; the Noticee did discharge its output tax (with ineligible credit), and the specific provision for credit wrongly availed and utilised is Section 50(3).

3. Penalty on the company - **Section 74A(5)(ii)**: equal to the tax due, Rs.2,16,00,000/-. *Why fraud and not Section 74A(5)(i)?* Credit on invoices of non-existent suppliers, with GRNs prepared for goods that never arrived and payments returned in cash after commission, is not an error of law or interpretation. It is fraud and wilful misstatement of credit in Table 4(A) of FORM GSTR-3B, and suppression (Explanation 2 to Section 74A) of the facts that goods were not received and were bought elsewhere. Intent is shown by the commission, the cash-back and the instructions to the accountant.

4. Penalty on the Director - **Section 122(1A)**: Mr. Z retained the benefit of transactions covered by Section 122(1)(vii) and they were conducted at his instance; penalty equal to the credit availed, Rs.2,16,00,000/-. This is a different person, so Section 75(13) (no second penalty on the *same* person for the same act) is no bar. Under Explanation 1 to Section 74A, if the company's proceedings conclude by payment under Section 74A(9), the Section 122 proceedings against Mr. Z in the same notice are deemed concluded.

5. Specific offence penalty - Section 122(1)(vii) (ITC without receipt) applies to the company, but as a penalty is proposed under Section 74A(5)(ii) it is proposed only 'without prejudice', subject to Section 75(13).

6. Prosecution - Section 132(1)(c) is attracted. The credit of Rs.2,16,00,000/- (above Rs.2 crore but not above Rs.5 crore) falls in clause (ii) of Section 132(1): imprisonment up to three years and fine; non-cognizable and bailable, since only offences punishable under clause (i) (above Rs.5 crore) are cognizable and non-bailable [Section 132(4), (5)]. Previous sanction of the Commissioner is needed [Section 132(6)]; Section 137 reaches persons in charge of a company's business and directors with whose consent or connivance the offence was committed. **Prosecution is not part of the show cause notice**; a separate proposal goes to the Commissioner. Payment under Section 74A does not bar it (Explanation 1 to Section 74A excludes Section 132).

7. Recovery and protective measures - Sections 78 and 79 if the amount confirmed is not paid. Blocking under Rule 86A and provisional attachment under Section 83 were considered but not proposed: the unutilised balance has been reversed and the company is a going concern with substantial assets.

Evidence map - proving that goods were not received (the central teaching of this exercise):

Link in the chain	Evidence (RUD)	What it establishes
Supplier exists?	Field verification reports and statements of the three proprietors (RUD-2, RUD-3)	No business premises, no stock, no employees; proprietors were name-lenders - no supply could have been made by them

Goods moved?	E-way bill portal data, Vahan (RTO) records and FASTag/toll data for the 54 e-way bills (RUD-8)	Vehicles were two-wheelers, cars, invalid numbers or goods carriers that never crossed any toll plaza on the route
Goods entered the factory?	Weighbridge register, gate register and GRNs seized at the factory (RUD-9); statements of weighbridge operator and security supervisor (RUD-7)	No weighbridge slip, gate entry or GRN for any of the 54 consignments
Goods needed for production?	Raw-material/production reconciliation (RUD-10)	Physical receipts from other sources fully account for the production - the 480 MT billed was not required and not received
Money for goods?	Bank statements of XXX and of the three suppliers (RUD-11)	RTGS payments of Rs.14.16 crore were withdrawn in cash or routed on within one to three days and came back to XXX's side net of commission
Who arranged it?	WhatsApp chats and e-mails on the seized devices with s.145 certificate (RUD-5); statements of Mr. Z and Mr. S (RUD-6, RUD-7)	Mr. Z negotiated the 'bills' with the broker Mr. P, fixed the commission and instructed that the credit be taken

Illustrative working of utilisation and interest under Section 50(3)/Rule 88B(3) (payment date assumed 31.10.2026):

Month of availment	Credit set off - wrongly availed ITC utilised in the month (Rs.)	Date of utilisation	Days to 31.10.2026	Interest @24% (Rs.)	Cumulative ledger shortfall (Rs.)
Jun-2025	7,00,000	19.07.2025	469	2,15,868	7,00,000
Jul-2025	17,00,000	20.08.2025	437	4,88,482	24,00,000
Aug-2025	19,00,000	19.09.2025	407	5,08,471	43,00,000
Sep-2025	21,00,000	20.10.2025	376	5,19,189	64,00,000
Oct-2025	22,00,000	18.11.2025	347	5,01,962	86,00,000
Nov-2025	21,00,000	20.12.2025	315	4,34,959	1,07,00,000
Dec-2025	19,00,000	20.01.2026	284	3,54,805	1,26,00,000
Jan-2026	24,00,000	19.02.2026	254	4,00,833	1,50,00,000
TOTAL	**1,50,00,000**			**34,24,569**	

Basis: *Wrongly availed Rs.2,16,00,000/- = utilised Rs.1,50,00,000/- (shortfall of the closing ledger balance below the cumulative wrongly availed credit at the end of January 2026) + unutilised Rs.66,00,000/- (closing balance, reversed). Interest is on each month's incremental shortfall for the actual days from the date of utilisation to 31.10.2026 at 24% on a 365-day year; update to the date of actual payment.*

C. CHARGING PARAGRAPH OF THE SHOW CAUSE NOTICE

[The following is the operative charging paragraph proposed for incorporation in the Show Cause Notice at Part D below.]

Now, therefore, M/s XXX Pvt. Ltd., a company incorporated under the Companies Act, having its registered office and factory at YYYY, Rajkot, Gujarat (the company) and Mr. Z, Director of M/s XXX Pvt. Ltd. (the Director) are hereby called upon to show cause in writing to the Additional/Joint Commissioner, CGST Commissionerate, Rajkot, within thirty (30) days of the receipt of this notice, as to why:

(i) *the input tax credit of integrated tax of Rs.2,16,00,000/- taken on 54 invoices issued by M/s AAA, M/s BBB and M/s CCC during June 2025 to January 2026 without receipt of the goods, in contravention of Section 16(2)(a), (b) and (c) of the CGST Act, 2017/GGST Act, 2017, should not be held to have been wrongly availed, of which Rs.1,50,00,000/- has been wrongly utilised;*

(ii) *the said amount of Rs.2,16,00,000/- (Rupees Two Crore Sixteen Lakh only) should not be demanded and recovered from M/s XXX Pvt. Ltd. under Section 74A(1) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017 and the corresponding provisions of the GGST Act, 2017,*

with appropriation of the amount of Rs.66,00,000/- reversed by it on 20.09.2026, so that the balance of Rs.1,50,00,000/- is recovered;

(iii) *interest at the rate of 24% per annum should not be charged and recovered from M/s XXX Pvt. Ltd. under Section 50(3) of the CGST Act, 2017 read with Rule 88B(3) of the CGST Rules, 2017, on the wrongly utilised credit of Rs.1,50,00,000/- from the respective dates of utilisation till the date of payment (Rs.34,24,569/- upto 31.10.2026, as shown in Annexure-A);*

(iv) *a penalty of Rs.2,16,00,000/-, equal to the tax due, should not be imposed on M/s XXX Pvt. Ltd. under Section 74A(5)(ii) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017/GGST Act, 2017 (without prejudice to the benefit of Section 74A(9)(ii) available on payment of tax, interest and penalty of 25% of the tax within sixty days of issue of this notice);*

(v) *a penalty of Rs.2,16,00,000/-, equal to the input tax credit availed, should not be imposed on Mr. Z under Section 122(1A) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017/GGST Act, 2017;*

(vi) *a penalty should not separately be imposed on M/s XXX Pvt. Ltd. under Section 122(1)(vii) (and, to the extent applicable, Section 122(1)(x)) of the CGST Act, 2017/GGST Act, 2017, without prejudice to (iv) above and subject to Section 75(13) and Section 126 of the CGST Act, 2017.*

D. DRAFT SHOW CAUSE NOTICE

F. No. GEXCOM/ADJN/SCN/[•]/2026-RAJKOT

DIN: [Document Identification Number to be auto-generated on issue]

Office of the Additional/Joint Commissioner, CGST Commissionerate, Rajkot, Gujarat

Date: [•].11.2026

SHOW CAUSE NOTICE

(Issued under Section 74A of the Central Goods and Services Tax Act, 2017 read with Section 20 of the Integrated Goods and Services Tax Act, 2017 and the corresponding provisions of the Gujarat Goods and Services Tax Act, 2017)

To,
1. M/s XXX Pvt. Ltd.,
Through its Director Mr. Z, YYYY, Rajkot, Gujarat.
2. Mr. Z, Director, M/s XXX Pvt. Ltd.,
YYYY, Rajkot, Gujarat.

(hereinafter referred to as 'the Company' and 'the Director' respectively, and together as 'the Noticees', which expression shall, unless the context otherwise requires, include each of them)

1. WHEREAS a risk report dated 12.08.2026 of the DGARM (RUD-1) indicated that the Company, a manufacturer of aluminium extrusions and castings at Rajkot, took credit of integrated tax of Rs.2,16,00,000/- during June 2025 to January 2026 on 54 inter-State invoices of M/s AAA (Delhi), M/s BBB (Haryana) and M/s CCC (Rajasthan), all of which bore the indicators of non-genuine suppliers;

2. AND WHEREAS field verification (RUD-2) found no business at any of the three registered addresses, and the proprietors, in statements under Section 70 of the CGST Act, 2017 (RUD-3), stated that they were name-lenders who never carried on business or supplied goods; their registrations were cancelled suo motu by orders dated 18.09.2026;

3. AND WHEREAS the search of the Company's factory and office on 09.09.2026 under Section 67(1) (RUD-4) resulted in seizure of records, a laptop and the Director's mobile phone, the data of which, certified under Section 145 (RUD-5), contains chats with a broker, Mr. P, on 'bill arrangement at 2.5%', 'bills ready, send RTGS' and 'cash will reach by angadia tomorrow';

4. AND WHEREAS Mr. Z, in his statements dated 10.09.2026 and 24.09.2026 (RUD-6), inter alia admitted and stated that:

- the Company obtained 'bills' of the three firms through Mr. P without receiving any goods, the actual aluminium being bought in cash from local dealers without invoices;
- the RTGS payments (including IGST) were returned to him in cash through angadia after commission of 2.5% of the taxable value; and
- he personally instructed the accountant Mr. S to book the invoices and take the credit, which was used to pay GST on the Company's sales;

5. AND WHEREAS Mr. S, the weighbridge operator and the security supervisor (RUD-7) confirmed that the GRNs were prepared without any goods arriving and that no truck of ingots came from Delhi, Haryana or Rajasthan; the e-way bill, Vahan and FASTag data (RUD-8) show that, of 41 vehicle numbers on the 54 e-way bills, 32 were two-wheelers, cars, autos, buses, tractors or non-existent numbers and none of the other 9 recorded any FASTag transaction on the route; the weighbridge, gate and GRN records (RUD-9) have no entry for any consignment; the reconciliation (RUD-10) shows that physical receipts of 1,480 MT from other sources fully account for production at a yield of 97.0% without the

480 MT billed; and the bank records (RUD-11) show Rs.14,16,00,000/- paid to the three firms, withdrawn in cash or routed onwards within one to three days and returned net of commission of Rs.30,00,000/-;

6. AND WHEREAS the Company took the credit of Rs.2,16,00,000/- in FORM GSTR-3B for June 2025 to January 2026 and set it off against its liability. Applying Rule 88B(3) of the CGST Rules, 2017, the credit wrongly utilised is Rs.1,50,00,000/-, while Rs.66,00,000/- remained in the ledger and was reversed on 20.09.2026 (RUD-12), as summarised below and detailed in Annexure-A, which forms part of this notice:

Particulars	Integrated tax (Rs.)	Basis
ITC taken on 54 invoices of AAA, BBB, CCC (taxable value Rs.12,00,00,000/-)	2,16,00,000	Section 74A(1)
Less: reversed on 20.09.2026 (unutilised; appropriated)	66,00,000	No interest u/s 50(3)
Balance - wrongly utilised, to be recovered	1,50,00,000	Interest @24% from utilisation
Interest upto 31.10.2026 (Annexure-A)	34,24,569	Rule 88B(3)
Penalty u/s 74A(5)(ii) on the Company (equal to tax)	**2,16,00,000**	**Section 74A(5)(ii)**

7. AND WHEREAS the Company's act of taking credit without receiving goods, preparing GRNs for goods that never arrived, paying invoices through banking channels that came back in cash, and declaring the credit in Table 4(A) of FORM GSTR-3B without disclosing these facts, amounts to fraud, wilful misstatement and suppression of facts with intent to evade tax, attracting penalty equal to the tax under Section 74A(5)(ii) of the CGST Act, 2017/GGST Act, 2017; and Mr. Z, who negotiated the bills, fixed the commission, directed the accountant and retained the benefit, is liable to penalty under Section 122(1A);

8. AND WHEREAS it thus appears that the Noticees have contravened the following provisions of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017 (and the corresponding provisions of the GGST Act, 2017):

- Section 16(2)(a), 16(2)(b) and 16(2)(c) - taking ITC without a valid tax invoice from the actual supplier, without receipt of the goods and without payment of the tax to the Government;
- Section 16(1) - taking credit otherwise than in accordance with the conditions and restrictions;
- Section 39(1) - furnishing returns that wrongly declare the ineligible credit and discharge liability with it;
- Section 35(1) - making the books of account record receipt of goods that were never received;

9. AND WHEREAS the aforesaid acts and omissions render the Noticees liable to:

(a) demand and recovery of the wrongly availed and utilised ITC under Section 74A(1) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017;

(b) interest under Section 50(3) of the CGST Act, 2017 read with Rule 88B(3) of the CGST Rules, 2017;

(c) penalty on the Company under Section 74A(5)(ii) and, without prejudice thereto and subject to Section 75(13), under Section 122(1)(vii) (and 122(1)(x));

(d) penalty on the Director under Section 122(1A) of the CGST Act, 2017;

NOW, THEREFORE

M/s XXX Pvt. Ltd., through its Director Mr. Z, and Mr. Z, Director of M/s XXX Pvt. Ltd., are hereby called upon to show cause in writing to the Additional/Joint Commissioner, CGST Commissionerate, Rajkot, within thirty (30) days of the receipt of this notice, as to why:

(i) the input tax credit of integrated tax of Rs.2,16,00,000/- taken on 54 invoices issued by M/s AAA, M/s BBB and M/s CCC during June 2025 to January 2026 without receipt of the goods, in contravention of Section 16(2)(a), (b) and (c) of the CGST Act, 2017/GGST Act, 2017, should not be held to have been wrongly availed, of which Rs.1,50,00,000/- has been wrongly utilised;

(ii) the said amount of Rs.2,16,00,000/- (Rupees Two Crore Sixteen Lakh only) should not be demanded and recovered from M/s XXX Pvt. Ltd. under Section 74A(1) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017 and the corresponding provisions of the GGST Act, 2017, with appropriation of the amount of Rs.66,00,000/- reversed by it on 20.09.2026, so that the balance of Rs.1,50,00,000/- is recovered;

(iii) interest at the rate of 24% per annum should not be charged and recovered from M/s XXX Pvt. Ltd. under Section 50(3) of the CGST Act, 2017 read with Rule 88B(3) of the CGST Rules, 2017, on the wrongly utilised credit of Rs.1,50,00,000/- from the respective dates of utilisation till the date of payment (Rs.34,24,569/- upto 31.10.2026, as shown in Annexure-A);

(iv) a penalty of Rs.2,16,00,000/-, equal to the tax due, should not be imposed on M/s XXX Pvt. Ltd. under Section 74A(5)(ii) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017/GGST Act, 2017 (without prejudice to the benefit of Section 74A(9)(ii) available on payment of tax, interest and penalty of 25% of the tax within sixty days of issue of this notice);

(v) a penalty of Rs.2,16,00,000/-, equal to the input tax credit availed, should not be imposed on Mr. Z under Section 122(1A) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017/GGST Act, 2017;

(vi) a penalty should not separately be imposed on M/s XXX Pvt. Ltd. under Section 122(1)(vii) (and, to the extent applicable, Section 122(1)(x)) of the CGST Act, 2017/GGST Act, 2017, without prejudice to (iv) above and subject to Section 75(13) and Section 126 of the CGST Act, 2017.

10. The Noticees are further informed that:

- a written reply to this notice, along with all documents relied upon, must be furnished within thirty (30) days of receipt of this notice, failing which the case will be decided ex parte on the basis of available records, on merits;
- an opportunity of personal hearing will be granted before adjudication, on a date to be separately intimated, and the Noticees (or their authorised representatives) may appear in person or through counsel;
- attention is drawn to Section 74A(9)(ii) of the CGST Act, 2017/GGST Act, 2017, whereby, if the Company pays the tax at (ii) above, the interest at (iii) above and a penalty of twenty-five per cent of the tax, i.e. Rs.54,00,000/-, within sixty (60) days of the issue of this notice, all proceedings in respect of the said notice are deemed to be concluded; and, by Explanation 1 to Section 74A, the proceedings under Section 122 against Mr. Z in this notice shall then also be deemed concluded. The concession under Section 74A(9)(i) (penalty of fifteen per cent before the notice) is no longer available;
- this notice is issued without prejudice to any other action, including prosecution under Section 132 of the CGST Act, 2017, that may be taken against the Noticees or any other person under the CGST Act, 2017/GGST Act, 2017, or any other law for the time being in force.

List of Relied Upon Documents (RUDs):

RUD-1: Risk report dated 12.08.2026 of the DGARM;

RUD-2: Verification reports of the jurisdictional formations in respect of M/s AAA, M/s BBB and M/s CCC (24.08.2026 to 04.09.2026), and the suo motu cancellation orders dated 18.09.2026;

RUD-3: Statements of the proprietors of M/s AAA, M/s BBB and M/s CCC recorded under Section 70;

RUD-4: Authorisation dated 08.09.2026 and search panchnama dated 09.09.2026, with list of documents/devices resumed;

RUD-5: Data of the laptop and mobile phone with chats and e-mails, with certificate under Section 145;

RUD-6: Statements of Mr. Z dated 10.09.2026 and 24.09.2026;

RUD-7: Statements of Mr. S, the weighbridge operator and the security supervisor dated 10.09.2026;

RUD-8: E-way bill portal data, Vahan and FASTag data for the 54 consignments, with certificate under Section 145;

RUD-9: Weighbridge register, gate register and GRN file of the Company for June 2025 to January 2026;

RUD-10: Raw material and production reconciliation for June 2025 to January 2026;

RUD-11: Bank statements of the Company and of M/s AAA, M/s BBB and M/s CCC;

RUD-12: FORM GSTR-3B returns for June 2025 to August 2026, electronic credit ledger and the reversal dated 20.09.2026; FORM GST DRC-01A dated 05.10.2026;

Annexure-A: Statement of utilisation of the wrongly availed ITC and computation of interest under Section 50(3)/Rule 88B(3) [as per the working in Part B].

(_____)
Additional/Joint Commissioner, CGST
Rajkot CGST Commissionerate, Gujarat

Copy to: The Commissioner, CGST Commissionerate, Rajkot, for information (and for consideration of the proposal for prosecution under Section 132).

Drafting note (not part of the notice):

- *The addressee, jurisdictional range/officer, F. No./DIN and dates shown in square brackets/blanks are illustrative placeholders and must be completed with the correct particulars before issue.*
- ***Teaching twist - proving 'no receipt of goods' and utilisation.*** *The case is won on a chain of evidence, not on the statement alone: supplier non-existence, no movement (e-way bill/Vahan/FASTag), no entry at the receiving end (weighbridge/gate/GRN), no production need, a money trail returning as cash, and intent evidence (chats, commission). Retraction of the Director's statement is the usual defence; the independent documentary and electronic evidence (with the Section 145(2) certificate) is why the notice does not rest on the statement alone.*
- ***Interest - availed versus utilised.*** *Interest at 24% runs only on the part wrongly utilised (ledger-shortfall method of the Explanation to Rule 88B(3)), from the earlier of the due date and the filing date. The September 2025 return was filed late (25.10.2025), but the utilisation date for interest is the due date, 20.10.2025. The unutilised balance reversed before the notice carries no Section 50(3) interest.*
- ***Concessions.*** *The reversal of Rs.66,00,000/- was made without the 15% penalty and is therefore not a payment under Section 74A(9)(i); the SCN demands the whole amount and appropriates the reversal. The Noticee is informed of Section 74A(9)(ii) (25% within 60 days).*
- ***Charging the Director.*** *Section 122(1A) needs both retention of benefit and conduct of the transaction at the person's instance; the evidence here is his own statement, the chats and his shareholding. The*

broker Mr. P is not charged in this notice; his role (Section 122(3)(a)) is for separate proceedings once he is identified and examined. Prosecution thresholds: the amount is IGST only, so the threshold of Section 132(1) is clear; where CGST and State tax are both involved, settle the aggregation question with the legal branch.

- ***Rate.*** *18% is the rate charged in the impugned invoices; the demand is the credit actually taken, so no classification issue arises.*
- *The draft should be settled by the jurisdictional Range/Division before issue (DRC-01), including verification of the monetary-limit-based issuing/adjudicating authority under Circular No. 31/05/2018-GST dated 09.02.2018 (Superintendent: central tax up to Rs.10 lakh; Deputy/Assistant Commissioner: above Rs.10 lakh up to Rs.1 crore; Additional/Joint Commissioner: above Rs.1 crore). Here the integrated tax demand of Rs.2,16,00,000/- exceeds Rs.2 crore, so the notice issues from the Additional/Joint Commissioner (IGST limits in the same Circular: Superintendent up to Rs.20 lakh; Deputy/Assistant Commissioner up to Rs.2 crore; Additional/Joint Commissioner above).*
- *Return of non-RUDs (Non-Relied Upon Documents): When the SCN is issued to the taxpayer in the form of DRC-01 (uploaded on the portal if registered, as well as delivered as per the provisions of law), non-RUDs must be returned to the noticee under due acknowledgement within seven days of issuance of the SCN.*

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Exercise 4

Issue of invoices without supply and passing on of input tax credit by a dummy proprietorship - roles of the dummy proprietor and the mastermind



Exercise 4: Issue of invoices without supply and passing on of input tax credit by a dummy proprietorship - roles of the dummy proprietor and the mastermind

Situation in Brief:

1. Analytics of ITC flows by the Anti-Evasion wing of the Delhi West CGST Commissionerate identified M/s XXX, a proprietary concern of Mr. Z, registered at YYYY, Delhi on 02.09.2025 for 'trading in copper and brass articles', as a suspected invoice-issuing entity: in seven months (September 2025 to March 2026) it issued 38 inter-State tax invoices of Rs.7,00,00,000/- (IGST Rs.1,26,00,000/-) to three recipients - M/s AAA (Haryana), M/s BBB (Uttar Pradesh) and M/s CCC (Rajasthan) - while its inward supplies came only from two other firms, M/s DDD and M/s EEE, which showed identical features. Physical verification on 20.02.2026 (RUD-1) found the declared premises to be a residential flat of a third party whose owner stated that it was never let out; the rent agreement filed with the registration application was forged. The registrations of M/s DDD and M/s EEE were found non-existent. On 05.03.2026 the proper officer blocked the credit lying in the electronic credit ledger of M/s XXX under Rule 86A (RUD-2).

2. Mr. Z, aged 24, appeared on summons and in his statement dated 02.04.2026 (RUD-3) stated that he was a driver in an office run by Mr. P, that Mr. P's staff had taken his Aadhaar, PAN and photographs 'for a bank account and a company salary' in August 2025, that he had never traded in copper or brass, never seen the premises, never operated the GST login or the bank account, did not know the recipients, and received only a salary of Rs.15,000/- per month from Mr. P's office. He did not receive any part of the commission.

3. The GSTN login data (RUD-4, certified under Section 145 of the CGST Act, 2017) shows that 61 of the 64 logins to M/s XXX's GST account were from three IP addresses on the broadband connection of Mr. P's office, and the e-mail address and mobile number registered with GSTN belong to Mr. Q, Mr. P's accountant. The bank's records (RUD-5) show that the mobile number for OTPs, the internet banking IP and the courier address for cheque books are those of Mr. P's office. Mr. Q, in his statement dated 15.04.2026 (RUD-6), stated that he filed all returns of M/s XXX, M/s DDD and M/s EEE on Mr. P's instructions.

4. Mr. P, summoned thrice, appeared on 30.07.2026 and 12.08.2026 and in his statements (RUD-7) admitted that he controlled M/s XXX through Mr. Z, that no goods were ever bought or sold, that he arranged the 'purchase bills' from M/s DDD and M/s EEE against a fee, issued 'sale bills' of M/s XXX to M/s AAA, M/s BBB and M/s CCC so that they could take input tax credit, and kept a commission of 1.5% of the taxable value (Rs.10,50,000/-). The recipients paid the invoice value including IGST to the bank account of M/s XXX; the amounts were transferred on the same day to M/s DDD, M/s EEE and other accounts, and ultimately withdrawn in cash. The proprietors of M/s AAA and M/s BBB admitted in their statements (RUD-8) that no goods were received; M/s CCC claims receipt of goods but produced no transport document or stock entry.

5. No e-way bill was generated for 30 of the 38 invoices although each exceeded Rs.50,000/-; of the 8 e-way bills generated, the vehicle numbers were of two-wheelers and cars and none recorded a FASTag transaction (RUD-9). M/s XXX had no stock, no employee, no electricity connection, and no purchase of goods other than the inward invoices. The month-wise position taken from the monthly returns of M/s XXX is as follows (the opening balance in the electronic credit ledger was nil; the GSTR-1 for February and March 2026 was filed, but the GSTR-3B for those months was not filed; the amounts for these two months were received from the recipients on 27.02.2026 and 31.03.2026 respectively):

Month	Outward taxable value (Rs.)	IGST charged @18% (Rs.)	Inward taxable value, DDD+EEE (Rs.)	IGST ITC taken (Rs.)	Paid by ITC (Rs.)	Paid in cash (Rs.)	GSTR-3B filed on
Sep-2025	60,00,000	10,80,000	57,00,000	10,26,000	10,26,000	54,000	18.10.2025
Oct-2025	80,00,000	14,40,000	77,00,000	13,86,000	13,86,000	54,000	20.11.2025

Nov-2025	90,00,000	16,20,000	86,00,000	15,48,000	15,48,000	72,000	19.12.2025
Dec-2025	1,00,00,000	18,00,000	97,00,000	17,46,000	17,46,000	54,000	27.01.2026
Jan-2026	1,10,00,000	19,80,000	1,68,00,000	30,24,000	18,36,000	1,44,000	20.02.2026
Feb-2026	1,20,00,000	21,60,000	-	-	-	-	Not filed (GSTR-1 filed)
Mar-2026	1,40,00,000	25,20,000	-	-	-	-	Not filed (GSTR-1 filed)
TOTAL	**7,00,00,000**	**1,26,00,000**	**4,85,00,000**	**87,30,000**	**75,42,000**	**3,78,000**	

6. The returns in FORM GSTR-3B for September 2025 to January 2026 were due on the 20th of the following month; the return for December 2025 was filed late. The recipients' taxable value and the IGST passed on are:

Recipient	State	Taxable value (Rs.)	IGST passed on as ITC (Rs.)
M/s AAA	Haryana	3,00,00,000	54,00,000
M/s BBB	Uttar Pradesh	2,50,00,000	45,00,000
M/s CCC	Rajasthan	1,50,00,000	27,00,000
TOTAL		**7,00,00,000**	**1,26,00,000**

7. On 02.09.2026 the Commissioner, on the ground of protecting revenue, provisionally attached under Section 83 the bank account of M/s XXX (balance Rs.2,80,000/-) and, as Mr. P is a person specified in Section 122(1A), his two bank accounts (balance Rs.36,00,000/-). A notice proposing cancellation of the registration of M/s XXX was issued on 15.09.2026 (reply awaited). The recipients' cases have been referred to their jurisdictional formations for separate action.

8. Now in the light of the above, -

(i) Identify the provision(s) of GST law contravened by M/s XXX (under heading **Contravention**).

(ii) Identify the provision(s) of GST law under which action is to be taken against M/s XXX (under heading **Consequences of Contravention of legal Provisions**).

(iii) Draft the **Charging Paragraph** of the Show Cause Notice proposed to be issued to M/s XXX, calling upon M/s XXX (Proprietor Mr. Z) and Mr. P to show cause as to why action should not be taken against them, while listing the proposed action to be taken against M/s XXX (Proprietor Mr. Z) and Mr. P.

(iv) Also prepare the **draft Show Cause Notice** for issuance to M/s XXX.

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SUGGESTED SOLUTION

(Inquiry by analytics, summons and attachment; Determination of liability under Sections 74A and 76; and Draft Show Cause Notice - M/s XXX (Prop. Mr. Z) and Mr. P, Delhi West CGST Commissionerate)

A. CONTRAVENTION

On the facts as recorded, the following provisions stand contravened (in each case read with Section 20 of the Integrated Goods and Services Tax Act, 2017 [IGST Act], the corresponding provisions of the Delhi Goods and Services Tax Act, 2017 [DGST Act] and the Rules):

1. **Section 31 of the CGST Act, 2017 and Section 122(1)(ii)** - issue of tax invoices for supplies that were never made; a tax invoice may be issued only for a supply, and the 38 invoices carried no supply of goods.
2. **Section 16(1) and 16(2)(a), (b), (c)** - taking ITC on the 'purchase bills' of M/s DDD and M/s EEE, which are not supplies, without receipt of any goods and without tax having been paid by the so-called suppliers.
3. **Section 37(1) and Section 39(1)** - furnishing outward supply details and monthly returns of supplies that were never made, and declaring and utilising ineligible credit.
4. **Section 76(1)** - failure to pay to the Government, forthwith, amounts collected from the recipients as tax on the February and March 2026 invoices.

Note: *Registration: Section 29(2) and Rule 21 (clauses (a) business not conducted at the declared place, (b) invoice issued without supply, and (e) ITC claimed in violation of Section 16) and Section 29(2)(e) (registration obtained by fraud) are the grounds for cancellation. Cancellation is a separate proceeding (FORM GST REG-17) and is not made part of the demand notice; Section 29(3) preserves liability for the earlier period.*

Why Section 76 and not Section 74A for the collected tax: *Section 122(1)(xii) (false registration particulars) and (x) (false documents) have been considered. Registration particulars are being dealt with in the cancellation proceedings; the false documents are the same transactions penalised under 122(1)(ii), so a further penalty is not proposed. Section 74A(1) is not used for the tax collected in February-March: it speaks of 'tax not paid', and the department's own case is that there was no supply and hence no tax leviable under the charging sections (Section 9(1) of the CGST Act; Section 5 of the IGST Act). The specific provision for money collected as tax is Section 76. Section 75(12) (recovery of self-assessed tax under Section 79 without notice) was also considered; the Explanation extends it to tax in GSTR-1 not shown in GSTR-3B, but it gives no penalty and no interest from the date of collection and treats the amount as tax on supply, which is inconsistent with the charge. Section 76 is therefore preferred.*

B. CONSEQUENCES OF CONTRAVENTION OF LEGAL PROVISIONS

The contraventions at (A) above expose M/s XXX (Mr. Z) and Mr. P to the following action under the CGST Act, 2017 read with Section 20 of the IGST Act, 2017 and the corresponding provisions of the DGST Act, 2017:

1. Who is liable for what - the central question of this exercise. Tax is leviable on a supply (Section 9(1); Section 5 of the IGST Act). Where an invoice is issued without any supply there is no tax payable on it, but (a) the issuer who collected an amount as tax must pay it to the Government under Section 76, and (b) the credit passed on is wrongly availed by the recipient and is recoverable from the recipient under Section 74A(1) in its own jurisdiction, while (c) the issuer faces penalty under Section 122(1)(ii) equal to the credit passed on. The issuer's own demand is therefore confined to (i) the bogus ITC it took from M/s DDD and M/s EEE and (ii) amounts collected but not paid. The position is summarised below.

Amount	Provision	Why this provision and not another
ITC taken on bogus inward invoices Rs.87,30,000	Section 74A(1), interest u/s 50(3)	ITC wrongly availed and utilised; the credit is the loss

Tax collected on outward invoices but not paid Rs.46,80,000	Section 76(1)-(4)	No supply, so no tax is leviable under Section 9(1)/IGST Act; but an amount collected as tax must be paid 'irrespective of whether the supplies are taxable or not'
ITC passed on to recipients Rs.1,26,00,000	Not demanded from XXX; penalty u/s 122(1)(ii); recovered from recipients u/s 74A(1) in their own proceedings	XXX has paid/ owes no tax on a non-existent supply; the credit is wrongly availed by the recipients

2. Demand under Section 74A(1) read with Section 20 of the IGST Act of ITC wrongly availed, Rs.87,30,000/-, of which Rs.75,42,000/- was utilised and Rs.11,88,000/- is lying in the ledger (blocked under Rule 86A since 05.03.2026, a restriction that ceases after one year) and is to be disallowed and appropriated. FY 2025-26 attracts Section 74A [Section 74A(12); Notification No. 17/2024-Central Tax]; the notice may issue up to 42 months from 31.12.2026 [Section 74A(2)].

3. Interest - under Section 50(3) at 24% (Notification No. 13/2017-Central Tax; Rule 88B(3)) on the Rs.75,42,000/- utilised, from the date of utilisation (earlier of due date and filing date; the December 2025 return was filed late, so the due date is taken): Rs.15,22,546/- up to 31.10.2026. No interest under Section 50(3) on the Rs.11,88,000/- never utilised. On the amount collected as tax, interest under Section 76(4) at the rate specified under Section 50, i.e. 18%, from the date of collection: Rs.5,27,987/- up to 31.10.2026.

4. Penalties on M/s XXX - (i) Section 74A(5)(ii), Rs.87,30,000/- (fraud: the credit was taken on non-existent invoices to facilitate a racket, with the whole business a front; not Section 74A(5)(i)); (ii) Section 76(2), a penalty equal to the amount not paid, Rs.46,80,000/-; (iii) Section 122(1)(ii), issuing invoices without supply, the higher of Rs.10,000/- and the credit passed on, Rs.1,26,00,000/-. Section 122(1)(iii)/(iv) (tax collected but not paid) is not separately proposed because Section 76(2) penalises the same omission; Section 122(1)(ii) penalises a different act (issue of the invoices), so it is proposed, Section 75(13) barring a second penalty only for the *same* act or omission. Dummy status of Mr. Z is no defence in law: the registered person is the person charged; his minor role is relevant for the decision on prosecution and at the settlement stage, and cannot reduce a penalty that the statute fixes at the amount of the credit.

5. Penalty on Mr. P - Section 122(1A): he retained the benefit of transactions covered by Section 122(1)(ii) and (vii) and they were conducted at his instance (RUDs 4 to 8). Penalty equal to the ITC passed on (Rs.1,26,00,000/-) under clause (ii) and the ITC availed (Rs.87,30,000/-) under clause (vii), total Rs.2,13,30,000/-. Section 122(3)(a) (aiding or abetting; up to Rs.25,000/-) is the lesser alternative if retention of benefit is not established.

6. Concessions - Section 74A(9)(ii) is available to M/s XXX for the Section 74A demand (tax, interest and 25% penalty within 60 days); it does not extend to the Section 76 amount, which carries its own penalty. On payment under Section 74A(9) the proceedings under Section 122 against Mr. P in the same notice are deemed concluded (Explanation 1 to Section 74A) - but this does not bar Section 132. The order under Section 76 must be passed within one year of the notice [Section 76(6)], so the adjudicating authority should not rely on the six-month extension of Section 74A(7).

7. Prosecution - Section 132(1)(b) (issue of invoices without supply leading to wrongful availment of ITC): ITC wrongly availed through the invoices is Rs.1,26,00,000/-, above Rs.1 crore but not above Rs.2 crore, i.e. in the lowest monetary tier of Section 132(1) (clause (iii): imprisonment up to one year and fine; non-cognizable and bailable); the exact wording of that tier after the Finance Act 2023 amendments is to be confirmed from the current bare Act before the proposal goes up. Section 132(1)(c) (availing ITC on such invoices) for Rs.87,30,000/- is below Rs.1 crore and is not separately relied on. Sanction of the Commissioner is required [Section 132(6)]. A proposal against Mr. P is to be sent to the Commissioner separately; against Mr. Z (no mens rea shown at present) it is not recommended. Prosecution is not part of the SCN.

8. Protective measures - provisional attachment under Section 83 (which covers a person specified in Section 122(1A), and ceases after one year from the order) is already in place; blocking under Rule 86A is in place. Cancellation of registration is by the separate REG-17 proceeding.

Interest under Section 50(3) on the credit wrongly utilised (Rule 88B(3); payment date assumed 31.10.2026):

Month	ITC wrongly utilised (Rs.)	Date of utilisation	Days to 31.10.2026	Interest @24% (Rs.)
Sep-2025	10,26,000	18.10.2025	378	2,55,010
Oct-2025	13,86,000	20.11.2025	345	3,14,413
Nov-2025	15,48,000	19.12.2025	316	3,21,645
Dec-2025	17,46,000	20.01.2026	284	3,26,048
Jan-2026	18,36,000	20.02.2026	253	3,05,430
TOTAL	**75,42,000**			**15,22,546**

Interest under Section 76(4) on amounts collected as tax but not paid (rate under Section 50(1)):

Month	Taxable value (Rs.)	IGST collected, not paid (Rs.)	Date of collection	Days to 31.10.2026	Interest @18% (Rs.)
Feb-2026	1,20,00,000	21,60,000	27.02.2026	246	2,62,041
Mar-2026	1,40,00,000	25,20,000	31.03.2026	214	2,65,946
TOTAL	**2,60,00,000**	**46,80,000**			**5,27,987**

Caution: *Cash of Rs.3,78,000/- deposited by M/s XXX with its returns is not adjusted in this notice. As the department's case is that there was no supply, any claim for its refund is to be examined as and when made, under the refund provisions; it is not set off against the demand or penalty. This point is flagged for the adjudicating authority.*

C. CHARGING PARAGRAPH OF THE SHOW CAUSE NOTICE

[The following is the operative charging paragraph proposed for incorporation in the Show Cause Notice at Part D below.]

Now, therefore, M/s XXX, a proprietary concern of Mr. Z, situated at YYYY, Delhi, and Mr. Z, its Proprietor (being one and the same person in law), and Mr. P, residing at ZZZZ, Delhi, are hereby called upon to show cause in writing to the Deputy/Assistant Commissioner, CGST Division, Delhi West CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) *the 38 tax invoices issued during September 2025 to March 2026 to M/s AAA, M/s BBB and M/s CCC for taxable value of Rs.7,00,00,000/- and IGST of Rs.1,26,00,000/-, without any supply of goods, should not be held to have been issued in contravention of the CGST Act, 2017/IGST Act, 2017, and the credit of Rs.1,26,00,000/- passed on thereby should not be held to have been passed on irregularly;*

(ii) *the input tax credit of integrated tax of Rs.87,30,000/- taken on the invoices of M/s DDD and M/s EEE, without receipt of any goods, should not be held to be wrongly availed, of which Rs.75,42,000/- has been wrongly utilised and Rs.11,88,000/- lying blocked in the electronic credit ledger should not be disallowed and appropriated; and the amount of Rs.87,30,000/- should not be demanded and recovered from M/s XXX under Section 74A(1) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017 and the corresponding provisions of the DGST Act, 2017;*

(iii) *interest at 24% under Section 50(3) read with Rule 88B(3) should not be charged on Rs.75,42,000/- from the dates of utilisation till payment (Rs.15,22,546/- up to 31.10.2026);*

(iv) *the amount of Rs.46,80,000/- collected by M/s XXX from the recipients as integrated tax on the invoices of February and March 2026 and not paid to the Government should not be demanded and recovered under Section 76 of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017, with interest under Section 76(4) (Rs.5,27,987/- up to 31.10.2026);*

(v) *penalties of Rs.87,30,000/- under Section 74A(5)(ii) (equal to the tax due at (ii)), Rs.46,80,000/- under Section 76(2) (equal to the amount at (iv)) and Rs.1,26,00,000/- under Section 122(1)(ii) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017/DGST Act, 2017 should not be imposed on M/s XXX (without prejudice to the benefit of Section 74A(9)(ii) available for the demand at (ii));*

(vi) *a penalty of Rs.2,13,30,000/- (Rs.1,26,00,000/- for the ITC passed on and Rs.87,30,000/- for the ITC availed) should not be imposed on Mr. P under Section 122(1A) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017/DGST Act, 2017.*

D. DRAFT SHOW CAUSE NOTICE

F. No. GEXCOM/ADJN/SCN/[•]/2026-DELHI WEST

DIN: [Document Identification Number to be auto-generated on issue]

Office of the Deputy/Assistant Commissioner, CGST Division - [•], Delhi West CGST Commissionerate, Delhi

Date: [•].11.2026

SHOW CAUSE NOTICE

(Issued under Sections 74A and 76 of the Central Goods and Services Tax Act, 2017 read with Section 20 of the Integrated Goods and Services Tax Act, 2017 and the corresponding provisions of the Delhi Goods and Services Tax Act, 2017)

To,
1. Mr. Z, Proprietor, M/s XXX, YYYY, Delhi.
2. Mr. P, ZZZZ, Delhi.

(hereinafter referred to as 'M/s XXX' (which includes Mr. Z, the two being one and the same 'person' within the meaning of Section 2(84) of the CGST Act, 2017) and 'Mr. P', and together as 'the Noticees')

1. WHEREAS analytics by the Anti-Evasion wing of this Commissionerate identified M/s XXX, registered on 02.09.2025 at YYYY, Delhi for trading in copper and brass articles, as having issued 38 inter-State tax invoices of Rs.7,00,00,000/- (IGST Rs.1,26,00,000/-) to M/s AAA, M/s BBB and M/s CCC between September 2025 and March 2026, its only inward supplies being from M/s DDD and M/s EEE, both non-existent; physical verification on 20.02.2026 found the declared premises to be a third party's residence and the rent agreement forged (RUD-1);

2. AND WHEREAS Mr. Z, in his statement dated 02.04.2026 under Section 70 of the CGST Act, 2017 (RUD-3), stated that he is a driver in Mr. P's office, that his documents were taken in August 2025 for a bank account, that he never traded, never operated the GST login or the bank account, and received only a salary;

3. AND WHEREAS the GSTN login data certified under Section 145 (RUD-4) shows that 61 of 64 logins of M/s XXX were from IP addresses of Mr. P's office, and the e-mail and mobile registered with GSTN, as well as the OTP mobile, internet banking IP and cheque-book address of the bank account (RUD-5), belong to Mr. P's office and his accountant Mr. Q, who stated on 15.04.2026 that he filed all returns of M/s XXX, M/s DDD and M/s EEE on Mr. P's instructions (RUD-6);

4. AND WHEREAS Mr. P, in his statements dated 30.07.2026 and 12.08.2026 (RUD-7), inter alia admitted and stated that:

- he controlled M/s XXX through Mr. Z and no goods were ever bought or sold;
- he arranged the 'purchase bills' of M/s DDD and M/s EEE and issued 'sale bills' of M/s XXX to the three recipients so that they could take ITC; and
- he retained a commission of 1.5% of the taxable value (Rs.10,50,000/-), the recipients' payments, including IGST, being routed on through M/s DDD, M/s EEE and other accounts and withdrawn in cash;

5. AND WHEREAS the proprietors of M/s AAA and M/s BBB (RUD-8) stated that they received no goods, M/s CCC produced no transport or stock record, and no e-way bill was generated for 30 of the 38 invoices while the 8 e-way bills generated carried vehicles that never crossed a toll plaza (RUD-9); M/s XXX had no stock, employee or premises;

6. AND WHEREAS M/s XXX took ITC of Rs.87,30,000/- on the invoices of M/s DDD and M/s EEE and used Rs.75,42,000/- of it to pay output tax; Rs.11,88,000/- remains blocked; and for February and March 2026 the recipients paid Rs.46,80,000/- as IGST on 27.02.2026 and 31.03.2026, but no return in FORM GSTR-3B was filed or tax paid, as shown in Annexure-A, which forms part of this notice:

Particulars	IGST (Rs.)	Provision
ITC wrongly availed on invoices of DDD and EEE	87,30,000	Section 74A(1)
Interest on Rs.75,42,000/- wrongly utilised up to 31.10.2026 @24%	15,22,546	Section 50(3)
Tax collected but not paid (Feb-Mar 2026)	46,80,000	Section 76(1)-(3)
Interest up to 31.10.2026 @18% from date of collection	5,27,987	Section 76(4)
Tax and interest proposed to be recovered from M/s XXX	**1,54,60,533**	

7. AND WHEREAS it appears that M/s XXX issued invoices without any supply, took ITC without receipt of goods, furnished returns of non-existent supplies and collected tax that was not paid; that the whole activity was a planned racket conducted through a dummy proprietor at the instance of Mr. P, who retained the benefit in the form of commission; and that this amounts to fraud, wilful misstatement and suppression of facts with intent to evade tax, attracting penalty equal to the tax under Section 74A(5)(ii) and, for the amount collected, under Section 76(2);

8. AND WHEREAS it thus appears that the Noticees have contravened Section 31, Sections 16(1) and 16(2)(a), (b) and (c), Sections 37(1) and 39(1) and Section 76(1) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017 (and the corresponding provisions of the DGST Act, 2017), and are liable to demand under Section 74A(1) and Section 76, interest under Sections 50(3) and 76(4), and penalty under Sections 74A(5)(ii), 76(2), 122(1)(ii) and 122(1A);

NOW, THEREFORE

M/s XXX, a proprietary concern of Mr. Z, and Mr. Z, its Proprietor, and Mr. P are hereby called upon to show cause in writing to the Deputy/Assistant Commissioner, CGST Division, Delhi West CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) the 38 tax invoices issued during September 2025 to March 2026 to M/s AAA, M/s BBB and M/s CCC for taxable value of Rs.7,00,00,000/- and IGST of Rs.1,26,00,000/-, without any supply of goods, should not be held to have been issued in contravention of the CGST Act, 2017/IGST Act, 2017, and the credit of Rs.1,26,00,000/- passed on thereby should not be held to have been passed on irregularly;

(ii) the input tax credit of integrated tax of Rs.87,30,000/- taken on the invoices of M/s DDD and M/s EEE, without receipt of any goods, should not be held to be wrongly availed, of which Rs.75,42,000/- has been wrongly utilised and Rs.11,88,000/- lying blocked in the electronic credit ledger should not be disallowed and appropriated; and the amount of Rs.87,30,000/- should not be demanded and recovered from M/s XXX under Section 74A(1) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017 and the corresponding provisions of the DGST Act, 2017;

(iii) interest at 24% under Section 50(3) read with Rule 88B(3) should not be charged on Rs.75,42,000/- from the dates of utilisation till payment (Rs.15,22,546/- up to 31.10.2026);

(iv) the amount of Rs.46,80,000/- collected by M/s XXX from the recipients as integrated tax on the invoices of February and March 2026 and not paid to the Government should not be demanded and recovered under Section 76 of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017, with interest under Section 76(4) (Rs.5,27,987/- up to 31.10.2026);

(v) penalties of Rs.87,30,000/- under Section 74A(5)(ii) (equal to the tax due at (ii)), Rs.46,80,000/- under Section 76(2) (equal to the amount at (iv)) and Rs.1,26,00,000/- under Section 122(1)(ii) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017/DGST Act, 2017 should not be imposed on M/s XXX (without prejudice to the benefit of Section 74A(9)(ii) available for the demand at (ii));

(vi) a penalty of Rs.2,13,30,000/- (Rs.1,26,00,000/- for the ITC passed on and Rs.87,30,000/- for the ITC availed) should not be imposed on Mr. P under Section 122(1A) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017/DGST Act, 2017.

9. The Noticees are further informed that:

- a written reply with all documents relied upon must be furnished within thirty (30) days of receipt, failing which the case will be decided ex parte on merits;
- an opportunity of personal hearing will be granted before adjudication, on a date to be separately intimated;
- M/s XXX may avail Section 74A(9)(ii) of the CGST Act, 2017/DGST Act, 2017 for the demand at (ii) by paying the tax, interest and a penalty of twenty-five per cent of the tax (Rs.21,82,500/-) within sixty (60) days of the issue of this notice, whereupon the proceedings in respect of that demand and, by Explanation 1 to Section 74A, the Section 122 proceedings against the other Noticee in this notice are deemed concluded; the Section 76 demand is separate; the order on this notice will be passed within one year [Section 76(6)];
- this notice is issued without prejudice to the proceedings for cancellation of registration, the provisional attachment under Section 83, the proceedings against the recipients, and prosecution under Section 132, or any other action under the CGST Act, 2017/DGST Act, 2017 or any other law.

List of Relied Upon Documents (RUDs):

RUD-1: Analytics report and physical verification report dated 20.02.2026, with the registration application and rent agreement;

RUD-2: Order under Rule 86A dated 05.03.2026; **RUD-3:** Statement of Mr. Z dated 02.04.2026;

RUD-4: GSTN login/IP data with certificate under Section 145; **RUD-5:** Bank KYC and access records of the account of M/s XXX;

RUD-6: Statement of Mr. Q dated 15.04.2026; **RUD-7:** Statements of Mr. P dated 30.07.2026 and 12.08.2026;

RUD-8: Statements of the proprietors of M/s AAA and M/s BBB and documents of M/s CCC; **RUD-9:** E-way bill/FASTag data;

RUD-10: Returns (GSTR-1 and GSTR-3B), electronic credit ledger and bank statements of M/s XXX, M/s DDD and M/s EEE;

Annexure-A: Month-wise statement of ITC, utilisation and interest, and statement of amounts collected but not paid [as per the working in Part B].

(_____)
Deputy/Assistant Commissioner, CGST
Division - [•], Delhi West CGST Commissionerate

Copy to: The Commissioner, Delhi West CGST Commissionerate, for information and for consideration of prosecution.

Drafting note (not part of the notice):

- *The addressee, jurisdictional range/officer, F. No./DIN and dates shown in square brackets/blanks are illustrative placeholders and must be completed with the correct particulars before issue.*
- ***Teaching twist - who is the 'taxable person' when an invoice is issued without supply.*** *Tax is leviable on a supply; where there is none, no tax is due on the invoice. The issuer is therefore charged (a) with the ITC he took on bogus inward invoices (Section 74A(1)), (b) with amounts actually collected as tax and not paid (Section 76, which operates 'irrespective of whether the supplies are taxable or not') and (c) with penalty under Section 122(1)(ii). The ITC passed on is recovered from the recipients, in proceedings of their own jurisdictional officers - not from the issuer.*
- ***The dummy proprietor.*** *Law treats the registered person as the person charged; the 'dummy' defence goes to prosecution and mitigation at settlement, not to the statutory quantum. The mastermind is reached through Section 122(1A) (penalty), Section 83 (attachment of his property, as a person specified in Section 122(1A)) and Section 132 (prosecution, separate).*
- ***Overlap of penalties.*** *Penalties under Sections 74A(5)(ii), 76(2) and 122(1)(ii) on the same person are proposed for three different acts (taking bogus credit; not paying amounts collected; issuing invoices without supply). Section 75(13) bars a second penalty for the same act or omission - the adjudicating authority must be able to explain the difference. Section 122(1)(iii)/(iv) is not charged on top of Section 76(2).*
- ***Timing.*** *Section 76(6): order within one year of the notice (sub-section (7) only excludes periods of stay); Section 74A(7) allows twelve months plus six. Plan the adjudication to the shorter limit. The attachment under Section 83 ceases one year after the order (02.09.2027) and the Rule 86A block after one year from 05.03.2026; the demand must be adjudicated and the recovery steps taken in good time.*
- ***Not decided here:*** *the treatment of the cash of Rs.3,78,000/- deposited by the proprietary concern on the bogus invoices (see Caution in Part B), and the sequencing of the proceedings against the recipients. Both are to be settled with the Commissioner; no case law is cited.*
- *The draft should be settled by the jurisdictional Range/Division before issue (DRC-01), including verification of the monetary-limit-based issuing/adjudicating authority under Circular No. 31/05/2018-GST dated 09.02.2018 (Superintendent: central tax up to Rs.10 lakh; Deputy/Assistant Commissioner: above Rs.10 lakh up to Rs.1 crore; Additional/Joint Commissioner: above Rs.1 crore). Here the integrated tax demand (Rs.1,34,10,000/-) is above Rs.20 lakh and below Rs.2 crore, so the Deputy/Assistant Commissioner issues the notice (IGST limits of the Circular).*
- *Return of non-RUDs (Non-Relied Upon Documents): When the SCN is issued to the taxpayer in the form of DRC-01 (uploaded on the portal if registered, as well as delivered as per the provisions of law), non-RUDs must be returned to the noticee under due acknowledgement within seven days of issuance of the SCN.*

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Exercise 5

Circular trading of invoices among three entities without supply of goods - identifying the beneficiary and the conduits

Exercise 5: Circular trading of invoices among three entities without supply of goods - identifying the beneficiary and the conduits

Situation in Brief:

1. Data analytics by the Directorate General of Analytics and Risk Management flagged a 'closed loop' among three GSTINs in Tamil Nadu: M/s XXX Pvt. Ltd., a manufacturer of pump components at YYYY, Coimbatore (Director: Mr. Z); M/s AAA, a proprietary concern of Mr. P, trading in castings, at Tiruppur; and M/s BBB, a proprietary concern of Mr. Q, trading in castings, at Erode. During October 2025 to March 2026 the three issued 96 intra-State tax invoices to one another in a fixed rotation - XXX to AAA, AAA to BBB, BBB to XXX - each month, with the three invoices of a cycle dated within three days of each other. The taxable values, charged at CGST 9% and TNGST 9%, are as follows:

Month	XXX to AAA (Rs.)	AAA to BBB (Rs.)	BBB to XXX (Rs.)	Invoices (nos.)
Oct-2025	2,00,00,000	2,04,00,000	2,10,00,000	12
Nov-2025	2,50,00,000	2,55,00,000	2,62,50,000	15
Dec-2025	3,00,00,000	3,06,00,000	3,15,00,000	15
Jan-2026	3,00,00,000	3,06,00,000	3,15,00,000	15
Feb-2026	3,50,00,000	3,57,00,000	3,67,50,000	18
Mar-2026	4,00,00,000	4,08,00,000	4,20,00,000	21
TOTAL	**18,00,00,000**	**18,36,00,000**	**18,90,00,000**	**96**

2. Simultaneous searches under Section 67(1) of the CGST Act, 2017 were carried out on 06.10.2026 at the premises of all three firms and at the accounts office of M/s XXX Pvt. Ltd., on authorisations dated 05.10.2026 issued by the Joint Commissioner (RUD-1). The premises of AAA and BBB were single rented rooms without stock, employees, weighing or lifting facility; the signboard of AAA was of another trade. The laptop of Mr. R, the accountant, was found to contain three sets of accounts data (of XXX, AAA and BBB), an Excel 'loop plan' sheet for each month showing the values to be billed on each leg, and the three GST portal login credentials (RUD-2, with certificate under Section 145). The GST portal login data (RUD-3) shows that all three GSTINs were operated from IP addresses on the broadband connection of the accounts office of M/s XXX Pvt. Ltd.

3. The e-way bill data (RUD-4) shows that e-way bills were generated for all 96 invoices; for each cycle, the three e-way bills carried the *same* vehicle number and were generated within about forty minutes of each other, although Coimbatore, Tiruppur and Erode are more than 100 km apart; no FASTag transaction was recorded for any of those vehicles; and the gate register and weighbridge records of XXX (RUD-5) have no entry for any of the consignments. The stock ledger of XXX shows each consignment 'received from BBB' and 'sold to AAA' in equal quantity within days, with nil physical stock at all times.

4. Statements recorded under Section 70: Mr. P and Mr. Q on 07.10.2026 (RUD-6) stated that they were each paid Rs.40,000/- per month, shown in the books of XXX as 'consultancy', plus 0.5% of their sales, that they lent their identity documents and registration at the request of Mr. Z, that they never handled goods, and that returns were filed by Mr. R. Mr. R on 08.10.2026 (RUD-7) stated that he prepared the invoices, e-way bills and returns of all three firms in the accounts office of XXX on the written monthly plan given by Mr. Z, that no goods ever moved, and that the plan sheet was made on Mr. Z's instructions. Mr. Z, on 09.10.2026 and 15.10.2026 (RUD-8), claimed that the transactions were genuine 'job-work trading' but could not produce a single lorry receipt, delivery challan signed by a recipient, or stock record, and did not furnish the 'consultancy' agreements called for in writing on 09.10.2026.

5. In the monthly returns (RUD-9), each firm took credit of the tax charged on the invoice it received and set it off in the return of the same month. M/s XXX did so against its liability on the invoices to AAA and against the liability on its own genuine sales; AAA and BBB did so against their output tax on the invoices issued by them, the balance of tax payable on those invoices (the tax on their mark-up) being shown in the returns - AAA paid it in cash, while BBB showed it as payable but did not pay it (this residue of self-assessed tax is the subject of recovery proceedings under Section 79, outside this notice). Due dates and the actual dates of filing were:

Return period	Due date	XXX filed on	AAA filed on	BBB filed on
Oct-2025	20.11.2025	18.11.2025	20.11.2025	20.11.2025
Nov-2025	20.12.2025	19.12.2025	20.12.2025	24.12.2025
Dec-2025	20.01.2026	20.01.2026	22.01.2026	20.01.2026
Jan-2026	20.02.2026	19.02.2026	20.02.2026	20.02.2026
Feb-2026	20.03.2026	20.03.2026	20.03.2026	28.03.2026
Mar-2026	20.04.2026	18.04.2026	20.04.2026	20.04.2026

6. Bank statements (RUD-10) show that the invoice values with tax were passed in the same rotation by RTGS on the date of the third invoice of each cycle, the shortfalls being covered by XXX through transfers to the accounts of AAA and BBB. None of the three firms had any other customer or supplier for the goods concerned.

7. Now in the light of the above, -

(i) Identify the provision(s) of GST law contravened by M/s XXX Pvt. Ltd., M/s AAA and M/s BBB (under heading **Contravention**).

(ii) Identify the provision(s) of GST law under which action is to be taken against M/s XXX Pvt. Ltd., M/s AAA and M/s BBB (under heading **Consequences of Contravention of legal Provisions**).

(iii) Draft the **Charging Paragraph** of the Show Cause Notice proposed to be issued to M/s XXX Pvt. Ltd., M/s AAA and M/s BBB, calling upon M/s XXX Pvt. Ltd., M/s AAA, M/s BBB, Mr. Z and Mr. R to show cause as to why action should not be taken against them, while listing the proposed action to be taken against M/s XXX Pvt. Ltd., M/s AAA, M/s BBB, Mr. Z and Mr. R.

(iv) Also prepare the **draft Show Cause Notice** for issuance to M/s XXX Pvt. Ltd., M/s AAA and M/s BBB.

***

SUGGESTED SOLUTION

(Inquiry by analytics, search and statements; Determination of liability under Section 74A; and Draft Show Cause Notice - M/s XXX Pvt. Ltd., M/s AAA, M/s BBB, Mr. Z and Mr. R, Coimbatore CGST Commissionerate)

A. CONTRAVENTION

On the facts as recorded, the following provisions stand contravened (in each case read with the corresponding provisions of the Tamil Nadu Goods and Services Tax Act, 2017 [TNGST Act] and the Rules):

1. **Section 16(1) and Section 16(2)(a), (b) and (c) of the CGST Act, 2017** - each of XXX, AAA and BBB took credit on the invoice it received without receipt of the goods, on an invoice that was not issued for any supply, and where tax was paid only by rotating the same credit.
2. **Section 31 and Section 122(1)(ii)** - each of the three issued invoices for supplies that were never made.
3. **Sections 37(1) and 39(1)** - each furnished statements and returns of non-existent outward supplies and declared and utilised ineligible credit.
4. **Section 35(1)** - XXX's stock ledger and the books of AAA and BBB record receipt and sale of goods that never existed.

Why each is a recipient and an issuer: *Section 74A(1) is used against each of the three as the person who took the credit. The ITC 'passed on' by one entity is the ITC 'taken' by the next, so the demand is made once on each recipient and the issuer's liability for the same transaction is by way of penalty under Section 122(1)(ii). The tax paid in cash by AAA on its mark-up and the BBB residue of self-assessed tax are not part of this notice: the former is a payment that AAA may claim to adjust or recover (to be examined on merits when raised), the latter is recoverable under Section 79 by virtue of Section 75(12), which names Section 74A, without a notice.*

Note: *Section 76 (tax collected but not paid) was considered for BBB's residue; it is not invoked because the return itself declares the tax, making Section 75(12) read with Section 79 the direct route. Section 122(1)(vii) is the offence of taking ITC without receipt of goods; since a penalty under Section 74A(5)(ii) is proposed for the same act, it is not separately proposed (Section 75(13)).*

B. CONSEQUENCES OF CONTRAVENTION OF LEGAL PROVISIONS

The contraventions at (A) above expose the persons named below to the following action under the CGST Act, 2017 read with the corresponding provisions of the TNGST Act, 2017:

1. Who is the beneficiary and who is the conduit? The chart of the loop is XXX (Rs.18.00 crore) to AAA (Rs.18.36 crore) to BBB (Rs.18.90 crore) to XXX. The markup at each leg means that, in each cycle, XXX receives more credit (9% of V3) than it pays out as output tax on the loop (9% of V1); the difference is used to pay the tax on its genuine sales. The roles are:

Entity	ITC taken per head (Rs.)	Output tax on loop invoices per head (Rs.)	Cash paid / unpaid per head (Rs.)	Role
M/s XXX Pvt. Ltd.	1,70,10,000	1,62,00,000	Surplus ITC of 8,10,000 used against genuine liability	**Beneficiary** - real business, uses the loop to generate credit; directing mind (Mr. Z)
M/s AAA	1,62,00,000	1,65,24,000	Cash 3,24,000 paid	**Conduit** - no business; name-lender (Mr. P); pays small cash on margin
M/s BBB	1,65,24,000	1,70,10,000	Cash 4,86,000 shown but unpaid	**Conduit and defaulting link** - no business; name-lender (Mr. Q); the unpaid residue is the leak

2. Demand - Section 74A(1) (FY 2025-26: Section 74A(12); Notification No. 17/2024-Central Tax) of the ITC wrongly availed and utilised, against each of the three persons, as in the table at the end of this Part (total tax Rs.9,94,68,000/-). Each month's credit was set off in the same month's return, so the

whole credit is 'utilised' under the Explanation to Rule 88B(3). A composite notice to several taxable persons is used because the same investigation and one set of evidence prove one scheme; a separate demand is made on each GSTIN (see the note on composite notices).

3. Interest - Section 50(3) at 24% (Notification No. 13/2017-Central Tax) per Rule 88B(3), from the earlier of the due date and the actual date of filing of the return in which the credit was set off. Where a return was filed late (AAA - December 2025 on 22.01.2026; BBB - November 2025 on 24.12.2025 and February 2026 on 28.03.2026), interest runs from the due date.

4. Penalty - Section 74A(5)(ii) on each recipient, equal to the tax due; the fraud is plain from the 'loop plan', the non-movement of goods and the fees paid to the nominee proprietors. Section 122(1)(ii) on each of the three as an *issuer* of invoices without supply: the penalty equals the ITC passed on, which for each issuer equals the credit taken by its recipient (so the totals of the two sets of penalties are the same). They are for two different acts (taking credit; issuing invoices) and Section 75(13) bars a second penalty only for the *same* act or omission.

5. Mr. Z - Section 122(1A) (retained the benefit of transactions under Section 122(1)(ii) and (vii) at whose instance they were conducted): penalty equal to the ITC availed by the company through the loop, Rs.3,40,20,000/-. The evidence of instance is not his own statement (he denies) but the plan sheets, Mr. R's statement, the common IP, and the 'consultancy' payments to the nominees. If the evidence were to show that he also retained the benefit of AAA's and BBB's credit, the quantum could be higher - to be examined. Mr. P and Mr. Q are the proprietors of AAA and BBB and are charged as the registered persons (one and the same person in law as their concerns).

6. Mr. R - Section 122(3)(a): penalty up to Rs.25,000/- for aiding and abetting the offences. Section 122(1A) is not used against him as there is no evidence that he retained the benefit. Prosecution - Section 132(1)(b) (issuing invoices without supply) and (c) (availing credit on them) are attracted. The tier depends on the amount: on the central tax alone each entity's credit is above Rs.1 crore and not above Rs.2 crore (XXX Rs.1,70,10,000/-, AAA Rs.1,62,00,000/-, BBB Rs.1,65,24,000/-), where the lowest tier, clause (iii) of Section 132(1), applies (up to one year, non-cognizable and bailable; its exact wording after the 2023 amendments, including whether it is confined to clause (b), is to be confirmed from the current bare Act); if central and State tax are aggregated the amounts exceed Rs.2 crore and clause (ii) (up to three years) is attracted. Which view to take is for the Commissioner and the legal branch and is not settled here. The persons in charge of the company are within Section 137. Previous sanction of the Commissioner is needed (Section 132(6)); the proposal is separate and is not part of the SCN.

7. Concessions - Section 74A(9)(ii) is open to each recipient separately (tax, interest and 25% penalty within 60 days). Under Explanation 1 to Section 74A, if the proceedings against the main person in the notice conclude by such payment, the proceedings under Sections 122 and 125 against the other persons in the same notice are deemed concluded - the department should decide who is treated as the 'main person' (XXX, the beneficiary) before the notice issues.

Tax, interest and penalty proposed against the three taxable persons (illustrative payment date 31.10.2026):

Noticee	Central tax (Rs.)	State tax (Rs.)	Total tax (Rs.)	Interest to 31.10.2026 @24% (Rs.)	Penalty u/s 74A(5)(ii) (Rs.)
M/s XXX Pvt. Ltd.	1,70,10,000	1,70,10,000	3,40,20,000	58,02,974	3,40,20,000
M/s AAA	1,62,00,000	1,62,00,000	3,24,00,000	55,05,928	3,24,00,000
M/s BBB	1,65,24,000	1,65,24,000	3,30,48,000	56,16,046	3,30,48,000
TOTAL	**4,97,34,000**	**4,97,34,000**	**9,94,68,000**	**1,69,24,948**	**9,94,68,000**

Penalties proposed on each noticee:

Noticee	Provision	Penalty (Rs.)	Basis
M/s XXX Pvt. Ltd.	Section 74A(5)(ii)	3,40,20,000	= tax due
	Section 122(1)(ii)	3,24,00,000	ITC passed on (invoices to AAA)
M/s AAA	Section 74A(5)(ii)	3,24,00,000	= tax due
	Section 122(1)(ii)	3,30,48,000	ITC passed on (invoices to BBB)
M/s BBB	Section 74A(5)(ii)	3,30,48,000	= tax due
	Section 122(1)(ii)	3,40,20,000	ITC passed on (invoices to XXX)
Mr. Z	Section 122(1A)	3,40,20,000	ITC availed by XXX at his instance
Mr. R	Section 122(3)(a)	up to 25,000	Aiding and abetting

Basis: *Interest is worked out month by month on the credit set off in each return (per head, CGST and State tax equal), from the date of utilisation to 31.10.2026 at 24% on a 365-day year; update to the date of payment. The cash paid by AAA and the unpaid residue of BBB are given in the roles table for the adjudicating authority's information.*

C. CHARGING PARAGRAPH OF THE SHOW CAUSE NOTICE

[The following is the operative charging paragraph proposed for incorporation in the Show Cause Notice at Part D below; each noticee is called upon separately.]

Now, therefore, (1) M/s XXX Pvt. Ltd., Coimbatore, (2) M/s AAA, a proprietary concern of Mr. P, Tiruppur, (3) M/s BBB, a proprietary concern of Mr. Q, Erode, (4) Mr. Z, Director of M/s XXX Pvt. Ltd. and (5) Mr. R, accountant, are hereby called upon to show cause in writing to the Additional/Joint Commissioner, CGST Commissionerate, Coimbatore, within thirty (30) days of the receipt of this notice, as to why:

(i) ***M/s XXX Pvt. Ltd.:*** *the credit of Rs.1,70,10,000/- of central tax and Rs.1,70,10,000/- of State tax (total Rs.3,40,20,000/- (Rupees Three Crore Forty Lakh Twenty Thousand only)) taken on the invoices received from M/s BBB during October 2025 to March 2026, without receipt of the goods, should not be held to be wrongly availed and utilised in contravention of Section 16(2)(a), (b) and (c) of the CGST Act, 2017/TNGST Act, 2017, and should not be demanded and recovered under Section 74A(1) of the CGST Act, 2017 and the corresponding provisions of the TNGST Act, 2017, with interest at 24% under Section 50(3) read with Rule 88B(3) (Rs.58,02,974/- upto 31.10.2026);*

(ii) ***M/s XXX Pvt. Ltd.:*** *a penalty of Rs.3,40,20,000/- under Section 74A(5)(ii) and a penalty of Rs.3,24,00,000/- under Section 122(1)(ii) (the credit passed on by the invoices issued to M/s AAA) of the CGST Act, 2017/TNGST Act, 2017 should not be imposed, the former without prejudice to Section 74A(9)(ii) and the latter subject to Section 75(13);*

(iii) ***M/s AAA:*** *the credit of Rs.1,62,00,000/- of central tax and Rs.1,62,00,000/- of State tax (total Rs.3,24,00,000/- (Rupees Three Crore Twenty-Four Lakh only)) taken on the invoices received from M/s XXX during October 2025 to March 2026, without receipt of the goods, should not be held to be wrongly availed and utilised in contravention of Section 16(2)(a), (b) and (c) of the CGST Act, 2017/TNGST Act, 2017, and should not be demanded and recovered under Section 74A(1) of the CGST Act, 2017 and the corresponding provisions of the TNGST Act, 2017, with interest at 24% under Section 50(3) read with Rule 88B(3) (Rs.55,05,928/- upto 31.10.2026);*

(iv) ***M/s AAA:*** *a penalty of Rs.3,24,00,000/- under Section 74A(5)(ii) and a penalty of Rs.3,30,48,000/- under Section 122(1)(ii) (the credit passed on by the invoices issued to M/s BBB) of the CGST Act,*

2017/TNGST Act, 2017 should not be imposed, the former without prejudice to Section 74A(9)(ii) and the latter subject to Section 75(13);

(v) ***M/s BBB:*** *the credit of Rs.1,65,24,000/- of central tax and Rs.1,65,24,000/- of State tax (total Rs.3,30,48,000/- (Rupees Three Crore Thirty Lakh Forty-Eight Thousand only)) taken on the invoices received from M/s AAA during October 2025 to March 2026, without receipt of the goods, should not be held to be wrongly availed and utilised in contravention of Section 16(2)(a), (b) and (c) of the CGST Act, 2017/TNGST Act, 2017, and should not be demanded and recovered under Section 74A(1) of the CGST Act, 2017 and the corresponding provisions of the TNGST Act, 2017, with interest at 24% under Section 50(3) read with Rule 88B(3) (Rs.56,16,046/- upto 31.10.2026);*

(vi) ***M/s BBB:*** *a penalty of Rs.3,30,48,000/- under Section 74A(5)(ii) and a penalty of Rs.3,40,20,000/- under Section 122(1)(ii) (the credit passed on by the invoices issued to M/s XXX) of the CGST Act, 2017/TNGST Act, 2017 should not be imposed, the former without prejudice to Section 74A(9)(ii) and the latter subject to Section 75(13);*

(vii) ***Mr. Z:*** *a penalty of Rs.3,40,20,000/- under Section 122(1A) of the CGST Act, 2017/TNGST Act, 2017 should not be imposed on him;*

(viii) ***Mr. R:*** *a penalty of up to Rs.25,000/- under Section 122(3)(a) of the CGST Act, 2017/TNGST Act, 2017 should not be imposed on him.*

D. DRAFT SHOW CAUSE NOTICE

F. No. GEXCOM/ADJN/SCN/[•]/2026-COIMBATORE

DIN: [Document Identification Number to be auto-generated on issue]

Office of the Additional/Joint Commissioner, CGST Commissionerate, Coimbatore, Tamil Nadu

Date: [•].11.2026

SHOW CAUSE NOTICE

(Issued under Section 74A of the Central Goods and Services Tax Act, 2017 read with the corresponding provisions of the Tamil Nadu Goods and Services Tax Act, 2017)

To,
1. M/s XXX Pvt. Ltd., YYYY, Coimbatore.
2. M/s AAA, Prop. Mr. P, Tiruppur.
3. M/s BBB, Prop. Mr. Q, Erode.
4. Mr. Z, Director, M/s XXX Pvt. Ltd., Coimbatore.
5. Mr. R, Accountant, Coimbatore.

(hereinafter referred to as 'XXX', 'AAA', 'BBB', 'Mr. Z' and 'Mr. R' respectively, and together as 'the Noticees'; AAA and BBB include their proprietors Mr. P and Mr. Q, being the same persons in law)

1. WHEREAS analytics by the DGARM flagged a closed loop of invoices among XXX (Coimbatore), AAA (Tiruppur) and BBB (Erode), by which, from October 2025 to March 2026, 96 invoices were issued in rotation - XXX to AAA, AAA to BBB, BBB to XXX - each cycle's three invoices bearing dates within three days; the flow of invoices may be pictured as:

XXX Pvt. Ltd. → (Rs.18,00,00,000/-) → AAA → (Rs.18,36,00,000/-) → BBB → (Rs.18,90,00,000/-) → XXX Pvt. Ltd.

2. AND WHEREAS searches on 06.10.2026 under Section 67(1) (RUD-1) found that the premises of AAA and BBB were single rooms without stock or staff, and the laptop of Mr. R held the accounts data of all three firms, a monthly 'loop plan' sheet fixing the value of each leg and the login credentials of the three GSTINs (RUD-2, certified under Section 145), and the GSTN login data (RUD-3) shows that all three GSTINs were operated from the broadband connection of the accounts office of XXX;

3. AND WHEREAS for each cycle the three e-way bills (RUD-4) carried the same vehicle number and were generated within about forty minutes, though the three towns are more than 100 km apart; no FASTag transaction was recorded; the gate and weighbridge records of XXX have no entry (RUD-5); and the stock ledger shows equal quantities 'received' and 'sold' with nil physical stock;

4. AND WHEREAS Mr. P and Mr. Q (RUD-6) admitted that they were paid Rs.40,000/- per month and 0.5% of sales to lend their registration at Mr. Z's request and never handled goods; Mr. R (RUD-7) admitted that he prepared the invoices, e-way bills and returns of all three firms in the accounts office of XXX on Mr. Z's monthly plan, and that no goods moved; and Mr. Z (RUD-8) claimed genuine job-work trading but produced no lorry receipt, delivery challan or stock record and did not furnish the 'consultancy' agreements called for in writing;

5. AND WHEREAS each firm took the credit of the tax charged by the preceding firm in the same month's return and utilised it, the credit being, under CGST and TNGST taken together, Rs.3,40,20,000/- (XXX), Rs.3,24,00,000/- (AAA) and Rs.3,30,48,000/- (BBB), as shown, with interest to 31.10.2026, in Annexure-A:

Noticee	Central tax (Rs.)	State tax (Rs.)	Total tax (Rs.)	Interest to 31.10.2026 @24% (Rs.)	Penalty u/s 74A(5)(ii) (Rs.)
M/s XXX Pvt. Ltd.	1,70,10,000	1,70,10,000	3,40,20,000	58,02,974	3,40,20,000
M/s AAA	1,62,00,000	1,62,00,000	3,24,00,000	55,05,928	3,24,00,000
M/s BBB	1,65,24,000	1,65,24,000	3,30,48,000	56,16,046	3,30,48,000
TOTAL	**4,97,34,000**	**4,97,34,000**	**9,94,68,000**	**1,69,24,948**	**9,94,68,000**

6. AND WHEREAS no goods having been supplied or received, the credit was taken without receipt of goods and without a valid supply, and, since the plan, the nominee proprietors and the movement records show a deliberate scheme, it appears that the credit has been wrongly availed and utilised by reason of fraud, wilful misstatement and suppression of facts to evade tax, attracting penalty equal to the tax under Section 74A(5)(ii); that each of XXX, AAA and BBB, having also issued invoices without supply, is liable under Section 122(1)(ii); that Mr. Z, who devised and directed the scheme and retained its benefit through XXX, is liable under Section 122(1A); and that Mr. R, who prepared the documents of all three with knowledge, is liable under Section 122(3)(a);

7. AND WHEREAS it thus appears that the Noticees have contravened Section 16(1) and Section 16(2)(a), (b) and (c), Sections 31, 35(1), 37(1) and 39(1) of the CGST Act, 2017 (and the corresponding provisions of the TNGST Act, 2017) and are liable to demand under Section 74A(1), interest under Section 50(3) and penalty under Sections 74A(5)(ii), 122(1)(ii), 122(1A) and 122(3)(a);

NOW, THEREFORE

(1) M/s XXX Pvt. Ltd., (2) M/s AAA, Prop. Mr. P, (3) M/s BBB, Prop. Mr. Q, (4) Mr. Z and (5) Mr. R are hereby called upon to show cause in writing to the Additional/Joint Commissioner, CGST Commissionerate, Coimbatore, within thirty (30) days of the receipt of this notice, as to why:

(i) **M/s XXX Pvt. Ltd.:** the credit of Rs.1,70,10,000/- of central tax and Rs.1,70,10,000/- of State tax (total Rs.3,40,20,000/- (Rupees Three Crore Forty Lakh Twenty Thousand only)) taken on the invoices received from M/s BBB during October 2025 to March 2026, without receipt of the goods, should not be held to be wrongly availed and utilised in contravention of Section 16(2)(a), (b) and (c) of the CGST Act, 2017/TNGST Act, 2017, and should not be demanded and recovered under Section 74A(1) of the CGST Act, 2017 and the corresponding provisions of the TNGST Act, 2017, with interest at 24% under Section 50(3) read with Rule 88B(3) (Rs.58,02,974/- upto 31.10.2026);

(ii) **M/s XXX Pvt. Ltd.:** a penalty of Rs.3,40,20,000/- under Section 74A(5)(ii) and a penalty of Rs.3,24,00,000/- under Section 122(1)(ii) (the credit passed on by the invoices issued to M/s AAA) of the CGST Act, 2017/TNGST Act, 2017 should not be imposed, the former without prejudice to Section 74A(9)(ii) and the latter subject to Section 75(13);

(iii) **M/s AAA:** the credit of Rs.1,62,00,000/- of central tax and Rs.1,62,00,000/- of State tax (total Rs.3,24,00,000/- (Rupees Three Crore Twenty-Four Lakh only)) taken on the invoices received from M/s XXX during October 2025 to March 2026, without receipt of the goods, should not be held to be wrongly availed and utilised in contravention of Section 16(2)(a), (b) and (c) of the CGST Act, 2017/TNGST Act, 2017, and should not be demanded and recovered under Section 74A(1) of the CGST Act, 2017 and the corresponding provisions of the TNGST Act, 2017, with interest at 24% under Section 50(3) read with Rule 88B(3) (Rs.55,05,928/- upto 31.10.2026);

(iv) **M/s AAA:** a penalty of Rs.3,24,00,000/- under Section 74A(5)(ii) and a penalty of Rs.3,30,48,000/- under Section 122(1)(ii) (the credit passed on by the invoices issued to M/s BBB) of the CGST Act, 2017/TNGST Act, 2017 should not be imposed, the former without prejudice to Section 74A(9)(ii) and the latter subject to Section 75(13);

(v) **M/s BBB:** the credit of Rs.1,65,24,000/- of central tax and Rs.1,65,24,000/- of State tax (total Rs.3,30,48,000/- (Rupees Three Crore Thirty Lakh Forty-Eight Thousand only)) taken on the invoices received from M/s AAA during October 2025 to March 2026, without receipt of the goods, should not be held to be wrongly availed and utilised in contravention of Section 16(2)(a), (b) and (c) of the CGST Act, 2017/TNGST Act, 2017, and should not be demanded and recovered under Section 74A(1) of the CGST Act, 2017 and the corresponding provisions of the TNGST Act, 2017, with interest at 24% under Section 50(3) read with Rule 88B(3) (Rs.56,16,046/- upto 31.10.2026);

(vi) **M/s BBB:** a penalty of Rs.3,30,48,000/- under Section 74A(5)(ii) and a penalty of Rs.3,40,20,000/- under Section 122(1)(ii) (the credit passed on by the invoices issued to M/s XXX) of the CGST Act, 2017/TNGST Act, 2017 should not be imposed, the former without prejudice to Section 74A(9)(ii) and the latter subject to Section 75(13);

(vii) **Mr. Z:** a penalty of Rs.3,40,20,000/- under Section 122(1A) of the CGST Act, 2017/TNGST Act, 2017 should not be imposed on him;

(viii) **Mr. R:** a penalty of up to Rs.25,000/- under Section 122(3)(a) of the CGST Act, 2017/TNGST Act, 2017 should not be imposed on him.

8. The Noticees are further informed that:

- each Noticee must furnish its written reply with documents within thirty (30) days of receipt, failing which the case will be decided ex parte on merits; a personal hearing will be given to each Noticee on a date to be separately intimated;
- each of XXX, AAA and BBB may avail Section 74A(9)(ii) of the CGST Act, 2017/TNGST Act, 2017 by paying the tax, interest and twenty-five per cent penalty (Rs.85,05,000/- for XXX, Rs.81,00,000/- for AAA, Rs.82,62,000/- for BBB) within sixty (60) days of issue of this notice; by Explanation 1 to Section 74A, if the proceedings against XXX conclude, the proceedings under Section 122 against Mr. Z and Mr. R in this notice are deemed concluded;
- this notice is issued without prejudice to recovery of the self-assessed tax of BBB under Section 79 read with Section 75(12), to prosecution under Section 132, and to any other action under the CGST Act, 2017/TNGST Act, 2017 or any other law.

List of Relied Upon Documents (RUDs):

RUD-1: Authorisations dated 05.10.2026 and panchnamas dated 06.10.2026; **RUD-2:** Laptop data of Mr. R with certificate under Section 145;

RUD-3: GSTN login/IP data; **RUD-4:** E-way bill data of 96 invoices; **RUD-5:** Gate/weighbridge registers and stock ledger of XXX;

RUD-6: Statements of Mr. P and Mr. Q dated 07.10.2026; **RUD-7:** Statement of Mr. R dated 08.10.2026;

RUD-8: Statements of Mr. Z dated 09.10.2026 and 15.10.2026, and summons dated 09.10.2026 for documents;

RUD-9: GSTR-1, GSTR-3B and ledgers of the three firms; **RUD-10:** Bank statements of the three firms;

Annexure-A: Month-wise statement of credit, utilisation and interest for each Noticee [as per the working in Part B].

(_____)
Additional/Joint Commissioner, CGST
Coimbatore CGST Commissionerate, Tamil Nadu

Copy to: The Commissioner, CGST Commissionerate, Coimbatore, for information; the jurisdictional proper officers of AAA and BBB.

Drafting note (not part of the notice):

- *The addressee, jurisdictional range/officer, F. No./DIN and dates shown in square brackets/blanks are illustrative placeholders and must be completed with the correct particulars before issue.*
- ***Teaching twist - beneficiary versus conduit, and the chart.*** *In the loop each entity is both a recipient (taking credit) and an issuer (passing it on). The demand is made on each as a recipient; each is penalised as an issuer. The beneficiary is the entity that draws real value out of the loop - here XXX, whose surplus credit pays genuine tax - and the leak is the residue that the last link did not pay (BBB). The role analysis matters for Section 122(1A), for deciding the 'main person' for Explanation 1 to Section 74A, and for prosecution.*
- ***Revenue-neutrality is no defence, but quantify the leak.*** *Section 16(2)(b) is a condition of eligibility; the demand does not depend on net revenue loss. At the same time, the SCN should state honestly how the exchequer lost (surplus credit of Rs.8,10,000/- per head, of which AAA's cash of Rs.3,24,000/- per head was paid and BBB's Rs.4,86,000/- per head was not) because the 'intent to evade tax' needed for Section 74A(5)(ii) is better supported when the loss is shown. The cash paid by AAA is flagged for the adjudicating authority; it is not adjusted in this notice.*
- ***Composite notice.*** *A single notice to five noticees is drafted because the master chart envisages it and Explanation 1 to Section 74A speaks of persons 'in the same notice'. Check, before issue, with the Commissioner whether the department's practice is to issue a separate DRC-01 for each taxable person (GSTIN), with a common set of RUDs; if separate notices are issued, the Explanation 1 benefit must be worked out accordingly. This point has not been verified against any binding authority.*
- ***Penalties.*** *Exposure under Sections 74A(5)(ii) and 122(1)(ii) is large (each equal to the credit); both are fixed by statute. The 25% concession of Section 74A(9)(ii) is the realistic outcome for those who co-operate.*
- *The draft should be settled by the jurisdictional Range/Division before issue (DRC-01), including verification of the monetary-limit-based issuing/adjudicating authority under Circular No. 31/05/2018-GST dated 09.02.2018 (Superintendent: central tax up to Rs.10 lakh; Deputy/Assistant Commissioner: above Rs.10 lakh up to Rs.1 crore; Additional/Joint Commissioner: above Rs.1 crore). Here the central tax demand on each noticee (Rs.1,70,10,000/-, Rs.1,62,00,000/- and Rs.1,65,24,000/-) exceeds Rs.1 crore, so the notice issues from the Additional/Joint Commissioner.*
- *Return of non-RUDs (Non-Relied Upon Documents): When the SCN is issued to the taxpayer in the form of DRC-01 (uploaded on the portal if registered, as well as delivered as per the provisions of law), non-RUDs must be returned to the noticee under due acknowledgement within seven days of issuance of the SCN.*

***

Exercise 6

Input tax credit on purchases from a supplier who did not pay the tax and whose registration was cancelled retrospectively - bona fide recipient

Exercise 6: Input tax credit on purchases from a supplier who did not pay the tax and whose registration was cancelled retrospectively - bona fide recipient

Situation in Brief:

1. M/s XXX, a partnership firm (partners: Mr. Z and Mr. Y) engaged in manufacture of plastic moulded containers at YYYY, Faridabad, Haryana, purchased polypropylene granules from M/s AAA, a proprietary concern of Mr. P at Faridabad, between August and December 2023 under 32 tax invoices of aggregate taxable value Rs.1,96,00,000/- on which central tax and Haryana State tax at 9% each were charged. XXX took the credit in its monthly FORM GSTR-3B returns and used it in the same return to pay its output tax. Payments of Rs.2,31,28,000/- (value plus tax) were made to M/s AAA by RTGS through the firm's bank account within 30 days of each invoice. The month-wise position is:

Month	Invoices (nos.)	Taxable value (Rs.)	CGST 9% (Rs.)	HGST 9% (Rs.)	XXX's GSTR-3B due / filed on
Aug-2023	6	36,00,000	3,24,000	3,24,000	20.09.2023 / 19.09.2023
Sep-2023	7	42,00,000	3,78,000	3,78,000	20.10.2023 / 20.10.2023
Oct-2023	8	48,00,000	4,32,000	4,32,000	20.11.2023 / 20.11.2023
Nov-2023	6	39,00,000	3,51,000	3,51,000	20.12.2023 / 19.12.2023
Dec-2023	5	31,00,000	2,79,000	2,79,000	20.01.2024 / 22.01.2024
TOTAL	**32**	**1,96,00,000**	**17,64,000**	**17,64,000**	

2. M/s AAA reported all these invoices in its FORM GSTR-1 for August to December 2023 (filed on due dates), so that they appeared in the FORM GSTR-2B of M/s XXX. But M/s AAA never filed its FORM GSTR-3B for any of these months, nor for any later month. After a notice, its registration was cancelled by order dated 02.04.2024, with effect from 01.02.2024 (retrospective), for non-filing of returns. Its GSTR-1 for August to December 2023 shows taxable value of Rs.5,20,00,000/- and tax of Rs.93,60,000/- to eight recipients, none of which was paid; the share of XXX in this tax is 37.7%.

3. The Faridabad CGST Commissionerate, in a data-analytics exercise on suppliers who had reported invoices but not paid tax (RUD-1), identified M/s XXX as a recipient who had not reversed the credit. Proceedings under Section 74 for FY 2023-24 were initiated against M/s AAA by notice dated 16.09.2025; the notice could not be served at the registered address, the proprietor Mr. P was untraceable, an order dated 12.03.2026 confirming the demand was passed ex parte, and recovery under Section 79 yielded only Rs.2,10,000/- from a bank account (RUD-2). No immovable property of M/s AAA was found.

4. On 03.09.2026 Mr. Z, partner, was summoned under Section 70 and, in his statement dated 04.09.2026 (RUD-3), stated that M/s AAA had been a regular supplier since 2021 and was an active registered person on the GST portal when purchases were made; that the granules were received at the factory with e-way bills and weighbridge slips and consumed in production; that payment was made through the bank; that he did not know of the supplier's default and had not checked the supplier's GSTR-3B status at any time; and that no one at XXX had any relation with Mr. P. The firm produced purchase orders, e-way bills, weighbridge slips, goods received notes, bank statements and bill-of-material consumption sheets (RUD-4), and the department's own verification of the e-way bills and toll data (RUD-5) matched the movement of the goods. No evidence of collusion, of back-to-back payment returned in cash, or of common control has been found.

5. XXX did not reverse the credit in any return up to and including the return for November 2024 (the last return in which Rule 37A allowed reversal): its returns for October and November 2024 were filed on 20.11.2024 and 20.12.2024 respectively, with no reversal. A pre-notice intimation dated 05.10.2026

(RUD-6) invited the firm to pay the tax and interest; the firm replied on 15.10.2026 that it was a bona fide purchaser, had paid the full price and tax to the supplier and was not liable to pay twice; it did not pay.

6. Now in the light of the above, -

(i) Identify the provision(s) of GST law contravened by M/s XXX (under heading **Contravention**).

(ii) Identify the provision(s) of GST law under which action is to be taken against M/s XXX (under heading **Consequences of Contravention of legal Provisions**).

(iii) Draft the **Charging Paragraph** of the Show Cause Notice proposed to be issued to M/s XXX, calling upon M/s XXX (through its partner Mr. Z) to show cause as to why action should not be taken against them, while listing the proposed action to be taken against M/s XXX (through its partner Mr. Z).

(iv) Also prepare the **draft Show Cause Notice** for issuance to M/s XXX.

***

SUGGESTED SOLUTION

(Data analytics, summons and Determination of tax liability under Section 73; Draft Show Cause Notice - M/s XXX (partnership firm), Faridabad CGST Commissionerate)

A. CONTRAVENTION

On the facts as recorded, the following provisions stand contravened (in each case read with the corresponding provisions of the Haryana Goods and Services Tax Act, 2017 [HGST Act] and the Rules made under the Acts):

1. **Section 16(2)(c) of the CGST Act, 2017** - the tax charged on the supplies by M/s AAA has not been actually paid to the Government, either in cash or through utilisation of credit; this is a condition for the credit of the recipient.
2. **Section 41(2) of the CGST Act, 2017 read with Rule 37A of the CGST Rules, 2017** - credit availed on supplies on which the supplier has not paid the tax is to be reversed with interest; where the supplier has not furnished the GSTR-3B for the period by 30 September following the end of the financial year, the recipient must reverse the credit in the return for a tax period not later than November following the end of that financial year (here, the supplier's default date is 30.09.2024 and the last return for reversal is that for November 2024, due 20.12.2024, for FY 2023-24). XXX did not.
3. **Section 39(1)** - declaring and retaining the credit in the returns for the months concerned and not correcting it by the due date in the Rule.

Note: *Section 16(2)(aa) (supplier has furnished the invoice in GSTR-1 and the details are communicated in GSTR-2B) is satisfied and is not invoked; it is in force from 01.01.2022 and, for FY 2023-24, makes GSTR-2B and not GSTR-2A the reference, so the old GSTR-2A mismatch rules are irrelevant to this period. Section 16(2)(b) (receipt of goods) is satisfied. Section 16(2)(c) is the only condition breached. The retrospective cancellation of the supplier's registration (Section 29(2) permits cancellation from a retrospective date) does not touch the invoices of August to December 2023, since the cancellation took effect from 01.02.2024; it is therefore not the ground of the demand - the demand rests on non-payment of tax alone. If invoices had been dated after the retrospective date, the status of the invoice as issued by a registered person (Section 16(2)(a)) would have been an additional issue.*

Considered and not invoked: *Section 74 (fraud, wilful misstatement or suppression) and Section 122(1)(vii) (credit without receipt of goods) are not invoked: goods were received and the department finds no collusion. Section 122(2)(a) is a parallel penalty for non-fraud credit wrongly availed; since a penalty under Section 73(9) is proposed for the same act, it is not separately proposed (Section 75(13)).*

B. CONSEQUENCES OF CONTRAVENTION OF LEGAL PROVISIONS

The contraventions at (A) expose M/s XXX to the following action under the CGST Act, 2017, read with the corresponding provisions of the HGST Act, 2017:

1. Which regime? FY 2023-24 is outside Section 74A [Section 74A(12) applies from FY 2024-25] and within Section 73, which is stated to apply to periods up to FY 2023-24 [Section 73(12)]. Since no fraud, wilful misstatement or suppression is alleged, Section 73 (and not Section 74) is the provision. The annual return for FY 2023-24 was due on 31.12.2024 (no extension is assumed); the order is to be passed within three years from that date, i.e. by 31.12.2027 [Section 73(10)], and the notice at least three months earlier, i.e. by 30.09.2027 [Section 73(2)]. The notice is in time.
2. Demand - Section 73(1): ITC wrongly availed and utilised, central tax Rs.17,64,000/- and State tax Rs.17,64,000/-, total Rs.35,28,000/-. Since the credit was fully utilised in the month's return, the whole amount is 'utilised' (Rule 88B(3), Explanation).
3. Interest - Section 50(3) at 24% per annum (Notification No. 13/2017-Central Tax) on credit wrongly availed and utilised, from the date of utilisation (earlier of the due date and the actual date of filing;

for December 2023 the return was filed late, so the due date applies) to payment: Rs.25,71,738/- up to 30.11.2026. Rule 37A states that, if the credit is not reversed by the November return, the amount is payable 'along with interest under section 50' without saying which sub-section or from which date. The draft takes Section 50(3) from the date of utilisation (the Rule 88B(3) method). The alternative view - interest from 21.12.2024 (the day after the due date of the November 2024 return) at 18% under Section 50(1) - gives Rs.12,33,544/-. This is flagged as an interpretation point to be settled by the adjudicating authority.

4. Penalty - Section 73(9): the higher of 10% of the tax and Rs.10,000/-, under each Act - Rs.1,76,400/- (central tax) and Rs.1,76,400/- (State tax), total Rs.3,52,800/-; *no fraud penalty*. The facts are those of a bona fide buyer (genuine goods received and used, price and tax paid, supplier active at the time, no connection with the supplier). *Concession* - Section 73(5): payment of tax and interest before the notice means no notice; Section 73(8): payment of tax and interest within thirty days of the notice means no penalty and conclusion of proceedings. Section 73(11) does not arise (it concerns self-assessed tax or tax collected not paid within thirty days, which is not this case).

5. Recipient or supplier? Which to proceed against, and when - The tax was collected by M/s AAA and not paid; the primary liability to pay it, with penalty, is the supplier's, and the department has proceeded against him (RUD-2). The recipient is proceeded against only because Section 16(2)(c) and Section 41(2) make payment by the supplier a condition of the credit, and because recovery from the supplier has failed (supplier untraceable, ex parte order, nil assets). Three safeguards follow: (i) any amount recovered from M/s AAA against the same tax must be adjusted against the recipient's demand, so that the Government does not recover the same tax twice; (ii) Rule 37A, second proviso, allows the recipient to re-avail the credit if the supplier later pays, and the notice should say so; (iii) the allegation against the recipient is confined to Section 16(2)(c) and Rule 37A, and fraud is not alleged. Whether the department's own instructions require recovery from the supplier to be exhausted first has not been verified here; judicial opinion on the recipient's liability where he is a bona fide buyer is not uniform and the latest rulings of the jurisdictional High Court must be checked before issue (none is cited).

6. Prosecution - not proposed; no offence under Section 132 is made out on the facts (goods were received; no fraud). Recovery - Sections 78 and 79.

Illustrative working of tax and interest (payment date assumed 30.11.2026):

Month	Taxable value (Rs.)	CGST 9% (Rs.)	HGST 9% (Rs.)	Date of utilisation	Days to 30.11.2026	Interest on CGST + HGST @24% (Rs.)
Aug-2023	36,00,000	3,24,000	3,24,000	19.09.2023	1168	4,97,664
Sep-2023	42,00,000	3,78,000	3,78,000	20.10.2023	1137	5,65,198
Oct-2023	48,00,000	4,32,000	4,32,000	20.11.2023	1106	6,28,330
Nov-2023	39,00,000	3,51,000	3,51,000	19.12.2023	1077	4,97,132
Dec-2023	31,00,000	2,79,000	2,79,000	20.01.2024	1045	3,83,414
TOTAL	**1,96,00,000**	**17,64,000**	**17,64,000**			**25,71,738**

Basis: *Interest is computed at 24% on a 365-day year on the central tax and State tax of each month from the date of utilisation (the return in which the credit was set off) up to 30.11.2026; update to the date of actual payment. Alternative interest (18% from 21.12.2024): Rs.12,33,544/- for both taxes.*

C. CHARGING PARAGRAPH OF THE SHOW CAUSE NOTICE

[The following is the operative charging paragraph proposed for incorporation in the Show Cause Notice at Part D below.]

Now, therefore, M/s XXX, a partnership firm having its place of business at YYYY, Faridabad, Haryana, through its partner Mr. Z, is hereby called upon to show cause in writing to the Deputy/Assistant Commissioner, CGST Division - [•], Faridabad CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) *the input tax credit of Rs.17,64,000/- of central tax and Rs.17,64,000/- of Haryana State tax (total Rs.35,28,000/- (Rupees Thirty-Five Lakh Twenty-Eight Thousand only)) availed on the 32 invoices of M/s AAA for August to December 2023, on which the tax has not been paid to the Government by the supplier, should not be held to be wrongly availed and utilised in contravention of Section 16(2)(c) and Section 41(2) of the CGST Act, 2017/HGST Act, 2017 read with Rule 37A of the CGST Rules, 2017;*

(ii) *the said amount should not be demanded and recovered from M/s XXX under Section 73(1) of the CGST Act, 2017 and the corresponding provisions of the HGST Act, 2017, any amount recovered from M/s AAA against the same tax being adjusted, and liberty being reserved to re-avail the credit as provided in the second proviso to Rule 37A if the supplier pays the tax;*

(iii) *interest at 24% under Section 50(3) of the CGST Act, 2017/HGST Act, 2017 should not be charged and recovered from the dates of utilisation till payment (Rs.25,71,738/- up to 30.11.2026, as in Annexure-A);*

(iv) *a penalty of Rs.1,76,400/- (central tax) and Rs.1,76,400/- (State tax), total Rs.3,52,800/-, being ten per cent of the tax, should not be imposed under Section 73(9) of the CGST Act, 2017/HGST Act, 2017 (without prejudice to nil penalty under Section 73(8) on payment of tax and interest within thirty days of the notice).*

D. DRAFT SHOW CAUSE NOTICE

F. No. GEXCOM/ADJN/SCN/[•]/2026-FARIDABAD

DIN: [Document Identification Number to be auto-generated on issue]

Office of the Deputy/Assistant Commissioner, CGST Division - [•], Faridabad CGST Commissionerate, Haryana

Date: [•].11.2026

SHOW CAUSE NOTICE

(Issued under Section 73 of the Central Goods and Services Tax Act, 2017 read with Section 73 of the Haryana Goods and Services Tax Act, 2017)

To,
M/s XXX, a partnership firm,
Through its partner Mr. Z, YYYY, Faridabad, Haryana.

(hereinafter referred to as 'the Noticee')

1. WHEREAS the Noticee, a manufacturer of plastic moulded containers at Faridabad, availed credit of Rs.35,28,000/- (central tax Rs.17,64,000/-, State tax Rs.17,64,000/-) in its returns for August to December 2023 on 32 invoices of M/s AAA, Faridabad, of aggregate taxable value Rs.1,96,00,000/- for polypropylene granules, and utilised it to pay its output tax;

2. AND WHEREAS M/s AAA reported these invoices in its FORM GSTR-1, which appeared in the Noticee's FORM GSTR-2B, but did not furnish FORM GSTR-3B for August 2023 or any later month, and paid no tax; its registration was cancelled by order dated 02.04.2024 with effect from 01.02.2024; a data-analytics report (RUD-1) identified the Noticee as a recipient who did not reverse the credit; and proceedings against M/s AAA under Section 74 resulted in an ex parte order dated 12.03.2026, with a recovery of only Rs.2,10,000/- (RUD-2);

3. AND WHEREAS Mr. Z, partner, in his statement dated 04.09.2026 under Section 70 (RUD-3), inter alia stated that the supplier was an active registered person when purchases were made, that the goods were received with e-way bills and used in production, that payment was made through the bank, and that he did not check or know the supplier's GSTR-3B status; the documents produced (RUD-4) and the department's verification of e-way bill and toll data (RUD-5) corroborate the receipt of goods and payment;

4. AND WHEREAS, as the supplier had not filed FORM GSTR-3B by 30.09.2024, the Noticee was required by Section 41(2) read with Rule 37A to reverse the credit in a return for a tax period not later than November 2024 (due 20.12.2024), which it did not; a pre-notice intimation dated 05.10.2026 (RUD-6) yielded no payment; and the tax charged on the supplies has not been paid to the Government, so that the condition in Section 16(2)(c) is not met; the tax and interest are worked out in the table below and in Annexure-A:

Particulars	Central tax (Rs.)	State tax (Rs.)	Total (Rs.)
ITC wrongly availed and utilised (Aug-Dec 2023)	17,64,000	17,64,000	35,28,000
Interest u/s 50(3) up to 30.11.2026	12,85,869	12,85,869	25,71,738
Penalty u/s 73(9) (10% of tax)	**1,76,400**	**1,76,400**	**3,52,800**

5. AND WHEREAS the Noticee is a bona fide purchaser who received the goods and paid the price and tax, and no fraud, wilful misstatement or suppression of facts is alleged; the demand therefore appears

to be one other than for fraud etc., attracting penalty under Section 73(9) of the CGST Act, 2017/HGST Act, 2017 and not Section 74;

6. AND WHEREAS it thus appears that the Noticee has contravened Section 16(2)(c) and Section 41(2) of the CGST Act, 2017 read with Rule 37A of the CGST Rules, 2017 (and the corresponding provisions of the HGST Act, 2017) and is liable to demand under Section 73(1), interest under Section 50(3) and penalty under Section 73(9);

NOW, THEREFORE

M/s XXX, through its partner Mr. Z, is hereby called upon to show cause in writing to the Deputy/Assistant Commissioner, CGST Division - [•], Faridabad CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) the input tax credit of Rs.17,64,000/- of central tax and Rs.17,64,000/- of Haryana State tax (total Rs.35,28,000/- (Rupees Thirty-Five Lakh Twenty-Eight Thousand only)) availed on the 32 invoices of M/s AAA for August to December 2023, on which the tax has not been paid to the Government by the supplier, should not be held to be wrongly availed and utilised in contravention of Section 16(2)(c) and Section 41(2) of the CGST Act, 2017/HGST Act, 2017 read with Rule 37A of the CGST Rules, 2017;

(ii) the said amount should not be demanded and recovered from M/s XXX under Section 73(1) of the CGST Act, 2017 and the corresponding provisions of the HGST Act, 2017, any amount recovered from M/s AAA against the same tax being adjusted, and liberty being reserved to re-avail the credit as provided in the second proviso to Rule 37A if the supplier pays the tax;

(iii) interest at 24% under Section 50(3) of the CGST Act, 2017/HGST Act, 2017 should not be charged and recovered from the dates of utilisation till payment (Rs.25,71,738/- up to 30.11.2026, as in Annexure-A);

(iv) a penalty of Rs.1,76,400/- (central tax) and Rs.1,76,400/- (State tax), total Rs.3,52,800/-, being ten per cent of the tax, should not be imposed under Section 73(9) of the CGST Act, 2017/HGST Act, 2017 (without prejudice to nil penalty under Section 73(8) on payment of tax and interest within thirty days of the notice).

7. The Noticee is further informed that:

- a written reply to this notice, along with all documents relied upon, must be furnished within thirty (30) days of receipt, failing which the case will be decided ex parte on merits;
- an opportunity of personal hearing will be granted before adjudication, on a date to be separately intimated;
- attention is drawn to Section 73(8) of the CGST Act, 2017/HGST Act, 2017, whereby, if the tax at (ii) and the interest at (iii) are paid within thirty (30) days of the issue of this notice, no penalty shall be payable and all proceedings in respect of this notice shall be deemed to be concluded;
- if M/s AAA subsequently pays the tax for the periods concerned, the Noticee may re-avail the credit as provided in the second proviso to Rule 37A, and any amount recovered from M/s AAA will be adjusted against the demand; and
- this notice is issued without prejudice to any other action under the CGST Act, 2017/HGST Act, 2017 or any other law.

List of Relied Upon Documents (RUDs):

RUD-1: Data-analytics report on non-paying suppliers; **RUD-2:** Notice under Section 74 dated 16.09.2025, order dated 12.03.2026 and recovery report in respect of M/s AAA;

RUD-3: Statement of Mr. Z dated 04.09.2026; **RUD-4:** Documents produced by the firm (purchase orders, e-way bills, weighbridge slips, GRNs, bank statements);

RUD-5: Verification report on e-way bills and toll data; **RUD-6:** Intimation dated 05.10.2026 and reply dated 15.10.2026;

RUD-7: GSTR-1 of M/s AAA, GSTR-2B and GSTR-3B of the Noticee for August 2023 to December 2024; **RUD-8:** Cancellation order of M/s AAA dated 02.04.2024;

Annexure-A: Month-wise statement of ITC, utilisation and interest [as per the working in Part B].

(_____)
Deputy/Assistant Commissioner, CGST
Division - [•], Faridabad CGST Commissionerate

Copy to: The Additional/Joint Commissioner, CGST Faridabad, for information.

Drafting note (not part of the notice):

- *The addressee, jurisdictional range/officer, F. No./DIN and dates shown in square brackets/blanks are illustrative placeholders and must be completed with the correct particulars before issue.*
- ***Teaching twist - when to go against the recipient.*** *The first and primary target is the supplier who collected and kept the tax. The recipient is proceeded against only where the statute makes payment by the supplier a condition of the credit (Section 16(2)(c); Section 41(2); Rule 37A) and the supplier cannot be made to pay. Even then, (a) no double recovery, (b) the credit may be re-availed if the supplier later pays, (c) a bona fide buyer is not charged with fraud. If the evidence showed collusion (cash back, common control, no goods), the case would move to Section 74 against the recipient with fraud penalty - as in Exercise-03.*
- ***Fraud allegation not sustainable here.*** *The facts that make fraud unsustainable are: the supplier was active and appeared in GSTR-2B; goods and payments are fully documented; no connection between the parties. A fraud charge on those facts would fail at the first appeal; the notice therefore stays at Section 73.*
- ***GSTR-2A era and retrospective cancellation.*** *The GSTR-2A era (pre-2022) is not relevant: for FY 2023-24 the condition is Section 16(2)(aa) with GSTR-2B (in force from 01.01.2022); GSTR-2A is not the test. Retrospective cancellation of the supplier's registration is not the ground of this demand because the invoices are earlier than the cancellation date.*
- ***Interest.*** *Whether interest under Rule 37A runs from the date of utilisation at 24% (Section 50(3)) or from 21.12.2024 at 18% (Section 50(1)) is an interpretation point flagged for settlement; both figures are given in Part B. The limitation dates assume no extension of the due date of the annual return for FY 2023-24.*
- *The draft should be settled by the jurisdictional Range/Division before issue (DRC-01), including verification of the monetary-limit-based issuing/adjudicating authority under Circular No. 31/05/2018-GST dated 09.02.2018 (Superintendent: central tax up to Rs.10 lakh; Deputy/Assistant Commissioner: above Rs.10 lakh up to Rs.1 crore; Additional/Joint Commissioner: above Rs.1 crore). Here the central tax demand is Rs.17,64,000/-, above Rs.10 lakh, so the notice issues from the Deputy/Assistant Commissioner.*
- *Return of non-RUDs (Non-Relied Upon Documents): When the SCN is issued to the taxpayer in the form of DRC-01 (uploaded on the portal if registered, as well as delivered as per the provisions of law), non-*

RUDs must be returned to the noticee under due acknowledgement within seven days of issuance of the SCN.

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Exercise 7

Input tax credit claimed in GSTR-3B in excess of the credit communicated in GSTR-2B - the sequence of scrutiny, intimation and notice



Exercise 7: Input tax credit claimed in GSTR-3B in excess of the credit communicated in GSTR-2B - the sequence of scrutiny, intimation and notice

Situation in Brief:

1. M/s XXX, a proprietary concern of Mr. Z at YYYY, Cuttack, Odisha, a wholesale dealer in electrical goods registered under the CGST Act, 2017/OGST Act, 2017, was selected for scrutiny of its returns for FY 2024-25 (April 2024 to March 2025) under Section 61 on the basis of the risk parameters. The credit claimed in Table 4(A)(5) of FORM GSTR-3B (inward supplies from registered persons) for each month was compared with the credit communicated in FORM GSTR-2B for that month. XXX purchases from suppliers in Odisha (central and State tax) and from outside the State (integrated tax). The annual return (GSTR-9) for FY 2024-25 was filed on 28.12.2025. The monthly position is as follows (the State tax claimed and the State tax in GSTR-2B were equal to the central tax figures in each month):

Month	IGST claimed in GSTR-3B (Rs.)	IGST per GSTR-2B (Rs.)	CGST claimed in GSTR-3B (Rs.)	CGST per GSTR-2B (Rs.)	GSTR-3B filed on
Apr-24	1,85,000	1,85,000	2,10,000	2,10,000	20.05.2024
May-24	2,40,000	2,10,000	2,65,000	2,40,000	20.06.2024
Jun-24	2,05,000	2,05,000	2,32,000	2,32,000	20.07.2024
Jul-24	2,90,000	2,50,000	3,15,000	2,70,000	18.08.2024
Aug-24	3,10,000	2,75,000	3,30,000	2,95,000	20.09.2024
Sep-24	2,45,000	2,45,000	2,70,000	2,55,000	20.10.2024
Oct-24	3,60,000	3,10,000	3,85,000	3,30,000	19.11.2024
Nov-24	2,95,000	2,95,000	3,20,000	3,20,000	20.12.2024
Dec-24	3,20,000	2,80,000	3,40,000	3,05,000	20.01.2025
Jan-25	2,70,000	2,70,000	2,95,000	2,75,000	18.02.2025
Feb-25	3,35,000	2,90,000	3,60,000	3,15,000	20.03.2025
Mar-25	3,80,000	3,30,000	4,10,000	3,50,000	17.04.2025
TOTAL	**34,35,000**	**31,45,000**	**37,32,000**	**33,97,000**	

2. The credit was fully used in the same return in each month (nil balance in the electronic credit ledger after set-off). Each GSTR-3B was filed on the dates shown (those filed before the due date of the 20th of the following month are taken to have been utilised on the date of filing).

3. The department's reconciliation and the firm's invoice-wise explanation showed that the excess credit relates to invoices of various suppliers that were not communicated in GSTR-2B when the credit was claimed. Of this, the following amounts (category A) were reported by the suppliers in their GSTR-1 later and appeared in the GSTR-2B of the months shown, all before 30.11.2025:

Credit claimed in	Reflected in GSTR-2B of	IGST (Rs.)	CGST (Rs.)	SGST (Rs.)
May-24	Jul-24	10,000	10,000	10,000
Jul-24	Sep-24	15,000	15,000	15,000
Aug-24	Oct-24	20,000	15,000	15,000
Sep-24	Nov-24	0	5,000	5,000
Oct-24	Dec-24	20,000	25,000	25,000
Dec-24	Feb-25	15,000	15,000	15,000
Jan-25	Mar-25	0	5,000	5,000
Feb-25	Apr-25	20,000	20,000	20,000
Mar-25	May-25	20,000	15,000	15,000

TOTAL		**1,20,000**	**1,25,000**	**1,25,000**

4. The balance of the excess (category B) was never reflected in GSTR-2B up to 30.11.2025. Of the central tax in category B, Rs.60,000/- (and the same State tax) relates to invoices that the suppliers reported only in January 2026, after 30.11.2025. The Noticee's contention, in his reply of 02.06.2026 and thereafter, is that he paid the suppliers in full and the credit should be allowed once the supplier complies. He is not alleged to have concealed anything: the full claim was shown in each GSTR-3B and in GSTR-9, and the invoices were produced when asked.

5. The proceedings so far are shown below. In response to DRC-01A, the Noticee paid the IGST on category B and the interest on category A, but disputed the central and State tax of category B:

Step	Form / provision	Date	What happened
1	Section 61; Rule 99(1) - FORM GST ASMT-10	06.05.2026	Return for FY 2024-25 scrutinised; discrepancy between ITC claimed in GSTR-3B and that communicated in GSTR-2B (Rs.2,90,000/- IGST and Rs.3,35,000/- each CGST and SGST) notified; reply asked within 30 days
2	Rule 99(2) - FORM GST ASMT-11	02.06.2026	Noticee gave invoice-wise reconciliation; accepted the discrepancy in part and explained the rest
3	Rule 99(3) - FORM GST ASMT-12	25.06.2026	Explanation accepted for category A (Rs.1,20,000/- IGST, Rs.1,25,000/- each CGST/SGST), as supplier-delay timing differences within the Section 16(4) time; no tax demand on them
4	Section 61(3) - decision to determine tax under Section 74A	10.07.2026	No satisfactory explanation for category B (Rs.1,70,000/- IGST, Rs.2,10,000/- each CGST/SGST); proposal approved to proceed under Section 74A
5	Rule 142(1A) - FORM GST DRC-01A	20.07.2026	Tax on category B and interest on categories A and B communicated; opportunity to pay under Section 74A(8)(i)
6	FORM GST DRC-03	14.08.2026	Noticee paid Rs.2,53,913/-: IGST on category B (tax Rs.1,70,000/-, interest Rs.68,928/-) and interest on category A (Rs.14,985/-); disputed CGST/SGST
7	Section 74A(1), (10) - FORM GST DRC-01	[•].11.2026	Show cause notice for the shortfall: CGST and SGST on category B, interest and penalty

6. Now in the light of the above, -

(i) Identify the provision(s) of GST law contravened by M/s XXX (under heading **Contravention**).

(ii) Identify the provision(s) of GST law under which action is to be taken against M/s XXX (under heading **Consequences of Contravention of legal Provisions**).

(iii) Draft the **Charging Paragraph** of the Show Cause Notice proposed to be issued to M/s XXX, calling upon M/s XXX and its Proprietor Mr. Z to show cause as to why action should not be taken against them, while listing the proposed action to be taken against M/s XXX and its Proprietor Mr. Z.

(iv) Also prepare the **draft Show Cause Notice** for issuance to M/s XXX.

***

SUGGESTED SOLUTION

(Scrutiny of returns under Section 61, Intimation under Rule 142(1A), Determination under Section 74A and Draft Show Cause Notice - M/s XXX (Prop. Mr. Z), Bhubaneswar CGST Commissionerate)

A. CONTRAVENTION

On the facts as recorded, the following provisions stand contravened (in each case read with the corresponding provisions of the Odisha Goods and Services Tax Act, 2017 [OGST Act] and the Rules made under the Acts):

1. **Section 16(2)(aa) of the CGST Act, 2017 and Rule 36(4) of the CGST Rules, 2017** - ITC is available only if the supplier has furnished the invoice in his statement of outward supplies (GSTR-1) and the details have been communicated to the recipient in FORM GSTR-2B (Rule 60(7)). The credit claimed beyond GSTR-2B in category B was never so communicated.
2. **Section 16(4) of the CGST Act, 2017** - credit cannot be taken for an invoice of FY 2024-25 after 30 November 2025 (or, if earlier, the furnishing of the annual return - here 28.12.2025, so 30.11.2025 is the limit). The invoices of category B that were reported only in January 2026 cannot now be validly availed.
3. **Section 39(1)** - the credit was declared in Table 4(A) of FORM GSTR-3B beyond the amount eligible, and the self-assessed tax was understated to that extent.

Note: *Section 16(2)(c) (tax paid by the supplier) and Section 41(2)/Rule 37A (supplier's non-payment) are not invoked: no evidence is on record of non-payment by the suppliers; the demand rests on the statutory condition of 16(2)(aa) alone. Category A is not in the notice because the credit was eligible within the Section 16(4) time; the only possible consequence is interest for the period of premature availment (see Part B), which the Noticee has paid. Section 122(1)(vii) (credit without receipt of goods) is not invoked: there is no allegation of non-receipt.*

B. CONSEQUENCES OF CONTRAVENTION OF LEGAL PROVISIONS

The contraventions at (A) expose M/s XXX (Mr. Z) to the following action under the CGST Act, 2017, read with the corresponding provisions of the OGST Act, 2017:

1. The route - scrutiny first. Where the discrepancy is found from the returns themselves, the proper officer first issues FORM GST ASMT-10 under Section 61 and Rule 99, giving thirty days to explain; accepts the explanation in FORM GST ASMT-12 (Rule 99(3)) where it is satisfactory; and, if not, may determine tax under Section 61(3) read with Section 74A. Before the notice, the proper officer communicates the tax and interest in FORM GST DRC-01A under Rule 142(1A), so that the person may pay under Section 74A(8)(i) and avoid a notice and penalty. Only the balance is taken to a show cause notice, under Section 74A(1) read with Section 74A(10) (a payment short of what is due). The sequence is: ASMT-10, ASMT-11, ASMT-12, DRC-01A, DRC-03, DRC-01 (table in the situation).
2. Demand - Section 74A(1) (FY 2024-25: Section 74A(12); Notification No. 17/2024-Central Tax): central tax Rs.2,10,000/- and State tax Rs.2,10,000/-, total Rs.4,20,000/-, being category B credit availed beyond GSTR-2B. IGST of category B (Rs.1,70,000/-) is already paid. The notice may be issued within forty-two months from the due date of the annual return, 31.12.2025 (no extension of that date is assumed), i.e. up to 30.06.2029 [Section 74A(2)].
3. Credit reversal and re-availment - the time-limit problem. The firm may reverse the credit and hope to re-avail it once the supplier complies. Under Section 16(2)(aa) the credit becomes available when the invoice is communicated in GSTR-2B, but Section 16(4) bars availing it after 30.11.2025. Category A was reflected in time and is eligible; category B stood unreflected on that date. The invoices that the suppliers reported only in January 2026 (central tax Rs.60,000/-; State tax the same) are therefore lost. The relief of Section 16(5)/(6) is confined to FY 2017-18 to 2020-21 and does not apply. If any category

B invoice had appeared before 30.11.2025, it would have been moved to category A. The practical advice to the noticee is: reverse and pay; do not expect to re-avail.

4. Interest - Section 50(3) at 24% (Notification No. 13/2017-Central Tax), Rule 88B(3): on the credit wrongly availed and utilised, from the date of utilisation (earlier of due date and filing date) to payment: Rs.1,97,060/- on the CGST and SGST of category B up to 30.11.2026 (working below). For category A, interest from utilisation to the due date of the return of the month of the GSTR-2B in which the invoice was reflected was paid (Rs.14,985/-); whether interest is leviable at all on premature availment of credit that later becomes eligible is not settled by any provision cited here and is flagged for the adjudicating authority - the paying of it by the Noticee was voluntary.

5. Penalty - Section 74A(5)(i): ten per cent of the tax due or Rs.10,000/-, whichever is higher, under each Act: Rs.21,000/- (central) and Rs.21,000/- (State), total Rs.42,000/-, on the shortfall tax only (the IGST was paid before the notice with interest, so Section 74A(8)(i) applies to it - no notice and no penalty). *Why not fraud (74A(5)(ii))?* The claims were fully shown in the returns, the invoices were produced and the dispute is about the timing and the time-limit of statutory conditions - there is no fraud, wilful misstatement or suppression. *Concession* - Section 74A(8)(ii): payment of tax and interest within 60 days of the notice means no penalty and conclusion of the proceedings. Section 74A(11) does not arise.

6. Prosecution - not proposed (non-fraud; tax involved is small). Recovery - Sections 78 and 79.

Category B interest working (CGST; State tax equal) - payment date assumed 30.11.2026:

Month of claim	Category B credit - central tax (Rs.)	Date of utilisation	Days to 30.11.2026	Interest @24% (Rs.)
May-24	15,000	20.06.2024	893	8,808
Jul-24	30,000	18.08.2024	834	16,452
Aug-24	20,000	20.09.2024	801	10,534
Sep-24	10,000	20.10.2024	771	5,070
Oct-24	30,000	19.11.2024	741	14,617
Dec-24	20,000	20.01.2025	679	8,929
Jan-25	15,000	18.02.2025	650	6,411
Feb-25	25,000	20.03.2025	620	10,192
Mar-25	45,000	17.04.2025	592	17,517
TOTAL (per head)	**2,10,000**			**98,530**

Basis: *State tax is equal, so interest on CGST + SGST is Rs.1,97,060/-. Interest is on a 365-day year at 24%. The amounts paid on 14.08.2026 (Rs.2,53,913/-) are shown in the situation and are appropriated to the IGST tax of category B, the interest thereon and interest on category A; they are not demanded again.*

C. CHARGING PARAGRAPH OF THE SHOW CAUSE NOTICE

[The following is the operative charging paragraph proposed for incorporation in the Show Cause Notice at Part D below.]

Now, therefore, M/s XXX, a proprietary concern of Mr. Z, situated at YYYY, Cuttack, Odisha, and Mr. Z, its Proprietor (being one and the same person in law), are hereby called upon to show cause in writing to the Superintendent, CGST Range - [•], Cuttack Division, Bhubaneswar CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) *the input tax credit of Rs.2,10,000/- of central tax and Rs.2,10,000/- of Odisha State tax (total Rs.4,20,000/- (Rupees Four Lakh Twenty Thousand only)) claimed in FORM GSTR-3B for April 2024 to March 2025 in excess of the credit communicated in FORM GSTR-2B and not so communicated*

up to 30.11.2025, should not be held to be wrongly availed and utilised in contravention of Section 16(2)(aa) and Section 16(4) of the CGST Act, 2017/OGST Act, 2017 read with Rule 36(4) of the CGST Rules, 2017;

(ii) *the said amount of Rs.4,20,000/- should not be demanded and recovered from M/s XXX under Section 74A(1) of the CGST Act, 2017 and the corresponding provisions of the OGST Act, 2017, the payments made on 14.08.2026 against the IGST and interest being appropriated to those heads;*

(iii) *interest at 24% under Section 50(3) of the CGST Act, 2017/OGST Act, 2017 read with Rule 88B(3) should not be charged and recovered on the amount at (ii) from the dates of utilisation till payment (Rs.1,97,060/- up to 30.11.2026, as in Annexure-A);*

(iv) *a penalty of Rs.21,000/- (central tax) and Rs.21,000/- (State tax), total Rs.42,000/-, being ten per cent of the tax due, should not be imposed under Section 74A(5)(i) of the CGST Act, 2017/OGST Act, 2017 (without prejudice to the benefit of nil penalty under Section 74A(8)(ii) on payment of tax and interest within sixty days of the issue of the notice).*

D. DRAFT SHOW CAUSE NOTICE

F. No. GEXCOM/ADJN/SCN/[•]/2026-BHUBANESWAR

DIN: [Document Identification Number to be auto-generated on issue]

Office of the Superintendent, CGST Range - [•], Division - [•], Bhubaneswar CGST Commissionerate, Odisha

Date: [•].11.2026

SHOW CAUSE NOTICE

(Issued under Section 74A of the Central Goods and Services Tax Act, 2017 read with Section 74A of the Odisha Goods and Services Tax Act, 2017)

To,
Mr. Z, Proprietor, M/s XXX,
YYYY, Cuttack, Odisha.

(hereinafter referred to as 'the Noticee', which includes M/s XXX and Mr. Z, the two being one and the same 'person' within the meaning of Section 2(84) of the CGST Act, 2017)

1. WHEREAS the returns of the Noticee, a wholesale dealer in electrical goods at Cuttack, for FY 2024-25 were scrutinised under Section 61 of the CGST Act, 2017, and it was found that the credit claimed in Table 4(A)(5) of FORM GSTR-3B exceeded the credit communicated in FORM GSTR-2B by Rs.2,90,000/- (IGST), Rs.3,35,000/- (CGST) and Rs.3,35,000/- (OGST), as shown in the table in the notice in FORM GST ASMT-10 dated 06.05.2026 (RUD-1);

2. AND WHEREAS, in the reply in FORM GST ASMT-11 dated 02.06.2026 (RUD-2), the Noticee reconciled the invoices, and the proper officer, by FORM GST ASMT-12 dated 25.06.2026 (RUD-3), accepted that category A credit (IGST Rs.1,20,000/-; CGST and OGST Rs.1,25,000/- each), being invoices reported by the suppliers and reflected in GSTR-2B up to May 2025, was eligible within the time under Section 16(4); the balance, category B (IGST Rs.1,70,000/-; CGST and OGST Rs.2,10,000/- each), was not explained;

3. AND WHEREAS the intimation in FORM GST DRC-01A dated 20.07.2026 (RUD-4) invited payment of the tax and interest ascertained under Section 74A(8)(i), and the Noticee paid, by FORM GST DRC-03 dated 14.08.2026 (RUD-5), Rs.2,53,913/- comprising the IGST on category B (Rs.1,70,000/-), interest thereon (Rs.68,928/-) and interest on category A (Rs.14,985/-), but did not pay the central and State tax of category B; the proceedings in respect of the IGST and the said interest therefore stand concluded under Section 74A(8)(i) and this notice is issued under Section 74A(10) for the shortfall;

4. AND WHEREAS the central tax of Rs.2,10,000/- and the State tax of Rs.2,10,000/- of category B were claimed on invoices whose details were not communicated in FORM GSTR-2B up to 30.11.2025, of which Rs.60,000/- (each) was reported by the suppliers only in January 2026; the credit was fully utilised in the returns of the respective months; the Noticee's contention is that the suppliers were paid in full and that the credit should be allowed on their later compliance (RUD-6), which is not tenable in view of Section 16(2)(aa) and the time limit of Section 16(4);

5. AND WHEREAS the interest and penalty are worked out in Annexure-A, as summarised below:

Particulars	Central tax (Rs.)	State tax (Rs.)	Total (Rs.)
Credit availed beyond GSTR-2B (category B)	2,10,000	2,10,000	4,20,000
Interest u/s 50(3) @24% up to 30.11.2026	98,530	98,530	1,97,060
Penalty u/s 74A(5)(i) (10% of tax)	**21,000**	**21,000**	**42,000**

6. AND WHEREAS the claim was fully disclosed in the returns and the annual return, the documents were produced on request, and no evidence of fraud, wilful misstatement or suppression of facts to evade tax is on record; the case therefore appears to be one for penalty under Section 74A(5)(i) of the CGST Act, 2017/OGST Act, 2017;

7. AND WHEREAS it thus appears that the Noticee has contravened Section 16(2)(aa), Section 16(4) and Section 39(1) of the CGST Act, 2017 read with Rule 36(4) of the CGST Rules, 2017 (and the corresponding provisions of the OGST Act, 2017) and is liable to demand under Section 74A(1), interest under Section 50(3) and penalty under Section 74A(5)(i);

NOW, THEREFORE

M/s XXX, a proprietary concern of Mr. Z, and Mr. Z, its Proprietor, are hereby called upon to show cause in writing to the Superintendent, CGST Range - [•], Cuttack Division, Bhubaneswar CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) the input tax credit of Rs.2,10,000/- of central tax and Rs.2,10,000/- of Odisha State tax (total Rs.4,20,000/- (Rupees Four Lakh Twenty Thousand only)) claimed in FORM GSTR-3B for April 2024 to March 2025 in excess of the credit communicated in FORM GSTR-2B and not so communicated up to 30.11.2025, should not be held to be wrongly availed and utilised in contravention of Section 16(2)(aa) and Section 16(4) of the CGST Act, 2017/OGST Act, 2017 read with Rule 36(4) of the CGST Rules, 2017;

(ii) the said amount of Rs.4,20,000/- should not be demanded and recovered from M/s XXX under Section 74A(1) of the CGST Act, 2017 and the corresponding provisions of the OGST Act, 2017, the payments made on 14.08.2026 against the IGST and interest being appropriated to those heads;

(iii) interest at 24% under Section 50(3) of the CGST Act, 2017/OGST Act, 2017 read with Rule 88B(3) should not be charged and recovered on the amount at (ii) from the dates of utilisation till payment (Rs.1,97,060/- up to 30.11.2026, as in Annexure-A);

(iv) a penalty of Rs.21,000/- (central tax) and Rs.21,000/- (State tax), total Rs.42,000/-, being ten per cent of the tax due, should not be imposed under Section 74A(5)(i) of the CGST Act, 2017/OGST Act, 2017 (without prejudice to the benefit of nil penalty under Section 74A(8)(ii) on payment of tax and interest within sixty days of the issue of the notice).

8. The Noticee is further informed that:

- a written reply to this notice, along with all documents relied upon, must be furnished within thirty (30) days of receipt, failing which the case will be decided ex parte on merits;
- an opportunity of personal hearing will be granted before adjudication, on a date to be separately intimated;
- attention is drawn to Section 74A(8)(ii) of the CGST Act, 2017/OGST Act, 2017, whereby, if the tax at (ii) and the interest at (iii) are paid within sixty (60) days of the issue of this notice, no penalty shall be payable and all proceedings in respect of this notice shall be deemed to be concluded;
- this notice is issued without prejudice to any other action under the CGST Act, 2017/OGST Act, 2017 or any other law.

List of Relied Upon Documents (RUDs):

RUD-1: FORM GST ASMT-10 dated 06.05.2026; **RUD-2:** FORM GST ASMT-11 dated 02.06.2026 with invoice-wise reconciliation;

RUD-3: FORM GST ASMT-12 dated 25.06.2026; **RUD-4:** FORM GST DRC-01A dated 20.07.2026;

RUD-5: FORM GST DRC-03 dated 14.08.2026 with challan; **RUD-6:** Noticee's reply dated 25.08.2026 on the CGST/State tax;

RUD-7: FORM GSTR-3B for April 2024 to March 2025, GSTR-2B for the same months and for April 2025 to January 2026, and GSTR-9 for FY 2024-25;

Annexure-A: Month-wise statement of category B credit, utilisation and interest [as per the working in Part B].

(_____)
Superintendent, CGST
Range - [•], Division - [•], Bhubaneswar CGST Commissionerate

Copy to: The Deputy/Assistant Commissioner, CGST Division, for information.

Drafting note (not part of the notice):

- *The addressee, jurisdictional range/officer, F. No./DIN and dates shown in square brackets/blanks are illustrative placeholders and must be completed with the correct particulars before issue.*
- ***Teaching twist - the sequence ASMT-10, DRC-01A, SCN.*** *A discrepancy that is visible from the returns is not made a show cause notice at once. Scrutiny (Section 61, Rule 99) comes first; explanation is accepted where it is good (ASMT-12); DRC-01A (Rule 142(1A)) invites payment with the benefit of Section 74A(8)(i); the SCN is issued only for what is left. The DRC-01A form itself carries the Section 74A(8)/(9) references (Notification No. 20/2024-Central Tax, w.e.f. 01.11.2024). The notice records each step, because the date and content of ASMT-10/ASMT-12 are the proof that the Noticee was heard.*
- ***Timing difference or permanent loss?*** *Classify every excess invoice: reflected in GSTR-2B in time (category A: no demand), never reflected (category B: demand), or reflected after the Section 16(4) date (part of B: demand, no relief). The time limit of 30.11.2025 for FY 2024-25 invoices (earlier of that date and the annual return, here filed 28.12.2025) is why supplier compliance after that date does not help.*
- ***Points flagged.*** *(a) Whether interest is leviable on credit claimed earlier than its appearance in GSTR-2B but eligible later (category A) is not settled by any provision cited; here the Noticee paid it voluntarily and the SCN does not demand it again. (b) The annual return due date for FY 2024-25 is taken as 31.12.2025 without extension (no extension is known; confirm from the notifications before issue). (c) The effect of a payment under DRC-01A on the penalty for the part that remains disputed (Section 74A(10)) is applied as drafted - penalty only on the shortfall tax.*
- ***Non-fraud.*** *Open disclosure in GSTR-3B and GSTR-9, production of invoices on request, and a timing dispute make a fraud charge unsustainable.*
- *The draft should be settled by the jurisdictional Range/Division before issue (DRC-01), including verification of the monetary-limit-based issuing/adjudicating authority under Circular No. 31/05/2018-GST dated 09.02.2018 (Superintendent: central tax up to Rs.10 lakh; Deputy/Assistant Commissioner: above Rs.10 lakh up to Rs.1 crore; Additional/Joint Commissioner: above Rs.1 crore). Here the central tax demand is Rs.2,10,000/- (no IGST in the notice), within the Superintendent's limit.*
- *Return of non-RUDs (Non-Relied Upon Documents): When the SCN is issued to the taxpayer in the form of DRC-01 (uploaded on the portal if registered, as well as delivered as per the provisions of law), non-RUDs must be returned to the noticee under due acknowledgement within seven days of issuance of the SCN.*

***

Exercise 8

Availing input tax credit on motor cars, outdoor catering, club membership and items for personal consumption - blocked credit under Section 17(5)

Exercise 8: Availing input tax credit on motor cars, outdoor catering, club membership and items for personal consumption - blocked credit under Section 17(5)

Situation in Brief:

1. M/s XXX Pvt. Ltd. (the Company), having its registered office and factory at YYYY, Bengaluru, Karnataka, is a registered person engaged in the manufacture and supply of precision engineered components, all of which are taxable supplies. Mr. Z is its Managing Director. The Company files FORM GSTR-1 and FORM GSTR-3B regularly and pays tax mainly through its electronic credit ledger.

2. The Commissioner of Central Tax, Bengaluru South, ordered an audit of the Company for FY 2024-25 under Section 65 of the CGST Act, 2017. Notice in FORM GST ADT-01 was served on 03.08.2026. The audit commenced at the Company's premises on 26.08.2026, when the records were made available, and concluded on 25.09.2026. The findings were communicated to the Company in FORM GST ADT-02 dated 09.10.2026.

3. The audit team scrutinised the purchase register, the fixed-asset register, the ITC ledger, the GSTR-3B returns and the supplier invoices for FY 2024-25. It noticed that the Company had availed input tax credit (ITC) of both central tax and State tax on the invoices listed below, all of which are in the name of the Company, were reported by the suppliers in their returns, were duly recorded in the books and were taken as ITC in the GSTR-3B of the month of the invoice (the tax shown below is the tax charged in each invoice; no compensation cess credit was availed):

Sl.	Invoice date / supplier	Nature of supply and as recorded in the books	Taxable value (Rs.)	CGST (Rs.)	KGST (Rs.)
1	18.06.2024 - M/s AAA Motors Pvt. Ltd.	Motor car (sedan, approved seating capacity 5 incl. driver) for Mr. Z	62,00,000	8,68,000	8,68,000
2	20.06.2024 - M/s BBB Insurance Brokers	Comprehensive motor insurance of the sedan	2,10,000	18,900	18,900
3	29.08.2024 - M/s AAA Motors Pvt. Ltd.	Motor car (multi-utility vehicle, seating capacity 7 incl. driver) for directors/guests	26,00,000	3,64,000	3,64,000
4	05.09.2024 - M/s AAA Motors Pvt. Ltd.	Tempo-traveller (approved seating capacity 17 incl. driver) for staff transport	24,00,000	3,36,000	3,36,000
5	10.10.2024 - M/s CCC Club	Corporate membership of M/s CCC Club, Bengaluru (entrance fee and subscription)	9,50,000	85,500	85,500
6	02.11.2024 - M/s DDD Interiors	Interior furnishings, modular kitchen and home-theatre installed at Mr. Z's residence	7,00,000	63,000	63,000
7	16.12.2024 - M/s EEE Caterers	Outdoor catering for staff annual day and dealers' meet held on 14.12.2024	6,40,000	57,600	57,600
8	20.01.2025 - M/s DDD Interiors	Home-theatre system and furniture installed at Mr. Z's residence (second consignment)	3,00,000	27,000	27,000
	TOTAL ITC availed on the above		**1,40,00,000**	**18,20,000**	**18,20,000**

Ledger position: *The Company's electronic credit ledger carried only a negligible balance at the beginning of every month, and the whole of the ITC of each month was consumed in discharging output tax liability in that month's GSTR-3B, which was filed on the due date (20th of the following month).*

4. The fixed-asset register and the log-books produced at the audit show that the two cars (items 1 and 3 of the table, being the sedan and the multi-utility vehicle) are registered in the name of the Company and are used by the Managing Director, the other director and their families, and for receiving visiting customers and guests. The Company has no taxi, rent-a-cab, driving-school or vehicle-trading business.

The tempo-traveller (item 4) is registered with an approved seating capacity of 17 persons including the driver and is used for bringing staff from their residences to the factory.

5. The club membership (item 5) was taken in the name of the Company for use of the directors. The caterer's invoice (item 7) relates to a staff annual day and dealers' meet at a hotel lawn, with food and beverages served at the venue. The Company does not itself supply catering or club services. The invoices of M/s DDD Interiors (items 6 and 8) carry the 'ship-to' address as the residential flat of Mr. Z at YYYY, Bengaluru, and the delivery challans bear his signature; the Company's books record them under 'Office renovation and furniture'.

6. The statement of Mr. Z was recorded on 14.10.2026 under Section 70 of the CGST Act, 2017. He stated that the cars are used mostly by the directors for their personal and office travel; that the Company has no business of passenger transport; that the club membership is for the directors and their guests; that the furnishings and home-theatre were purchased for his residence and were paid for by the Company as part of his perquisites; that the Company did not examine Section 17(5) while claiming credit, as the invoices were in the Company's name and the goods and services were actually received; and that the Company has not reversed any of the credit so far. By letter dated 19.10.2026, the Company contended that all the items were used 'in the course or furtherance of business'. No payment has been made.

7. The Company has not been investigated earlier for the same issue, no search has been conducted, and no evidence of any false invoice or of any non-receipt of goods or services has been noticed. The Company has furnished all records called for.

8. Now in the light of the above, -

(i) Identify the provision(s) of GST law contravened by M/s XXX Pvt. Ltd. (under heading **Contravention**).

(ii) Identify the provision(s) of GST law under which action is to be taken against M/s XXX Pvt. Ltd. (under heading **Consequences of Contravention of legal Provisions**).

(iii) Draft the **Charging Paragraph** of the Show Cause Notice proposed to be issued to M/s XXX Pvt. Ltd., calling upon M/s XXX Pvt. Ltd. to show cause as to why action should not be taken against them, while listing the proposed action to be taken against M/s XXX Pvt. Ltd..

(iv) Also prepare the **draft Show Cause Notice** for issuance to M/s XXX Pvt. Ltd..

***

SUGGESTED SOLUTION

(Audit findings under Section 65, Determination of ITC wrongly availed and utilised under Section 74A, and Draft Show Cause Notice - M/s XXX Pvt. Ltd., Bengaluru South CGST Commissionerate)

A. CONTRAVENTION

On the facts as recorded, the following provisions of law stand contravened (in each case read with the corresponding provisions of the Karnataka Goods and Services Tax Act, 2017 [KGST Act] and the Rules made under the two Acts):

1. **Section 17(5)(a) of the CGST Act, 2017** - ITC has been availed on two motor vehicles meant for transportation of persons with approved seating capacity of not more than thirteen persons (including the driver). The exceptions in clause (a) - further supply of such motor vehicles, transportation of passengers, and imparting training on driving such vehicles - require that the vehicle be used *for making that particular taxable outward supply*. The Company, a manufacturer of components, makes none of these supplies, so no exception is available.
2. **Section 17(5)(ab) of the CGST Act, 2017** - ITC has been availed on general insurance of the sedan. Clause (ab) blocks general insurance, servicing, repair and maintenance in so far as they relate to the motor vehicles in clause (a), and the proviso restoring credit (vehicles used for the purposes in (a)/(aa), or recipient being a manufacturer or insurer of such vehicles) is not satisfied.
3. **Section 17(5)(b)(i) of the CGST Act, 2017** - ITC has been availed on outdoor catering and food and beverages. The proviso permits credit only if the inward supply is used for making an outward taxable supply of the *same category* (or as an element of a taxable composite or mixed supply); the Company does not supply catering. The proviso at the end of clause (b) (supply obligatory on the employer under any law) is also not met, as no law obliges the Company to hold an annual day or a dealers' meet.
4. **Section 17(5)(b)(ii) of the CGST Act, 2017** - ITC has been availed on membership of a club. There is no proviso or exception to this limb.
5. **Section 17(5)(g) of the CGST Act, 2017** - ITC has been availed on goods and services (interior works, furnishings, home-theatre) used for the personal consumption of Mr. Z at his residence.
6. **Section 16(1) read with Section 17(5) of the CGST Act, 2017** - the entitlement under Section 16(1) is subject to the opening words of Section 17(5) ('notwithstanding anything contained in sub-section (1) of section 16'); credit was therefore wrongly availed and, having been consumed in discharging output tax liability each month, also wrongly utilised.

***Note:* Considered and not invoked (1):** *Section 122(1)(vii) (taking or utilising ITC without actual receipt of goods or services) is not attracted. Every supply was actually received, the invoices are genuine and in the Company's name, and the objection is to the eligibility of the credit and not to its authenticity. The penal consequence of ineligible credit on genuine receipts lies in Section 74A(5) (and Section 122(2)(a)); invoking 122(1)(vii) would be an over-charge. For the same reason, no action is proposed under Section 132.*

Note:* Considered and not invoked (2) - the tempo-traveller:** *The vehicle at item 4 has approved seating capacity of 17 persons including the driver. Clause (a) of Section 17(5) is confined to vehicles with seating capacity of not more than thirteen persons (including the driver); the ITC on the tempo-traveller (Rs.3,36,000/- each of central and State tax) is therefore not blocked and is* ***not *included in the demand. A correct SCN separates ineligible from eligible credit and does not demand more than the law allows.*

***Note:* Considered and not invoked (3):** *Section 17(5)(h), (c) and (d) are not engaged (no loss/gift of goods and no construction of immovable property). Section 17(1) (apportionment for non-business use) is not applied because clause (g) blocks personal-consumption credit in full, with no scope for apportionment. Compensation cess is taken, for the purposes of this exercise, not to have been charged or availed, so no Compensation Cess Act demand arises (in practice, check whether cess was charged on the vehicles).*

***Note:* Why Mr. Z is not made a co-noticee:** *The penalties on persons other than the registered person (Section 122(1A) and Section 122(3)) are tied to the fraudulent or abetting conduct described in those provisions. There is no allegation of an invoice-based fraud, so the Company alone is the Noticee. The benefit that Mr. Z derived is a matter of the Company's treatment of perquisites and is outside the scope of this SCN.*

B. CONSEQUENCES OF CONTRAVENTION OF LEGAL PROVISIONS

The contraventions at (A) above expose M/s XXX Pvt. Ltd. to the following action under the CGST Act, 2017 (read with the corresponding provisions of the KGST Act, 2017):

1. Reversal / demand of ineligible ITC - under **Section 74A(1) of the CGST Act, 2017** (and the KGST Act), as the credit pertains to FY 2024-25 for which Section 74A (and not Sections 73/74) is the demand provision [Section 74A(12); Notification No.17/2024-Central Tax dated 27.09.2024]. Since Section 65(7) (as amended) permits the proper officer to initiate action under Section 73, 74 or 74A on audit findings, the audit route and the demand route fit together. The notice may be issued within forty-two months from the due date of the annual return for FY 2024-25 [Section 74A(2); the annual return is due on 31.12.2025 under Section 44 read with Rule 80(1)], so it is well within time. The order must be passed within twelve months of the notice [Section 74A(7)], extendable by six months in the manner provided.

2. Interest - under **Section 50(3) of the CGST Act, 2017** (not Section 50(1)), because the credit was both wrongly availed *and* utilised. The rate notified for Section 50(3) is 24% per annum (Notification No.13/2017-Central Tax). Under Rule 88B(3) it runs from the date of utilisation to the date of reversal of the credit. The utilisation date is fixed by the Explanation to Rule 88B: where the ledger balance falls below the amount wrongly availed on account of payment of tax through the return, it is the earlier of the due date and the filing date of that return. Here the returns were filed on the due dates, and the ledger was exhausted every month, so the due date is the date of utilisation.

3. Penalty - under **Section 74A(5)(i) of the CGST Act, 2017**: ten per cent of the tax due or Rs.10,000/-, whichever is higher, under each Act. *Why not Section 74A(5)(ii)?* Fraud, wilful misstatement or suppression of facts to evade tax is not made out. The invoices are genuine, are in the Company's name, are recorded in the books and the GSTR-3B, and the ship-to address of the personal-use items is plainly stated on the invoices. The Company honestly, though wrongly, took the view that credit follows receipt for business. 'Suppression' within Explanation 2 to Section 74A means non-declaration of facts required to be declared or failure to furnish information asked for in writing; neither is shown. Without prejudice, Section 122(2)(a) (registered person, ITC wrongly availed or utilised, other than for fraud: ten per cent or Rs.10,000/-, whichever is higher) is cited in the alternative, subject to Section 75(13), so that the penalty for the same act is imposed only once. The concession in **Section 74A(8)** is available: no penalty if the tax and interest are paid before the notice [clause (i)] or within sixty days of its issue [clause (ii)]. Section 74A(11) is not attracted as no self-assessed tax is unpaid.

4. Recovery - under Sections 78 and 79 of the CGST Act, 2017, if the amount confirmed is not paid in time. The ITC already utilised can be recovered only by payment in cash (or reversal of any unutilised balance) - it cannot be 'adjusted' against the ledger as of right.

5. Prosecution - Section 132 has been considered and is not proposed: the receipt of goods and services is genuine and there is no false invoice or fraudulent ITC.

6. Issuing authority - the central tax involved (Rs.14,84,000/-) exceeds Rs.10 lakh and is below Rs.1 crore, so the notice is to be issued by the Deputy/Assistant Commissioner of Central Tax in accordance with Circular No.31/05/2018-GST dated 09.02.2018, not by the Superintendent.

Illustrative working of ITC proposed to be disallowed (ineligible items only; the tempo-traveller credit of Rs.3,36,000/- each is excluded) and of interest up to 31.10.2026 (the interest continues to accrue till actual reversal/payment):

Sl.	Item / invoice date	Section 17(5)	CGST ITC (Rs.)	KGST ITC (Rs.)	Utilised on	Days	Interest @24% on each head (Rs.)
1	Sedan (18.06.2024)	17(5)(a)	8,68,000	8,68,000	20.07.2024	833	4,75,426
2	Insurance of cars (20.06.2024)	17(5)(ab)	18,900	18,900	20.07.2024	833	10,352
3	Multi-utility vehicle (29.08.2024)	17(5)(a)	3,64,000	3,64,000	20.09.2024	771	1,84,533
4	Club membership (10.10.2024)	17(5)(b)(ii)	85,500	85,500	20.11.2024	710	39,916
5	Personal-use goods (02.11.2024)	17(5)(g)	63,000	63,000	20.12.2024	680	28,169
6	Outdoor catering (16.12.2024)	17(5)(b)(i)	57,600	57,600	20.01.2025	649	24,580
7	Personal-use goods (20.01.2025)	17(5)(g)	27,000	27,000	20.02.2025	618	10,972
	TOTAL		**14,84,000**	**14,84,000**			**7,73,948**

Basis: *Group-wise central tax (the State tax is equal): Section 17(5)(a) and (ab) - Rs.12,50,900/-; Section 17(5)(b) - Rs.1,43,100/-; Section 17(5)(g) - Rs.90,000/-; total Rs.14,84,000/-. Interest on each head of tax = tax x 24% x days / 365 (rounded to the nearest rupee), the days being counted from the day following the due date of the GSTR-3B up to 31.10.2026. Total illustrative interest: Rs.7,73,948/- (central tax) + Rs.7,73,948/- (State tax) = Rs.15,47,896/- .*

C. CHARGING PARAGRAPH OF THE SHOW CAUSE NOTICE

[The following is the operative charging paragraph proposed for incorporation in the Show Cause Notice at Part D below.]

Now, therefore, M/s XXX Pvt. Ltd., a company incorporated under the Companies Act, 2013, having its registered office at YYYY, Bengaluru, Karnataka (GSTIN: [•]), is hereby called upon to show cause in writing to the Deputy/Assistant Commissioner of Central Tax, Division - [•], Bengaluru South CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) *the input tax credit of Rs.14,84,000/- (Central tax) and Rs.14,84,000/- (Karnataka State tax), total Rs.29,68,000/- (Rupees Twenty-Nine Lakh Sixty-Eight Thousand only), availed during June 2024 to January 2025 on the supplies detailed in Annexure-A to this notice, being credit barred under clauses (a), (ab), (b)(i), (b)(ii) and (g) of Section 17(5) of the CGST Act, 2017/KGST Act, 2017, should not be held to have been wrongly availed and utilised, and should not be demanded and recovered from it under Section 74A(1) of the CGST Act, 2017 and the corresponding provisions of the KGST Act, 2017;*

(ii) *interest at the rate of 24 per cent per annum under Section 50(3) of the CGST Act, 2017/KGST Act, 2017, read with Rule 88B(3) of the CGST Rules, 2017, should not be charged and recovered on the amount at (i) above from the respective dates of utilisation (the due dates of the GSTR-3B returns in which the credit was utilised) up to the date of reversal/payment;*

(iii) *a penalty of Rs.1,48,400/- (Central tax) and Rs.1,48,400/- (Karnataka State tax), total Rs.2,96,800/-, being ten per cent of the tax due, should not be imposed on it under Section 74A(5)(i) of the CGST Act, 2017/KGST Act, 2017 (without prejudice to the benefit of nil penalty to which it may become entitled under Section 74A(8) on payment of tax and interest within the time therein specified); and*

(iv) *in the alternative to (iii) above, and without prejudice to it, penalty should not be imposed under Section 122(2)(a) of the CGST Act, 2017/KGST Act, 2017, subject to Section 75(13) of the CGST Act, 2017 so that no penalty is imposed twice for the same act or omission.*

D. DRAFT SHOW CAUSE NOTICE

F. No. GEXCOM/ADJN/SCN/[•]/2026-BLR SOUTH

DIN: [Document Identification Number to be auto-generated on issue]

Office of the Deputy/Assistant Commissioner, CGST Division - [•], Bengaluru South CGST Commissionerate, Karnataka

Date: [•].11.2026

SHOW CAUSE NOTICE

(Issued under Section 74A of the Central Goods and Services Tax Act, 2017 read with Section 74A of the Karnataka Goods and Services Tax Act, 2017)

To,
M/s XXX Pvt. Ltd.,
(GSTIN: [•]),
YYYY, Bengaluru, Karnataka.

(hereinafter referred to as 'the Noticee' or 'the Company')

WHEREAS the Noticee, M/s XXX Pvt. Ltd., having its registered office and factory at YYYY, Bengaluru, is engaged in the manufacture and supply of precision engineered components, all of which are taxable supplies, and is registered under the CGST Act, 2017/KGST Act, 2017;

2. AND WHEREAS an audit of the Noticee for FY 2024-25 was undertaken under Section 65 of the CGST Act, 2017 by the authorised officers; notice in FORM GST ADT-01 was served on 03.08.2026 (RUD-1), the audit commenced on 26.08.2026 and concluded on 25.09.2026, and the findings were communicated in FORM GST ADT-02 dated 09.10.2026 (RUD-2);

3. AND WHEREAS scrutiny of the purchase register, fixed-asset register, ITC ledger, GSTR-3B returns and supplier invoices (RUD-3 to RUD-5) revealed that the Noticee had availed ITC of Rs.14,84,000/- of central tax and Rs.14,84,000/- of Karnataka State tax during June 2024 to January 2025 on the following supplies, which are barred under Section 17(5) of the CGST Act, 2017:

- **Motor vehicles and their insurance** [Section 17(5)(a) and (ab)] - a sedan with approved seating capacity of five persons (invoice dated 18.06.2024) and a multi-utility vehicle with seating capacity of seven persons (invoice dated 29.08.2024) purchased from M/s AAA Motors Pvt. Ltd., and the comprehensive insurance of the sedan (invoice dated 20.06.2024 of M/s BBB Insurance Brokers) - central tax Rs.12,50,900/- and State tax Rs.12,50,900/-. The log-books and the Noticee's own statement show that the vehicles are used by the directors and their families and for receiving guests; the Noticee does not supply vehicles, passenger transport or driving training, so none of the exceptions in clause (a) applies;
- **Food and beverages / outdoor catering and club membership** [Section 17(5)(b)(i) and (ii)] - outdoor catering of M/s EEE Caterers for the staff annual day and dealers' meet (invoice dated 16.12.2024) and corporate membership of M/s CCC Club (invoice dated 10.10.2024) - central tax Rs.1,43,100/- and State tax Rs.1,43,100/-. The Noticee does not make an outward supply of catering of the same category; the club membership is for the directors; and
- **Goods and services for personal consumption** [Section 17(5)(g)] - interior works, furnishings and home-theatre system invoiced by M/s DDD Interiors on 02.11.2024 and 20.01.2025, delivered to and installed at the residence of Mr. Z - central tax Rs.90,000/- and State tax Rs.90,000/-;

4. AND WHEREAS Mr. Z, Managing Director of the Noticee, in his statement recorded under Section 70 of the CGST Act, 2017 on 14.10.2026 (RUD-6), inter alia, admitted that: (a) the cars are used mostly by

the directors for personal and office travel and the Company has no business of passenger transport; (b) the club membership is for the directors and their guests; (c) the furnishings and home-theatre were purchased for his residence and paid for by the Company as part of his perquisites; (d) the Company did not examine Section 17(5) while claiming credit; and (e) none of the credit has been reversed. In its letter dated 19.10.2026 (RUD-7) the Noticee contended only that all the items were used 'in the course or furtherance of business', which does not meet the exclusion in Section 17(5) that operates 'notwithstanding' Section 16(1);

5. AND WHEREAS the credit of each month was consumed in discharging output tax liability in the same month's GSTR-3B, filed on the due date (20th of the following month); the credit has therefore been not only wrongly availed but also wrongly utilised, attracting interest under Section 50(3) read with Rule 88B(3) of the CGST Rules, 2017 at 24 per cent per annum from the dates of utilisation. Interest worked out up to 31.10.2026 is Rs.7,73,948/- (central tax) and Rs.7,73,948/- (State tax), and continues to accrue till reversal/payment (Annexure-A);

6. AND WHEREAS the ITC of Rs.3,36,000/- each of central tax and State tax availed on the tempo-traveller of seating capacity of seventeen persons (invoice dated 05.09.2024) falls outside Section 17(5)(a) and is not questioned in this notice;

7. AND WHEREAS the invoices are genuine, were issued in the name of the Noticee and were recorded in its books and returns, the ship-to address of the personal-use items appears on the face of the invoices, and the Noticee has furnished all records called for. No evidence of fraud, wilful misstatement or suppression of facts to evade tax has been found. The case is therefore appearing to be one of wrong availment of credit other than by fraud, wilful misstatement or suppression of facts, attracting penalty under Section 74A(5)(i) of the CGST Act, 2017/KGST Act, 2017;

8. AND WHEREAS it thus appears that the Noticee has contravened the following provisions of the CGST Act, 2017 (and the corresponding provisions of the KGST Act, 2017):

- Section 17(5)(a) and (ab) read with Section 16(1) - availing ITC on motor vehicles and on insurance relating to them;
- Section 17(5)(b)(i) and (ii) read with Section 16(1) - availing ITC on outdoor catering, food and beverages, and club membership;
- Section 17(5)(g) read with Section 16(1) - availing ITC on goods and services used for personal consumption;

9. AND WHEREAS the aforesaid acts and omissions render the Noticee liable to:

(a) demand and recovery of the ineligible ITC under Section 74A(1) of the CGST Act, 2017/KGST Act, 2017;

(b) interest under Section 50(3) of the CGST Act, 2017/KGST Act, 2017 read with Rule 88B(3) of the CGST Rules, 2017;

(c) penalty under Section 74A(5)(i) of the CGST Act, 2017/KGST Act, 2017; and

(d) in the alternative, penalty under Section 122(2)(a) of the CGST Act, 2017/KGST Act, 2017 (without prejudice to, and subject to Section 75(13) in relation to, the penalty at (c) above);

NOW, THEREFORE

M/s XXX Pvt. Ltd., a company having its registered office at YYYY, Bengaluru, Karnataka, is hereby called upon to show cause in writing to the Deputy/Assistant Commissioner of Central Tax, Division - [•], Bengaluru South CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) the input tax credit of Rs.14,84,000/- (Central tax) and Rs.14,84,000/- (Karnataka State tax), total Rs.29,68,000/- (Rupees Twenty-Nine Lakh Sixty-Eight Thousand only), availed during June 2024

to January 2025 on the supplies detailed in Annexure-A to this notice, being credit barred under clauses (a), (ab), (b)(i), (b)(ii) and (g) of Section 17(5) of the CGST Act, 2017/KGST Act, 2017, should not be held to have been wrongly availed and utilised, and should not be demanded and recovered from it under Section 74A(1) of the CGST Act, 2017 and the corresponding provisions of the KGST Act, 2017;

(ii) interest at the rate of 24 per cent per annum under Section 50(3) of the CGST Act, 2017/KGST Act, 2017, read with Rule 88B(3) of the CGST Rules, 2017, should not be charged and recovered on the amount at (i) above from the respective dates of utilisation (the due dates of the GSTR-3B returns in which the credit was utilised) up to the date of reversal/payment;

(iii) a penalty of Rs.1,48,400/- (Central tax) and Rs.1,48,400/- (Karnataka State tax), total Rs.2,96,800/-, being ten per cent of the tax due, should not be imposed on it under Section 74A(5)(i) of the CGST Act, 2017/KGST Act, 2017 (without prejudice to the benefit of nil penalty to which it may become entitled under Section 74A(8) on payment of tax and interest within the time therein specified); and

(iv) in the alternative to (iii) above, and without prejudice to it, penalty should not be imposed under Section 122(2)(a) of the CGST Act, 2017/KGST Act, 2017, subject to Section 75(13) of the CGST Act, 2017 so that no penalty is imposed twice for the same act or omission.

10. The Noticee is further informed that:

- a written reply to this notice, along with all documents relied upon, must be furnished within thirty (30) days of receipt of this notice, failing which the case will be decided ex parte on the basis of available records, on merits;
- an opportunity of personal hearing will be granted before adjudication, on a date to be separately intimated, and the Noticee (or an authorised representative) may appear in person or through counsel;
- attention is drawn to the benefit available under Section 74A(8) of the CGST Act, 2017/KGST Act, 2017, whereby, if the tax at (i) above and the interest at (ii) above are paid before the issue of this notice, no notice shall be served in respect of the said tax; and if they are paid within sixty (60) days of the issue of this notice, no penalty shall be payable and all proceedings in respect of the said notice shall be deemed to be concluded;
- this notice is issued without prejudice to any other action that may be taken against the Noticee or any other person under the CGST Act, 2017/KGST Act, 2017, or any other law for the time being in force.

List of Relied Upon Documents (RUDs):

RUD-1: Audit notice in FORM GST ADT-01 dated 03.08.2026 with proof of service;

RUD-2: Audit findings in FORM GST ADT-02 dated 09.10.2026;

RUD-3: Purchase register, fixed-asset register and ITC ledger of the Noticee for FY 2024-25 (relevant extracts);

RUD-4: Copies of the eight invoices (M/s AAA Motors Pvt. Ltd., M/s BBB Insurance Brokers, M/s CCC Club, M/s DDD Interiors, M/s EEE Caterers) and delivery challans;

RUD-5: FORM GSTR-3B returns of June 2024 to January 2025 and GSTR-2B statements;

RUD-6: Statement of Mr. Z recorded under Section 70 of the CGST Act, 2017 on 14.10.2026;

RUD-7: Letter dated 19.10.2026 of the Noticee;

Annexure-A: Statement of ITC disallowed and of interest under Section 50(3) up to 31.10.2026 [as per the working in Part B].

(_____)
Deputy/Assistant Commissioner, CGST
Division - [•], Bengaluru South CGST Commissionerate

Copy to: The Assistant Commissioner/Superintendent, Audit Circle, for information.

Drafting note (not part of the notice):

- *The addressee, jurisdictional range/officer, F. No./DIN and dates shown in square brackets/blanks are illustrative placeholders and must be completed with the correct particulars before issue.*
- *The tax shown in each invoice is a fact of the exercise; no GST rate is asserted for the supplies (the rate of a vehicle, club service or catering depends on the date and the notification and is not needed to decide eligibility under Section 17(5)). Interest is worked out up to an illustrative date (31.10.2026) and runs till actual reversal; recompute on the date of issue.*
- ***Teaching point - the exceptions.*** *Every exception in Section 17(5)(a) and (b) is tied to the Noticee's own outward supply (vehicle trading, passenger transport, driving training; outward supply of the same category as the input). Business use by a manufacturer is not an exception. Equally, the SCN must not over-charge: the 17-seater tempo-traveller is outside clause (a) and its credit is left untouched. The seating test is the 'approved seating capacity' in the registration certificate; obtain the RC particulars before issue.*
- ***Penalty.*** *Section 122(1)(vii) is not applicable because the goods and services were actually received (the credit is ineligible, not bogus). The Exercise follows Section 74A(5)(i), with Section 122(2)(a) only in the alternative and subject to Section 75(13) (the text of Section 75(13) now covers penalty imposed under Section 74A). If trainees find that facts show concealment (for example, personal-use items invoiced as 'office furniture' to a business address), the charge could be altered to Section 74A(5)(ii) with the concessions of Section 74A(9); here the ship-to address of the residence is on the face of the invoices.*
- ***Interest.*** *Section 50(3) interest is attracted only because the credit was utilised; for any portion that remains unutilised in the ledger, interest under Section 50(3) is not leviable (Rule 88B(3) runs from the date of utilisation). The 'utilisation date' assumption (ledger exhausted every month, return filed on the due date) must be verified from the ledger before issue. Where the Noticee reverses the credit through FORM GST DRC-03 before the notice, the pre-notice route under Section 74A(8)(i) applies. The sequence ADT-02 -> intimation (Rule 142(1A) / FORM GST DRC-01A) -> SCN should be followed; confirm the current text of Rule 142 for Section 74A cases (not independently verified for this exercise).*
- ***Sub-clause lettering.*** *The limbs of Section 17(5)(b) are cited as (b)(i) food and beverages, outdoor catering etc., (b)(ii) club and fitness-centre membership and (b)(iii) travel benefits, with the proviso on supplies obligatory under law placed at the end of clause (b). This lettering was taken from secondary reproductions of the section; check it against the Gazette text before issue.*
- *Motor-vehicle credit on a car that is later sold: Section 18(6) and Rule 44(6) concern capital goods on which credit was validly taken and are not relevant to credit that was never admissible. Mr. Z is not made a noticee because there is no basis under Section 122(1A) or 122(3) (see note in Part A).*
- *The draft should be settled by the jurisdictional Range/Division before issue (DRC-01), including verification of the monetary-limit-based issuing/adjudicating authority under Circular No. 31/05/2018-GST dated 09.02.2018 (Superintendent: central tax up to Rs.10 lakh; Deputy/Assistant Commissioner: above Rs.10 lakh up to Rs.1 crore; Additional/Joint Commissioner: above Rs.1 crore). Here the central tax demand is Rs.14,84,000/-, so the Deputy/Assistant Commissioner is the proper issuing authority.*

- *Return of non-RUDs (Non-Relied Upon Documents): When the SCN is issued to the taxpayer in the form of DRC-01 (uploaded on the portal if registered, as well as delivered as per the provisions of law), non-RUDs must be returned to the noticee under due acknowledgement within seven days of issuance of the SCN.*

***

Exercise 9

Availing input tax credit on construction of a warehouse and civil structures on own account, while correctly claiming credit on machine foundations - Section 17(5)(c) and (d)

Exercise 9: Availing input tax credit on construction of a warehouse and civil structures on own account, while correctly claiming credit on machine foundations - Section 17(5)(c) and (d)

Situation in Brief:

1. M/s XXX is a partnership firm, with Mr. Z as its Managing Partner, having its factory at YYYY, Pithampur, Dhar, Madhya Pradesh, engaged in the manufacture of processed food products, all of which are taxable supplies. The firm is registered under the CGST Act, 2017/MPGST Act, 2017 and files returns regularly. Its annual return (FORM GSTR-9) for FY 2023-24 was furnished on 28.12.2024.

2. The Anti-Evasion/Audit Section of the Indore CGST Commissionerate, while analysing GSTR-9 data for FY 2023-24, noticed that the firm, a manufacturer, had availed unusually high ITC on 'works contract services' and on cement and steel during October 2023 to March 2024, and that its fixed-asset schedule showed a new 'Building - Warehouse' capitalised on 31.03.2024. A summons dated 22.07.2026 was issued to Mr. Z under Section 70 of the CGST Act, 2017 to produce the fixed-asset register, the contractor's bills, the building permission and completion certificate, and the drawings.

3. The documents produced on 06.08.2026 show that on its own land the firm constructed (i) an RCC-framed warehouse of about 1,20,000 sq. ft. for storing raw materials and finished goods (building permission dated 14.08.2023; completion certificate dated 20.03.2024), (ii) a compound wall, internal RCC roads and storm-water drains, and (iii) the civil foundation and structural steel supports for a newly installed automatic packing line, as per the drawings supplied by the machinery manufacturer. The building permission, the architect's certificate and the fixed-asset register show the warehouse and the compound wall/roads as capital assets 'on own account'; the warehouse is not let out and is used only for the firm's own goods. The packing line itself is a machine fixed to earth by foundation and structural support.

4. The firm availed ITC (central tax and State tax, in equal amounts) in its GSTR-3B returns for the tax periods October 2023 to March 2024 on (a) cement, TMT bars, ready-mix concrete and bricks purchased from M/s AAA Traders and M/s BBB Steels and consumed in the warehouse; (b) the running bills of M/s CCC Constructions, who executed the civil work of the warehouse as a composite contract of labour and materials; (c) the civil works of the compound wall, roads and drains; (d) fees of the architect and the structural engineer for the warehouse; and (e) the separate invoices of M/s CCC Constructions for the machine foundation and structural supports of the packing line. The central tax credit (the State tax credit is equal) is as follows:

Tax period	(a) Cement, steel, RMC, bricks etc. for warehouse (Rs.)	(b) Civil works contract - M/s CCC Constructions (Rs.)	(c) Compound wall, road, drainage (Rs.)	(d) Architect / structural consultant (Rs.)	(e) Machine foundation and supports (Rs.)
Oct 2023	9,40,000	-	-	90,000	-
Nov 2023	12,10,000	8,10,000	-	-	-
Dec 2023	14,25,000	12,60,000	-	45,000	1,35,000
Jan 2024	10,80,000	14,40,000	2,25,000	-	3,15,000
Feb 2024	6,20,000	11,25,000	4,50,000	-	-
Mar 2024	2,10,000	15,30,000	2,70,000	-	-
TOTAL	**54,85,000**	**61,65,000**	**9,45,000**	**1,35,000**	**4,50,000**

Ledger position: *The credit of each month was fully consumed in discharging the firm's output tax liability in the GSTR-3B of that month, filed on the due date (20th of the following month); the electronic credit ledger was exhausted every month, which has been verified from the ledger.*

5. The statement of Mr. Z was recorded on 06.08.2026 under Section 70 of the CGST Act, 2017. He stated that the warehouse, compound wall and roads were built on the firm's own land for its own use and capitalised; that credit was claimed on all construction invoices because the firm regarded the warehouse as 'plant' essential to its operations, on the basis of the then-prevailing view of the law; that the contractor's bills at item (e) relate only to the foundations and steel supports of the packing line; and that he has not reversed any credit. M/s CCC Constructions, in its statement dated 11.08.2026, confirmed the above split of work and produced the measurement book, which separates the machine foundation from the warehouse.

6. By its letter dated 25.09.2026 the firm submitted that the warehouse is a 'plant' because without it manufacturing would be disrupted, and that no credit should be disallowed. The firm has not paid any amount.

7. Now in the light of the above, -

(i) Identify the provision(s) of GST law contravened by M/s XXX (under heading **Contravention**).

(ii) Identify the provision(s) of GST law under which action is to be taken against M/s XXX (under heading **Consequences of Contravention of legal Provisions**).

(iii) Draft the **Charging Paragraph** of the Show Cause Notice proposed to be issued to M/s XXX, calling upon M/s XXX (a partnership firm, through its Managing Partner Mr. Z) to show cause as to why action should not be taken against them, while listing the proposed action to be taken against M/s XXX (a partnership firm, through its Managing Partner Mr. Z).

(iv) Also prepare the **draft Show Cause Notice** for issuance to M/s XXX.

***

SUGGESTED SOLUTION

(Inquiry on summons, Determination of ITC wrongly availed and utilised under Section 73, and Draft Show Cause Notice - M/s XXX, Indore CGST Commissionerate)

A. CONTRAVENTION

On the facts as recorded, the following provisions of law stand contravened (in each case read with the corresponding provisions of the Madhya Pradesh Goods and Services Tax Act, 2017 [MPGST Act] and the Rules made under the two Acts):

1. **Section 17(5)(c) of the CGST Act, 2017** - ITC has been availed on works contract services (item b) supplied for construction of an immovable property (the warehouse) other than plant and machinery; the exception for an input service used for *further supply of works contract service* is not available because the firm only manufactures food products.

2. **Section 17(5)(d) of the CGST Act, 2017** - ITC has been availed on goods and services received by the firm for construction of an immovable property on its own account, including when used in the course or furtherance of business (items a, c and d: cement, steel, civil works of compound wall, roads and drains, and architect's/engineer's services). The words 'on his own account including when such goods or services or both are used in the course or furtherance of business' defeat the argument that business use justifies the credit. The exclusion is for immovable property 'other than plant and machinery'. The Explanation to Section 17 excludes 'land, building or any other civil structures' from 'plant and machinery', so a warehouse, a compound wall, a road and a drain cannot be saved by this carve-out.

3. **Section 16(1) read with Section 17(5) of the CGST Act, 2017** - the entitlement under Section 16(1) is subject to Section 17(5) ('notwithstanding anything contained in sub-section (1) of section 16'); credit of Rs.1,27,30,000/- each of central tax and State tax was therefore wrongly availed and, having been consumed every month in payment of output tax, also wrongly utilised.

Note:* Considered and not invoked (1) - item (e):** *The foundation and structural supports of the packing line are covered by the definition of 'plant and machinery', which includes 'such foundation and structural supports' for apparatus, equipment and machinery fixed to earth and used for making outward supply. The credit of Rs.4,50,000/- each of central and State tax on item (e) is therefore* ***not blocked *and is excluded from the demand, even though the same contractor and the same civil materials are involved. The trainee must separate what is the machine's foundation from the building (the measurement book and the machinery manufacturer's drawing are the evidence).*

***Note:* Considered and not invoked (2) - 'plant or machinery' versus 'plant and machinery':** *Until the Finance Act, 2025, clause (d) of Section 17(5) read '(other than plant or machinery)', while clause (c) read '(other than plant and machinery)'. The Finance Act, 2025 (Act 7 of 2025) substituted 'plant and machinery' in clause (d) with effect from 01.07.2017, so the position for FY 2023-24 is the same as under clause (c) and the term is defined in the Explanation. A taxpayer who relied at the time on a wider reading of 'plant' (for example, that a building is 'plant' if it is functionally integral to the business) is met by the retrospective, statutory definition; this SCN therefore rests on the statute and not on any case law. The commencement notification for the other amendments made by the Finance Act, 2025 to the Explanation to Section 17(5)(d) must be checked before issue; this SCN does not rely on them.*

***Note:* Considered and not invoked (3):** *Section 74 is not invoked as no fraud, wilful misstatement or suppression of facts is shown (see Part B). Section 74A is not available for FY 2023-24 [Section 74A(12) applies from FY 2024-25 onwards]. Section 122(1)(vii) is not attracted because the goods and services were actually received. Section 17(5)(c)/(d) are subject to the 'to the extent capitalised' limit only for reconstruction, renovation, additions, alterations and repairs; for the original construction of the warehouse no apportionment arises.*

B. CONSEQUENCES OF CONTRAVENTION OF LEGAL PROVISIONS

The contraventions at (A) above expose M/s XXX to the following action under the CGST Act, 2017 (read with the corresponding provisions of the MPGST Act, 2017):

1. Demand of ineligible ITC - under **Section 73(1) of the CGST Act, 2017** (and the MPGST Act). The credit pertains to tax periods October 2023 to March 2024, i.e. FY 2023-24, for which Section 73 (and not Section 74A) governs [Section 73(12), inserted by the Finance (No.2) Act, 2024, limits Section 73 to tax pertaining to periods up to FY 2023-24; Notification No.17/2024-Central Tax]. *Limitation:* the annual return for FY 2023-24 was due on 31.12.2024 (Section 44 read with Rule 80(1)); the order must be passed within three years from that date, i.e. by 31.12.2027 [Section 73(10)], and the notice must be issued at least three months before that, i.e. not later than 30.09.2027 [Section 73(2)]. A notice in November 2026 is within time.

2. Interest - under **Section 50(3) of the CGST Act, 2017** at 24% per annum (Notification No.13/2017-Central Tax) because the credit was wrongly availed *and* utilised. Under Rule 88B(3), it is calculated from the date of utilisation up to the date of reversal of the credit or payment of the tax. The utilisation date under the Explanation to Rule 88B is the earlier of the due date and the filing date of the return in which the ledger balance fell below the amount wrongly availed; the returns having been filed on the due dates, that date is the due date of each GSTR-3B.

3. Penalty - under **Section 73(9) of the CGST Act, 2017**: ten per cent of the tax or Rs.10,000/-, whichever is higher, under each Act. *Why not Section 74 / penalty equal to tax?* The firm recorded every invoice in its books, disclosed the credit in its GSTR-3B and the annual return, capitalised the building in its fixed-asset register in full view, and produced everything on summons. Its claim rested on a view of the law (that a building integral to manufacture is 'plant') which, though now foreclosed by the retrospective amendment, was not a concealment of facts. Fraud, wilful misstatement or suppression of facts to evade tax is therefore not alleged. The concession in **Section 73(8)** is available: if the tax and interest are paid within thirty days of the notice, no penalty is payable and the proceedings are concluded; and under Section 73(5) the firm may pay the tax and interest before the notice. In the alternative, and without prejudice, Section 122(2)(a) is cited, subject to Section 75(13) so that penalty is imposed only once for the same act.

4. Recovery - under Sections 78 and 79 of the CGST Act, 2017, if the amount confirmed is not paid in time.

5. Prosecution - Section 132 has been considered and is not proposed: the supplies and receipts are genuine and recorded, and there is no intention to evade shown.

6. Issuing authority - the central tax involved (Rs.1,27,30,000/-) exceeds Rs.1 crore, so the notice is to be issued by the Additional/Joint Commissioner of Central Tax, Indore Commissionerate [Circular No.31/05/2018-GST dated 09.02.2018]; the Superintendent and the Deputy/Assistant Commissioner have no jurisdiction.

Illustrative working of the ITC proposed to be disallowed (items a to d) and of interest up to 31.10.2026 (the interest continues to accrue till actual reversal/payment); the retained credit on item (e) is shown only for reconciliation:

Tax period	Disallowed CGST ITC (a)-(d) (Rs.)	Disallowed MPGST ITC (Rs.)	Utilised on	Days	Interest @24% on each head (Rs.)	Retained: (e) CGST = MPGST (Rs.)
Oct 2023	10,30,000	10,30,000	20.11.2023	1076	7,28,732	-
Nov 2023	20,20,000	20,20,000	20.12.2023	1046	13,89,317	-
Dec 2023	27,30,000	27,30,000	20.01.2024	1015	18,21,995	1,35,000
Jan 2024	27,45,000	27,45,000	20.02.2024	984	17,76,053	3,15,000
Feb 2024	21,95,000	21,95,000	20.03.2024	955	13,78,340	-

Mar 2024	20,10,000	20,10,000	20.04.2024	924	12,21,199	-
TOTAL	**1,27,30,000**	**1,27,30,000**			**83,15,636**	**4,50,000**

Basis: *Total disallowed central tax = (a) Rs.54,85,000 + (b) Rs.61,65,000 + (c) Rs.9,45,000 + (d) Rs.1,35,000 = Rs.1,27,30,000/-; the State tax is equal. Total ITC claimed on construction items (a) to (e) = Rs.1,31,80,000/- each of central and State tax, of which Rs.4,50,000/- each (item e) is eligible. Interest on each head = tax x 24% x days / 365 (rounded), the days counted from the day following the due date up to 31.10.2026: Rs.83,15,636/- (central) + Rs.83,15,636/- (State) = Rs.1,66,31,272/-.*

C. CHARGING PARAGRAPH OF THE SHOW CAUSE NOTICE

[The following is the operative charging paragraph proposed for incorporation in the Show Cause Notice at Part D below.]

Now, therefore, M/s XXX, a partnership firm having its factory at YYYY, Pithampur, Dhar, Madhya Pradesh (GSTIN: [•]), through its Managing Partner Mr. Z, is hereby called upon to show cause in writing to the Additional/Joint Commissioner of Central Tax, Indore CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) *the input tax credit of Rs.1,27,30,000/- (Central tax) and Rs.1,27,30,000/- (Madhya Pradesh State tax), total Rs.2,54,60,000/- (Rupees Two Crore Fifty-Four Lakh Sixty Thousand only), availed during October 2023 to March 2024 on goods and services received for construction of the warehouse, compound wall, roads and drains on own account and on works contract services for the warehouse, as detailed in Annexure-A to this notice, being credit barred under clauses (c) and (d) of Section 17(5) of the CGST Act, 2017/MPGST Act, 2017, should not be held to have been wrongly availed and utilised, and should not be demanded and recovered from it under Section 73(1) of the CGST Act, 2017 and the corresponding provisions of the MPGST Act, 2017;*

(ii) *interest at the rate of 24 per cent per annum under Section 50(3) of the CGST Act, 2017/MPGST Act, 2017, read with Rule 88B(3) of the CGST Rules, 2017, should not be charged and recovered on the amount at (i) above from the respective dates of utilisation up to the date of reversal/payment;*

(iii) *a penalty of Rs.12,73,000/- (Central tax) and Rs.12,73,000/- (Madhya Pradesh State tax), total Rs.25,46,000/-, being ten per cent of the tax, should not be imposed on it under Section 73(9) of the CGST Act, 2017/MPGST Act, 2017 (without prejudice to the benefit of nil penalty to which it may become entitled under Section 73(8) on payment of tax and interest within thirty days of the issue of this notice); and*

(iv) *in the alternative to (iii) above, and without prejudice to it, penalty should not be imposed under Section 122(2)(a) of the CGST Act, 2017/MPGST Act, 2017, subject to Section 75(13) of the CGST Act, 2017 so that no penalty is imposed twice for the same act or omission.*

D. DRAFT SHOW CAUSE NOTICE

F. No. GEXCOM/ADJN/SCN/[•]/2026-INDORE

DIN: [Document Identification Number to be auto-generated on issue]

Office of the Additional/Joint Commissioner, Indore CGST Commissionerate, Madhya Pradesh

Date: [•].11.2026

SHOW CAUSE NOTICE

(Issued under Section 73 of the Central Goods and Services Tax Act, 2017 read with Section 73 of the Madhya Pradesh Goods and Services Tax Act, 2017)

To,
M/s XXX (a partnership firm),
through Mr. Z, Managing Partner,
(GSTIN: [•]),
YYYY, Pithampur, Dhar, Madhya Pradesh.

(hereinafter referred to as 'the Noticee' or 'the Firm')

WHEREAS the Noticee, M/s XXX, a partnership firm with Mr. Z as Managing Partner, having its factory at YYYY, Pithampur, is engaged in the manufacture of processed food products, all of which are taxable supplies, and is registered under the CGST Act, 2017/MPGST Act, 2017. Its annual return for FY 2023-24 was furnished on 28.12.2024;

2. AND WHEREAS the analysis of GSTR-9 data for FY 2023-24 by the Anti-Evasion/Audit Section, Indore CGST Commissionerate, disclosed unusually high ITC on works contract services, cement and steel claimed by the Noticee during October 2023 to March 2024, and a new asset 'Building - Warehouse' capitalised on 31.03.2024 (RUD-1). A summons dated 22.07.2026 under Section 70 of the CGST Act, 2017 (RUD-2) was issued to Mr. Z, in response to which he produced on 06.08.2026 the fixed-asset register, the contractor's bills, building permission dated 14.08.2023, completion certificate dated 20.03.2024 and drawings (RUD-3 to RUD-6);

3. AND WHEREAS the said documents revealed that, on its own land, the Noticee constructed (i) an RCC-framed warehouse of about 1,20,000 sq. ft. for storing its own raw materials and finished goods, (ii) a compound wall, internal RCC roads and drains, and (iii) the civil foundation and structural supports for a newly installed automatic packing line; that the warehouse and the compound wall/roads are shown in the fixed-asset register as capital assets constructed on own account; and that the warehouse is not let out and is used only for the Noticee's own goods;

4. AND WHEREAS the Noticee availed ITC in the GSTR-3B returns for October 2023 to March 2024 on (a) cement, steel, ready-mix concrete and bricks used in the warehouse (central tax Rs.54,85,000/-); (b) running bills of the civil works contract of M/s CCC Constructions for the warehouse (Rs.61,65,000/-); (c) the civil works of the compound wall, roads and drains (Rs.9,45,000/-); and (d) fees of the architect and structural engineer (Rs.1,35,000/-) - total central tax Rs.1,27,30,000/- and equal State tax - besides credit of Rs.4,50,000/- each on (e) the foundation and structural supports of the packing line, which is not questioned in this notice since 'plant and machinery' includes such foundation and structural supports;

5. AND WHEREAS Mr. Z, in his statement recorded under Section 70 of the CGST Act, 2017 on 06.08.2026 (RUD-7), inter alia, admitted that the warehouse, compound wall and roads were built on the Noticee's own land for its own use and were capitalised; that credit was claimed on all construction invoices as the Noticee regarded the warehouse as 'plant'; that the contractor's bills at (e) relate only to the

foundation and supports of the packing line; and that no credit has been reversed. M/s CCC Constructions, in its statement dated 11.08.2026 (RUD-8), confirmed the split of work and produced the measurement book (RUD-9), which separates the machine foundation from the warehouse. The Noticee's letter dated 25.09.2026 (RUD-10) contended that a warehouse is 'plant' as it is essential for manufacture;

6. AND WHEREAS it appears that the contention is not tenable. Section 17(5)(c) blocks works contract services for construction of immovable property other than plant and machinery, and Section 17(5)(d) blocks goods or services received for construction of immovable property (other than plant and machinery) on own account, *including when used in the course or furtherance of business*. 'Plant and machinery' is defined in the Explanation to Section 17 as apparatus, equipment and machinery fixed to earth by foundation or structural support, including such foundation and structural supports, and *excluding* land, building or any other civil structures; the substitution of 'plant and machinery' for 'plant or machinery' in clause (d) by the Finance Act, 2025 has effect from 01.07.2017. A warehouse, compound wall, road and drain are buildings or civil structures. The credit of central tax Rs.1,27,30,000/- and State tax Rs.1,27,30,000/- is therefore ineligible;

7. AND WHEREAS the credit of each month was consumed in discharging output tax liability in the GSTR-3B of the same month, filed on the due date; it has therefore been wrongly availed and wrongly utilised, attracting interest under Section 50(3) read with Rule 88B(3) at 24 per cent per annum from the dates of utilisation. Interest up to 31.10.2026 is Rs.83,15,636/- (central tax) and Rs.83,15,636/- (State tax), and continues to accrue (Annexure-A);

8. AND WHEREAS all the purchases and contract bills were recorded in the Noticee's books, the credit was disclosed in its returns, the buildings were capitalised in its fixed-asset register, and every document was produced on summons; no evidence of fraud, wilful misstatement or suppression of facts to evade tax has been found, so that the case is appearing to be one falling under Section 73 and not Section 74, attracting penalty under Section 73(9) of the CGST Act, 2017/MPGST Act, 2017;

9. AND WHEREAS it thus appears that the Noticee has contravened Section 17(5)(c) and Section 17(5)(d) read with Section 16(1) of the CGST Act, 2017 (and the corresponding provisions of the MPGST Act, 2017) by availing and utilising ITC on works contract services and on goods and services received for the construction of immovable property other than plant and machinery;

10. AND WHEREAS the aforesaid acts render the Noticee liable to (a) demand and recovery of the ineligible ITC under Section 73(1) of the CGST Act, 2017/MPGST Act, 2017; (b) interest under Section 50(3) read with Rule 88B(3); (c) penalty under Section 73(9); and (d) in the alternative and without prejudice, penalty under Section 122(2)(a), subject to Section 75(13) of the CGST Act, 2017;

NOW, THEREFORE

M/s XXX, a partnership firm having its factory at YYYY, Pithampur, Dhar, Madhya Pradesh, through its Managing Partner Mr. Z, is hereby called upon to show cause in writing to the Additional/Joint Commissioner of Central Tax, Indore CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) the input tax credit of Rs.1,27,30,000/- (Central tax) and Rs.1,27,30,000/- (Madhya Pradesh State tax), total Rs.2,54,60,000/- (Rupees Two Crore Fifty-Four Lakh Sixty Thousand only), availed during October 2023 to March 2024 on goods and services received for construction of the warehouse, compound wall, roads and drains on own account and on works contract services for the warehouse, as detailed in Annexure-A to this notice, being credit barred under clauses (c) and (d) of Section 17(5) of the CGST Act, 2017/MPGST Act, 2017, should not be held to have been wrongly availed and utilised, and should not be demanded and recovered from it under Section 73(1) of the CGST Act, 2017 and the corresponding provisions of the MPGST Act, 2017;

(ii) interest at the rate of 24 per cent per annum under Section 50(3) of the CGST Act, 2017/MPGST Act, 2017, read with Rule 88B(3) of the CGST Rules, 2017, should not be charged and recovered on the amount at (i) above from the respective dates of utilisation up to the date of reversal/payment;

(iii) a penalty of Rs.12,73,000/- (Central tax) and Rs.12,73,000/- (Madhya Pradesh State tax), total Rs.25,46,000/-, being ten per cent of the tax, should not be imposed on it under Section 73(9) of the CGST Act, 2017/MPGST Act, 2017 (without prejudice to the benefit of nil penalty to which it may become entitled under Section 73(8) on payment of tax and interest within thirty days of the issue of this notice); and

(iv) in the alternative to (iii) above, and without prejudice to it, penalty should not be imposed under Section 122(2)(a) of the CGST Act, 2017/MPGST Act, 2017, subject to Section 75(13) of the CGST Act, 2017 so that no penalty is imposed twice for the same act or omission.

11. The Noticee is further informed that:

- a written reply to this notice, along with all documents relied upon, must be furnished within thirty (30) days of receipt of this notice, failing which the case will be decided ex parte on the basis of available records, on merits;
- an opportunity of personal hearing will be granted before adjudication, on a date to be separately intimated, and the Noticee (or an authorised representative) may appear in person or through counsel;
- attention is drawn to the benefit available under Section 73(8) of the CGST Act, 2017/MPGST Act, 2017, whereby, if the tax at (i) above and the interest at (ii) above are paid within thirty (30) days of the issue of this notice, no penalty shall be payable and all proceedings in respect of the said notice shall be deemed to be concluded;
- this notice is issued without prejudice to any other action that may be taken against the Noticee or any other person under the CGST Act, 2017/MPGST Act, 2017, or any other law for the time being in force.

List of Relied Upon Documents (RUDs):

RUD-1: GSTR-9 data analysis report of the Anti-Evasion/Audit Section for FY 2023-24;

RUD-2: Summons dated 22.07.2026 under Section 70 of the CGST Act, 2017, with proof of service;

RUD-3: Fixed-asset register and schedule of Buildings of the Noticee as on 31.03.2024;

RUD-4: Building permission dated 14.08.2023, completion certificate dated 20.03.2024 and architect's certificate;

RUD-5: Invoices and running bills of M/s AAA Traders, M/s BBB Steels, M/s CCC Constructions and the architect/structural engineer;

RUD-6: Drawings of the machinery manufacturer for the packing-line foundation and supports, and GSTR-3B returns for October 2023 to March 2024;

RUD-7: Statement of Mr. Z recorded under Section 70 of the CGST Act, 2017 on 06.08.2026;

RUD-8: Statement of the partner of M/s CCC Constructions dated 11.08.2026;

RUD-9: Measurement book of M/s CCC Constructions;

RUD-10: Letter dated 25.09.2026 of the Noticee;

Annexure-A: Month-wise statement of ITC disallowed and of interest under Section 50(3) up to 31.10.2026 [as per the working in Part B].

(_____)
Additional/Joint Commissioner, CGST
Indore CGST Commissionerate

Copy to: The Assistant/Deputy Commissioner, CGST Division - [•], Indore, for information.

Drafting note (not part of the notice):

- *The addressee, jurisdictional range/officer, F. No./DIN and dates shown in square brackets/blanks are illustrative placeholders and must be completed with the correct particulars before issue.*
- ***Which regime?** The credit was availed in tax periods October 2023 to March 2024, which belong to FY 2023-24; Section 74A applies only from FY 2024-25 [Section 74A(12)], so Section 73 (non-fraud) is used. The three-year order limit under Section 73(10) is counted from the due date of the annual return (31.12.2024 under Rule 80(1); no extension for FY 2023-24 was identified, which should be re-checked) and the notice must be issued at least three months earlier [Section 73(2)].*
- ***The 'plant or machinery' point.** The draft relies on the text of the Act as amended retrospectively by the Finance Act, 2025 and on the definition of 'plant and machinery'. The Finance Act, 2025 also renumbered the Explanation and inserted a further Explanation to clause (d) which, according to the secondary source consulted, was awaiting notification; neither is relied upon. No judgment on the old wording is cited because none has been fetched and read for this exercise; the Noticee will probably rely on such judgments and the adjudicating authority must deal with them in the order, with a fresh check of the current text of Section 17 and of any notification bringing the remaining amendments into force.*
- ***Do not over-charge.** The foundation and structural supports of machinery are expressly part of 'plant and machinery' - credit on item (e) is allowed. The same contractor and the same materials appear in both the blocked and the allowed invoices; the measurement book and the machinery manufacturer's drawing are therefore key evidence (RUD-6, RUD-9). If a mixed invoice does not segregate the two kinds of work, the Noticee should be called upon in the notice or at the hearing to produce the segregation.*
- ***Interest.** Section 50(3) interest runs only on credit that was utilised; the assumption that the ledger was exhausted every month must be verified from the ledger and the Explanation to Rule 88B (balance falling below the amount wrongly availed). If part of the credit was left unutilised, interest on that part is not leviable; the credit may simply be reversed. The interest is worked out up to the illustrative date of 31.10.2026 and runs till reversal.*
- ***Fraud or non-fraud?** Here every fact was disclosed and the claim rests on an interpretation of law; interpretation disputes do not by themselves amount to suppression. Records produced voluntarily and capitalisation in the books support the non-fraud treatment.*
- *The draft should be settled by the jurisdictional Range/Division before issue (DRC-01), including verification of the monetary-limit-based issuing/adjudicating authority under Circular No. 31/05/2018-GST dated 09.02.2018 (Superintendent: central tax up to Rs.10 lakh; Deputy/Assistant Commissioner: above Rs.10 lakh up to Rs.1 crore; Additional/Joint Commissioner: above Rs.1 crore). Here the central tax demand is Rs.1,27,30,000/-, so the Additional/Joint Commissioner is the adjudicating authority.*
- *Return of non-RUDs (Non-Relied Upon Documents): When the SCN is issued to the taxpayer in the form of DRC-01 (uploaded on the portal if registered, as well as delivered as per the provisions of law), non-RUDs must be returned to the noticee under due acknowledgement within seven days of issuance of the SCN.*

***

Exercise 10

Failure to reverse input tax credit attributable to exempt supplies on common inputs, input services and common capital goods - Section 17(2) and Rules 42 and 43

Exercise 10: Failure to reverse input tax credit attributable to exempt supplies on common inputs, input services and common capital goods - Section 17(2) and Rules 42 and 43

Situation in Brief:

1. M/s XXX Healthcare LLP (the LLP), having its hospital at YYYY, Kochi, Kerala, with Mr. Z as Designated Partner, runs a 200-bed multi-speciality hospital. It supplies health care services by a clinical establishment (in-patient and out-patient treatment, surgery and diagnostics), which are exempt from tax under Sl. No. 74 of Notification No. 12/2017-Central Tax (Rate). It also (i) runs a retail pharmacy counter selling medicines to walk-in customers and out-patients and (ii) leases a part of its building for commercial use; these two are taxable supplies. The LLP is registered under the CGST Act, 2017/KSGST Act, 2017.

2. The LLP's FY 2024-25 returns were selected for scrutiny under Section 61 of the CGST Act, 2017 because the reversal of ITC shown in Table 4(B) of the GSTR-3B returns for the year looked low against the proportion of exempt supplies declared in the returns. FORM GST ASMT-10 was issued on 18.06.2026 under Rule 99. The LLP's reply of 16.07.2026 stated only that it had 'reversed ITC on the common inputs as per Rule 42' and did not furnish the working; no ASMT-12 was issued. The Range then called for the ITC working sheets and the monthly turnover statements, and the Finance Manager, Mr. P, appeared on 11.09.2026 in response to a summons under Section 70 and produced them.

3. The month-wise value of exempt health-care services (E) and of taxable supplies, as per the LLP's books and returns, is as follows:

Month	Exempt health-care services (E) (Rs.)	Taxable supplies - pharmacy counter and rent (Rs.)	Total turnover in Kerala (F) (Rs.)
Apr 2024	1,48,00,000	32,00,000	1,80,00,000
May 2024	1,52,00,000	33,00,000	1,85,00,000
Jun 2024	1,45,00,000	31,00,000	1,76,00,000
Jul 2024	1,50,00,000	33,00,000	1,83,00,000
Aug 2024	1,56,00,000	34,00,000	1,90,00,000
Sep 2024	1,49,00,000	32,00,000	1,81,00,000
Oct 2024	1,53,00,000	34,00,000	1,87,00,000
Nov 2024	1,60,00,000	36,00,000	1,96,00,000
Dec 2024	1,58,00,000	35,00,000	1,93,00,000
Jan 2025	1,62,00,000	36,00,000	1,98,00,000
Feb 2025	1,55,00,000	34,00,000	1,89,00,000
Mar 2025	1,67,00,000	38,00,000	2,05,00,000
FY 2024-25	**18,55,00,000**	**4,08,00,000**	**22,63,00,000**

4. The working sheets and ledger for FY 2024-25 show, in respect of central tax (the State tax is equal; the LLP makes only intra-State supplies and purchases), the following ITC on inputs and input services: total ITC Rs.41,25,000/-; ITC on inputs and services used exclusively for exempt supplies (IPD consumables, implants), which the LLP has correctly not taken: Rs.17,40,000/-; ITC on items blocked under Section 17(5) (staff-event catering and a director's car), which the LLP has also correctly excluded: Rs.1,35,000/-; ITC on inputs and services used exclusively for the taxable supplies (pharmacy stock and repairs of the leased area): Rs.11,70,000/-; and the balance of Rs.10,80,000/- relates to common inputs and input services (housekeeping, security, software support, laundry, repairs of common areas) used for both exempt and taxable supplies. No common input was used for any non-business purpose.

5. In his statement dated 11.09.2026 recorded under Section 70, Mr. P stated that the LLP had been reversing every month an estimated 55 per cent of the common credit on the advice of its consultant, without computing the ratio of exempt turnover to total turnover; that the annual re-computation required to be made by the September 2025 return was never carried out; that the total so reversed in FY 2024-25 was Rs.5,94,000/- of central tax and an equal amount of State tax; and that, as the LLP treated its health-care services as 'outside GST', it had not computed any reversal in respect of the capital goods mentioned below.

6. The fixed-asset register shows that on 12.01.2024 the LLP bought and installed a centralised HVAC chiller plant serving the whole building, including the pharmacy and the leased area, for which ITC of Rs.14,40,000/- of central tax (and an equal amount of State tax) was credited in January 2024. No part of this credit has been added to output tax liability in any month of FY 2024-25. (A CT scanner purchased in the same year was used only for diagnostics and the LLP, correctly, did not claim ITC on it.)

7. Now in the light of the above, -

(i) Identify the provision(s) of GST law contravened by M/s XXX Healthcare LLP (under heading **Contravention**).

(ii) Identify the provision(s) of GST law under which action is to be taken against M/s XXX Healthcare LLP (under heading **Consequences of Contravention of legal Provisions**).

(iii) Draft the **Charging Paragraph** of the Show Cause Notice proposed to be issued to M/s XXX Healthcare LLP, calling upon M/s XXX Healthcare LLP (through its Designated Partner Mr. Z) to show cause as to why action should not be taken against them, while listing the proposed action to be taken against M/s XXX Healthcare LLP (through its Designated Partner Mr. Z).

(iv) Also prepare the **draft Show Cause Notice** for issuance to M/s XXX Healthcare LLP.

***

SUGGESTED SOLUTION

(Scrutiny of returns, Determination of credit attributable to exempt supplies under Section 74A, and Draft Show Cause Notice - M/s XXX Healthcare LLP, Kochi CGST Commissionerate)

A. CONTRAVENTION

On the facts as recorded, the following provisions of law stand contravened (in each case read with the corresponding provisions of the Kerala State Goods and Services Tax Act, 2017 [KSGST Act] and the Rules made under the two Acts):

1. **Section 17(2) of the CGST Act, 2017** - where goods or services are used partly for effecting taxable supplies and partly for effecting exempt supplies, ITC is restricted to so much of the input tax as is attributable to the taxable supplies. The LLP has retained credit on the common inputs and input services that is attributable to its exempt health-care services.
2. **Rule 42(1) and 42(2) of the CGST Rules, 2017** - failure to determine and add to output tax liability the credit D1 attributable to exempt supplies, computed as (E/F) x C2, and failure to make the final calculation for the whole of FY 2024-25 before the due date of the GSTR-3B for September 2025 (due 20.10.2025) and to pay the excess of the final amount over the provisional amount with interest.
3. **Rule 43(1)(c) to (h) of the CGST Rules, 2017** - failure to compute, for each tax period of the five-year useful life of the common capital goods, the monthly credit Tm (Tc/60) and the part Te attributable to exempt supplies, and to add it to output tax liability.
4. **Section 39(1) and 39(7) of the CGST Act, 2017** - the GSTR-3B returns did not declare the correct reversal and did not pay the tax due on it by the due date.

Note:* Considered and not invoked (1) - Section 50(3) interest.** *The credit on common inputs was lawfully availed in full when received (it is 'common credit' under Rule 42), and the liability to reverse the part attributable to exempt supplies arises later, by the rule itself, through the monthly/annual computation. Rule 42(2)(a) prescribes the interest on the excess D1 + D2: at the rate specified in Section 50(1) (18%), for the period starting from 1 April of the next financial year till payment. Rule 43(1)(h) likewise requires Te to be added to output tax liability each month 'along with applicable interest', so interest on Te is the Section 50(1) interest on tax not paid by the due date. Interest at the higher rate of 24% under Section 50(3) is therefore* ***not *proposed: that provision is for credit wrongly availed and utilised, whereas here the credit was properly taken and the default is in the later reversal.*

***Note:* Considered and not invoked (2):** *(a) T2 and T3 credits were not taken by the LLP and no demand arises on them; (b) D2 is nil because no common input was used for non-business purposes - the 5% of C2 is attributable to non-business use and should not be mechanically added; (c) the CT scanner, used exclusively for exempt diagnostic services, falls under Rule 43(1)(a) and no credit was taken; (d) Section 122(1)(vii) (ITC without receipt) is irrelevant as all inputs were received; (e) no penalty under Section 122(1)(x) as there is no false information - the exempt turnover was correctly reported.*

B. CONSEQUENCES OF CONTRAVENTION OF LEGAL PROVISIONS

The contraventions at (A) above expose M/s XXX Healthcare LLP to the following action under the CGST Act, 2017 (read with the corresponding provisions of the KSGST Act, 2017):

1. Demand - under **Section 74A(1) of the CGST Act, 2017** (and the KSGST Act), the credit pertaining to FY 2024-25 for which Section 74A is the demand provision [Section 74A(12); Notification No.17/2024-Central Tax dated 27.09.2024], consisting of (a) the short reversal under Rule 42 of Rs.2,91,285/- (central tax) and an equal State tax, and (b) the Rule 43 credit Te of Rs.2,36,105/- (central tax) and an equal State tax, being credit attributable to exempt supplies that was retained instead of being added to output tax liability. The notice may be issued within forty-two months from the due date of the

annual return for FY 2024-25 [Section 74A(2); due 31.12.2025 under Section 44 read with Rule 80(1)]; the order within twelve months of the notice [Section 74A(7)].

2. Interest - under **Section 50(1) of the CGST Act, 2017** at 18% per annum (Notification No.13/2017-Central Tax): on the Rule 42 shortfall from 01.04.2025 till payment [Rule 42(2)(a)], and on each monthly Te from the day following the due date of that month's GSTR-3B till payment (Section 50(2) read with Rule 88B(2)).

3. Penalty - under **Section 74A(5)(i) of the CGST Act, 2017**: ten per cent of the tax due or Rs.10,000/-, whichever is higher, under each Act. *Why not Section 74A(5)(ii)?* The LLP disclosed its exempt turnover truthfully in the returns, reversed a provisional amount every month and produced its working sheets; the failure is one of misunderstanding of Rules 42 and 43 and not of concealment. Without prejudice, Section 122(2)(a) is cited in the alternative, subject to Section 75(13). The concession in **Section 74A(8)** is available (no notice if tax and interest are paid before the notice; no penalty if paid within sixty days of its issue).

4. Prosecution - Section 132 is not proposed; no fraud or false record is alleged. Recovery - Sections 78 and 79 if the confirmed amount is not paid.

5. Issuing authority - the central tax involved is Rs.5,27,390/-, i.e. not more than Rs.10 lakh; the Superintendent is the proper officer to issue the notice under Circular No.31/05/2018-GST dated 09.02.2018.

Illustrative working of the Rule 42 shortfall (annual, central tax; the State tax is equal):

Step (Rule 42)	Working	Central tax (Rs.)
T - total ITC on inputs and input services	as per books	41,25,000
T1 - exclusively non-business	nil	0
T2 - exclusively exempt supplies (not credited)	IPD consumables, implants	17,40,000
T3 - blocked under Section 17(5)	staff-event catering, director's car	1,35,000
C1 = T - (T1+T2+T3)	credited to the ledger	22,50,000
T4 - exclusively taxable supplies	pharmacy stock, leased-area repairs	11,70,000
C2 = C1 - T4 (common credit)		10,80,000
E / F for the year	18,55,00,000 / 22,63,00,000 = 0.8197	
D1 = (E/F) x C2		8,85,285
D2 (non-business use of common inputs)	nil - none so used	0
Less: reversed by the LLP (flat 55% of C2)		5,94,000
Short-reversal (D1 + D2) - reversed		**2,91,285**

Basis: *Interest on the Rule 42 shortfall: Rs.2,91,285/- x 18% x 579 days (01.04.2025 to 31.10.2026, both days counted) / 365 = Rs.83,172/- each for central and State tax.*

Illustrative working of the Rule 43 credit Te (Tm = Tc/60 = Rs.24,000/- per month; Te = Tm x E/F of each month; central tax - the State tax is equal):

Month	E / F	Te = Tm x E/F (Rs.)	GSTR-3B due	Days to 31.10.2026	Interest @18% (Rs.)
Apr 2024	0.8222	19,733	20.05.2024	894	8,700
May 2024	0.8216	19,719	20.06.2024	863	8,392
Jun 2024	0.8239	19,773	20.07.2024	833	8,123
Jul 2024	0.8197	19,672	20.08.2024	802	7,780

Aug 2024	0.8211	19,705	20.09.2024	771	7,492
Sep 2024	0.8232	19,757	20.10.2024	741	7,220
Oct 2024	0.8182	19,636	20.11.2024	710	6,875
Nov 2024	0.8163	19,592	20.12.2024	680	6,570
Dec 2024	0.8187	19,648	20.01.2025	649	6,288
Jan 2025	0.8182	19,636	20.02.2025	618	5,984
Feb 2025	0.8201	19,683	20.03.2025	590	5,727
Mar 2025	0.8146	19,551	20.04.2025	559	5,390
TOTAL		**2,36,105**			**84,541**

Basis: *Total tax: Rule 42 Rs.2,91,285 + Rule 43 Rs.2,36,105 = Rs.5,27,390/- (central) and an equal State tax, i.e. Rs.10,54,780/-. Total interest worked out up to 31.10.2026: Rs.83,172/- (Rule 42) + Rs.84,541/- (Rule 43) = Rs.1,67,713/- each for central and State tax, i.e. Rs.3,35,426/-. The credit on the chiller plant for January to March 2024 (FY 2023-24) is outside this notice.*

C. CHARGING PARAGRAPH OF THE SHOW CAUSE NOTICE

[The following is the operative charging paragraph proposed for incorporation in the Show Cause Notice at Part D below.]

Now, therefore, M/s XXX Healthcare LLP, a limited liability partnership having its hospital at YYYY, Kochi, Kerala (GSTIN: [•]), through its Designated Partner Mr. Z, is hereby called upon to show cause in writing to the Superintendent, CGST Range - [•], Kochi CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) *the input tax credit attributable to exempt supplies, of Rs.5,27,390/- (Central tax) and Rs.5,27,390/- (Kerala State tax), total Rs.10,54,780/- (Rupees Ten Lakh Fifty-Four Thousand Seven Hundred Eighty only), being (a) Rs.2,91,285/- each short-reversed under Section 17(2) of the CGST Act, 2017/KSGST Act, 2017 read with Rule 42 of the CGST Rules, 2017 for FY 2024-25, and (b) Rs.2,36,105/- each not added to output tax liability under Rule 43 of the said Rules for April 2024 to March 2025, as detailed in Annexure-A to this notice, should not be demanded and recovered from it under Section 74A(1) of the CGST Act, 2017 and the corresponding provisions of the KSGST Act, 2017;*

(ii) *interest at the applicable rate under Section 50(1) of the CGST Act, 2017/KSGST Act, 2017 should not be charged and recovered on the amount at (i)(a) above from 01.04.2025 in terms of Rule 42(2)(a), and on the amount at (i)(b) above from the day following the due date of the GSTR-3B of the respective month, till the date of payment;*

(iii) *a penalty of Rs.52,739/- (Central tax) and Rs.52,739/- (Kerala State tax), total Rs.1,05,478/-, being ten per cent of the tax due, should not be imposed on it under Section 74A(5)(i) of the CGST Act, 2017/KSGST Act, 2017 (without prejudice to the benefit of nil penalty to which it may become entitled under Section 74A(8) on payment of tax and interest within the time therein specified); and*

(iv) *in the alternative to (iii) above, and without prejudice to it, penalty should not be imposed under Section 122(2)(a) of the CGST Act, 2017/KSGST Act, 2017, subject to Section 75(13) of the CGST Act, 2017.*

D. DRAFT SHOW CAUSE NOTICE

F. No. GEXCOM/ADJN/SCN/[•]/2026-KOCHI

DIN: [Document Identification Number to be auto-generated on issue]

Office of the Superintendent, CGST Range - [•], Division - [•], Kochi CGST Commissionerate, Kerala

Date: [•].11.2026

SHOW CAUSE NOTICE

(Issued under Section 74A of the Central Goods and Services Tax Act, 2017 read with Section 74A of the Kerala State Goods and Services Tax Act, 2017)

To,
M/s XXX Healthcare LLP,
through Mr. Z, Designated Partner,
(GSTIN: [•]),
YYYY, Kochi, Kerala.

(hereinafter referred to as 'the Noticee' or 'the LLP')

WHEREAS the Noticee, M/s XXX Healthcare LLP, having its hospital at YYYY, Kochi, is registered under the CGST Act, 2017/KSGST Act, 2017 and makes (i) exempt supplies of health care services by a clinical establishment (Sl. No. 74 of Notification No. 12/2017-Central Tax (Rate)) and (ii) taxable supplies through its retail pharmacy counter and by leasing a part of its building;

2. AND WHEREAS the Noticee's returns for FY 2024-25 were scrutinised under Section 61 of the CGST Act, 2017, and FORM GST ASMT-10 dated 18.06.2026 was issued under Rule 99 of the CGST Rules, 2017 (RUD-1) as the reversal of ITC declared in Table 4(B) of GSTR-3B appeared inadequate for the proportion of exempt supplies. The Noticee's reply dated 16.07.2026 (RUD-2) stated that ITC on the common inputs had been reversed 'as per Rule 42' but gave no working. The Finance Manager of the Noticee, Mr. P, appeared on 11.09.2026 in response to a summons under Section 70 and produced the ITC working sheets, ledgers and monthly turnover statements (RUD-3 to RUD-5);

3. AND WHEREAS the said records show that in FY 2024-25 the exempt supplies (E) were Rs.18,55,00,000/- out of a total turnover in Kerala (F) of Rs.22,63,00,000/-, a ratio of 0.8197; that the Noticee's total ITC on inputs and input services (T) was Rs.41,25,000/- of central tax, of which Rs.17,40,000/- (T2, exclusive to exempt supplies) and Rs.1,35,000/- (T3, blocked under Section 17(5)) were rightly not taken and Rs.11,70,000/- (T4) relates exclusively to taxable supplies, leaving common credit (C2) of Rs.10,80,000/-; and that the credit attributable to exempt supplies, D1 = (E/F) x C2, is Rs.8,85,285/- (central tax) and an equal State tax, while the Noticee reversed only Rs.5,94,000/- each, being a flat 55 per cent of C2 estimated every month without computing the ratio of exempt to total turnover, and never carried out the final annual computation required under Rule 42(2) before the September 2025 return; the shortfall is therefore Rs.2,91,285/- each (Annexure-A);

4. AND WHEREAS Mr. P, in his statement dated 11.09.2026 (RUD-6), inter alia, admitted that the reversal was an estimate of 55 per cent of common credit, that the annual computation was never done, and that, since the Noticee considered its health-care services to be 'outside GST', no reversal was computed on capital goods;

5. AND WHEREAS the fixed-asset register (RUD-7) shows that on 12.01.2024 the Noticee installed a centralised HVAC chiller plant serving the entire building, including the pharmacy and the leased area, with ITC of Rs.14,40,000/- each of central and State tax credited in January 2024. It is a common capital good within Rule 43(1)(c) and (d), whose useful life runs for five years from the invoice date, so that

Tm = Tc/60 = Rs.24,000/- per month, and Te = (E/F) x Tm was required to be added to output tax liability for every tax period; none was added in any month of FY 2024-25. Te for April 2024 to March 2025 works out to Rs.2,36,105/- each of central and State tax;

6. AND WHEREAS interest on the Rule 42 shortfall is payable at 18 per cent per annum under Section 50(1) from 01.04.2025 in terms of Rule 42(2)(a), and on Te from the day following the due date of the GSTR-3B of each month; interest worked out up to 31.10.2026 is Rs.83,172/- (Rule 42) and Rs.84,541/- (Rule 43) each for central and State tax, and continues to accrue till payment;

7. AND WHEREAS the Noticee reported its turnover (including exempt turnover) correctly in its returns, reversed a provisional amount every month, and produced all records on request; the failure arises from a wrong understanding of Rules 42 and 43 and no suppression of facts or wilful misstatement to evade tax is found. The case is therefore appearing to be one other than fraud, wilful misstatement or suppression of facts, attracting penalty under Section 74A(5)(i) of the CGST Act, 2017/KSGST Act, 2017;

8. AND WHEREAS it thus appears that the Noticee has contravened Section 17(2) of the CGST Act, 2017, Rules 42(1), 42(2), 43(1) of the CGST Rules, 2017 and Section 39(1) and (7) of the CGST Act, 2017 (and the corresponding provisions of the KSGST Act, 2017), and is liable to (a) demand and recovery of the credit attributable to exempt supplies under Section 74A(1); (b) interest under Section 50(1); (c) penalty under Section 74A(5)(i); and (d) in the alternative, penalty under Section 122(2)(a), subject to Section 75(13);

NOW, THEREFORE

M/s XXX Healthcare LLP, through its Designated Partner Mr. Z, is hereby called upon to show cause in writing to the Superintendent, CGST Range - [•], Kochi CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) the input tax credit attributable to exempt supplies, of Rs.5,27,390/- (Central tax) and Rs.5,27,390/- (Kerala State tax), total Rs.10,54,780/- (Rupees Ten Lakh Fifty-Four Thousand Seven Hundred Eighty only), being (a) Rs.2,91,285/- each short-reversed under Section 17(2) of the CGST Act, 2017/KSGST Act, 2017 read with Rule 42 of the CGST Rules, 2017 for FY 2024-25, and (b) Rs.2,36,105/- each not added to output tax liability under Rule 43 of the said Rules for April 2024 to March 2025, as detailed in Annexure-A to this notice, should not be demanded and recovered from it under Section 74A(1) of the CGST Act, 2017 and the corresponding provisions of the KSGST Act, 2017;

(ii) interest at the applicable rate under Section 50(1) of the CGST Act, 2017/KSGST Act, 2017 should not be charged and recovered on the amount at (i)(a) above from 01.04.2025 in terms of Rule 42(2)(a), and on the amount at (i)(b) above from the day following the due date of the GSTR-3B of the respective month, till the date of payment;

(iii) a penalty of Rs.52,739/- (Central tax) and Rs.52,739/- (Kerala State tax), total Rs.1,05,478/-, being ten per cent of the tax due, should not be imposed on it under Section 74A(5)(i) of the CGST Act, 2017/KSGST Act, 2017 (without prejudice to the benefit of nil penalty to which it may become entitled under Section 74A(8) on payment of tax and interest within the time therein specified); and

(iv) in the alternative to (iii) above, and without prejudice to it, penalty should not be imposed under Section 122(2)(a) of the CGST Act, 2017/KSGST Act, 2017, subject to Section 75(13) of the CGST Act, 2017.

9. The Noticee is further informed that:

- a written reply to this notice, along with all documents relied upon, must be furnished within thirty (30) days of receipt of this notice, failing which the case will be decided ex parte on the basis of available records, on merits;
- an opportunity of personal hearing will be granted before adjudication, on a date to be separately intimated, and the Noticee (or an authorised representative) may appear in person or through counsel;
- attention is drawn to the benefit available under Section 74A(8) of the CGST Act, 2017/KSGST Act, 2017, whereby, if the tax at (i) above and the interest at (ii) above are paid before the issue of this notice, no notice shall be served in respect of the said tax; and if they are paid within sixty (60) days of the issue of this notice, no penalty shall be payable and all proceedings in respect of the said notice shall be deemed to be concluded;
- this notice is issued without prejudice to any other action that may be taken against the Noticee or any other person under the CGST Act, 2017/KSGST Act, 2017, or any other law for the time being in force.

List of Relied Upon Documents (RUDs):

RUD-1: FORM GST ASMT-10 dated 18.06.2026;

RUD-2: Reply of the Noticee dated 16.07.2026;

RUD-3: ITC working sheets and electronic credit ledger for FY 2024-25;

RUD-4: Month-wise statements of exempt and taxable turnover for FY 2024-25 and GSTR-3B returns for April 2024 to March 2025;

RUD-5: Summons dated 05.09.2026 under Section 70 of the CGST Act, 2017 to Mr. P, with proof of service;

RUD-6: Statement of Mr. P recorded under Section 70 of the CGST Act, 2017 on 11.09.2026;

RUD-7: Fixed-asset register and invoice dated 12.01.2024 for the HVAC chiller plant;

Annexure-A: Working of credit attributable to exempt supplies under Rules 42 and 43, and of interest, for FY 2024-25 [as per the working in Part B].

(_____)
Superintendent, CGST
Range - [•], Division - [•], Kochi CGST Commissionerate

Copy to: The Deputy/Assistant Commissioner, CGST Division, Kochi, for information.

Drafting note (not part of the notice):

- *The addressee, jurisdictional range/officer, F. No./DIN and dates shown in square brackets/blanks are illustrative placeholders and must be completed with the correct particulars before issue.*
- ***Working basis.*** *The Rule 42 figures are central tax (State tax is equal) on annual aggregates, as the final calculation under Rule 42(2) is for the whole of the financial year; the monthly turnover ratio is used only for the Rule 43 credit, which has no annual true-up for ordinary capital goods. The Explanation to Rules 42 and 43 excluding interest on deposits/loans from exempt supplies, and the exclusion of petroleum/alcohol taxes from E and F, are not engaged on these facts.*
- ***Interest - Section 50(1) versus Section 50(3).*** *The key teaching point: the interest here is under Section 50(1), at 18%, because Rule 42(2)(a) says so and the credit was validly availed when received. Section 50(3) (24%, from date of utilisation, Rule 88B(3)) applies where credit was wrongly availed and utilised.*

Apply 50(3) only where the facts are of that type (e.g., credit blocked under Section 17(5) and consumed in payment of tax).

- ***Uncertainty on Rule 43.*** *Clause (f) of Rule 43(1), which defined Tr, was omitted w.e.f. 01.04.2020, but clause (g) still reads Te = (E/F) x Tr. The exercise applies the formula with Tm (= Tc/60, the monthly credit) in place of Tr, which is the only workable reading; the text of Rule 43(1) should be re-checked and the working adapted if departmental instructions prescribe otherwise. The interest on Te (Section 50(1) from the due date of GSTR-3B) follows from 'along with applicable interest' in clause (h) and the Rule 88B(2) method; this reading is not settled by any authority checked for this exercise.*
- ***Sequence.*** *ASMT-10 (Rule 99) was already issued; before the SCN, the officer should communicate the amounts in FORM GST DRC-01A under Rule 142(1A) and allow the LLP to pay, to enable the pre-notice route of Section 74A(8)(i); the application of Rule 142(1A) to Section 74A cases should be confirmed against the current Rule text, which was not independently checked here. A separate notice (Section 73) may be needed for the Rule 43 credit of January to March 2024 (FY 2023-24).*
- ***Limit of penal action.*** *A Rule 42 mistake of this kind is normally non-fraud. Where the registered person knowingly reports exempt turnover as taxable or splits turnover to depress E/F, the facts must be built (false returns) before alleging Section 74A(5)(ii) or Section 122(1)(x).*
- *The draft should be settled by the jurisdictional Range/Division before issue (DRC-01), including verification of the monetary-limit-based issuing/adjudicating authority under Circular No. 31/05/2018-GST dated 09.02.2018 (Superintendent: central tax up to Rs.10 lakh; Deputy/Assistant Commissioner: above Rs.10 lakh up to Rs.1 crore; Additional/Joint Commissioner: above Rs.1 crore). Here the central tax demand is Rs.5,27,390/-, within the Superintendent's limit.*
- *Return of non-RUDs (Non-Relied Upon Documents): When the SCN is issued to the taxpayer in the form of DRC-01 (uploaded on the portal if registered, as well as delivered as per the provisions of law), non-RUDs must be returned to the noticee under due acknowledgement within seven days of issuance of the SCN.*

***

Exercise 11

Failure to reverse input tax credit where the recipient has not paid the supplier within 180 days - second proviso to Section 16(2) and Rule 37

Exercise 11: Failure to reverse input tax credit where the recipient has not paid the supplier within 180 days - second proviso to Section 16(2) and Rule 37

Situation in Brief:

1. M/s XXX is a proprietary concern of Mr. Z, having its place of business at YYYY, Ghaziabad, Uttar Pradesh, engaged in wholesale trading of industrial packaging materials. It is registered under the CGST Act, 2017/UPGST Act, 2017 and files its returns monthly. All its purchases in the case are from registered suppliers within Uttar Pradesh.

2. Risk-based analysis of the GSTR-3B and GSTR-2B data for FY 2025-26 by the Range Office flagged that the proprietor had availed ITC in full every month and had not shown any amount in Table 4(B)(2) of GSTR-3B (reversal of ITC under 'others'), although the 'creditors' balances in its financial statements had grown sharply. A summons dated 02.09.2026 was issued to Mr. Z under Section 70 of the CGST Act, 2017 to produce the creditors' ledgers, bank statements and ITC register for FY 2025-26. Balance confirmations were also obtained from the suppliers under Section 70.

3. On 16.09.2026, Mr. Z produced the records and the Range Officer prepared the following invoice-wise statement for the invoices of April to August 2025 (the invoice values include tax; the central tax and the State tax are equal; all invoices were taken as ITC in the GSTR-3B of the month of the invoice):

Sl.	Supplier / invoice date	Invoice value incl. tax (Rs.)	Central tax = UPGST (Rs. each)	Paid within 180 days (Rs.)	Unpaid at end of 180 days (Rs.)	Position on 30.09.2026 (as per ledger and bank)
1	M/s AAA Polymers - 12.04.2025	1,41,60,000	10,80,000	48,00,000	93,60,000	balance still unpaid
2	M/s BBB Plastics - 03.05.2025	1,06,20,000	8,10,000	1,06,20,000	0	fully paid in time
3	M/s CCC Papers - 20.06.2025	88,50,000	6,75,000	12,00,000	76,50,000	balance still unpaid
4	M/s DDD Chemicals - 15.07.2025	56,64,000	4,32,000	0	56,64,000	paid in full on 12.07.2026
5	M/s EEE Corrugators - 10.08.2025	70,80,000	5,40,000	24,00,000	46,80,000	balance still unpaid
6	M/s GGG Packaging - 28.08.2025	42,48,000	3,24,000	42,48,000	0	fully paid in time
	TOTAL	**5,06,22,000**	**38,61,000**	**2,32,68,000**	**2,73,54,000**	

4. In addition, the Noticee received goods transport services of Rs.18,00,000/- on 05.06.2025 from a goods transport agency who did not charge tax; the Noticee paid the tax on reverse charge basis (central tax Rs.45,000/- and State tax Rs.45,000/-) through its cash ledger, took credit of it, and has not paid the freight to the agency as yet.

5. The balance confirmations received from M/s AAA Polymers, M/s CCC Papers and M/s EEE Corrugators match the unpaid balances in the table. The bank statements show no payment to the three suppliers after the dates recorded in the table, and a payment of Rs.56,64,000/- to M/s DDD Chemicals on 12.07.2026. The GSTR-3B returns for the months of November 2025 to March 2026 show no reversal of credit on any of these invoices.

6. The statement of Mr. Z was recorded on 24.09.2026 under Section 70 of the CGST Act, 2017, wherein he stated that the balances could not be paid because of shortage of working capital; that he was aware that the supplier's ITC ought to be taken on the invoice but did not know that credit has to be reversed if the supplier is not paid within 180 days; that he has not reversed any credit; that the payment to M/s DDD Chemicals was made on 12.07.2026 on a demand by the supplier; and that he would pay the other suppliers as and when funds permit.

7. Now in the light of the above, -

(i) Identify the provision(s) of GST law contravened by M/s XXX (under heading **Contravention**).

(ii) Identify the provision(s) of GST law under which action is to be taken against M/s XXX (under heading **Consequences of Contravention of legal Provisions**).

(iii) Draft the **Charging Paragraph** of the Show Cause Notice proposed to be issued to M/s XXX, calling upon M/s XXX and Mr. Z to show cause as to why action should not be taken against them, while listing the proposed action to be taken against M/s XXX and Mr. Z.

(iv) Also prepare the **draft Show Cause Notice** for issuance to M/s XXX.

***

SUGGESTED SOLUTION

(Inquiry on summons, Determination of amount payable under the second proviso to Section 16(2) read with Section 74A, and Draft Show Cause Notice - M/s XXX, Prop. Mr. Z, Ghaziabad CGST Commissionerate)

A. CONTRAVENTION

On the facts as recorded, the following provisions of law stand contravened (in each case read with the corresponding provisions of the Uttar Pradesh Goods and Services Tax Act, 2017 [UPGST Act] and the Rules made under the two Acts):

1. **Second proviso to Section 16(2) of the CGST Act, 2017** - the recipient failed to pay the supplier, within 180 days from the date of issue of the invoice, the value of the supply along with the tax payable thereon, in respect of invoices 1, 3, 4 and 5; an amount equal to the ITC availed (proportionate to the unpaid portion, as the Rules provide) was therefore payable by him along with interest under Section 50, which has not been done.
2. **Rule 37(1) of the CGST Rules, 2017** - the unpaid proportion of the credit was to be paid or reversed, with interest under Section 50, while furnishing the GSTR-3B for the tax period immediately following the period of 180 days from the invoice date. No reversal was made in any return.
3. **Section 39(1) and 39(7) of the CGST Act, 2017** - the GSTR-3B returns of the relevant tax periods (November 2025 to March 2026) did not declare the reversal and did not pay the amount due by the due date.

***Note:* Considered and not invoked (1) - invoices 2 and 6:** *These invoices were paid in full within 180 days. The credit is fully eligible and no action is taken. Invoices 3, 1 and 5 were part-paid; only the unpaid proportion of the credit is demanded, as Rule 37(1) requires the reversal 'proportionate to the amount not paid to the supplier'.*

***Note:* Considered and not invoked (2) - reverse charge freight:** *The second proviso to Section 16(2) applies to supplies 'other than the supplies on which tax is payable on reverse charge basis'; Rule 37(1) repeats this exclusion. The ITC on the tax that the Noticee itself paid on the unpaid freight is therefore outside the 180-day rule and is not demanded. (Its eligibility in other respects is not in question here.)*

***Note:* Considered and not invoked (3) - Rule 37A:** *Rule 37A is concerned with the supplier's failure to file its GSTR-3B by 30 September following the financial year; there is no such allegation, and it is a different ground from the Noticee's own non-payment. Section 16(2)(c) (tax actually paid to Government by the supplier) is likewise not invoked. The two grounds must not be mixed in one demand; under Section 75(7) no demand can be confirmed on grounds not specified in the notice.*

***Note:* Considered and not invoked (4) - invoice 4 (paid later):** *The invoice was paid in full on 12.07.2026, after the return for Feb 2026 had fallen due (20.03.2026) but before the audit date. The credit may now be retained (the third proviso to Section 16(2) and Rule 37(2) allow credit on payment, and Rule 37(4) removes the Section 16(4) time limit for re-availment), so no tax is demanded on it; only the interest for the period of delay is demanded. The drafting notes flag the caution on demanding interest alone; if that route is considered doubtful, the interest on invoice 4 may be left to be paid voluntarily by FORM GST DRC-03.*

***Note:* Penalty provisions not invoked:** *Section 122(1)(vii) is not applicable (goods were received and the invoices are genuine), and no fraud is alleged.*

B. CONSEQUENCES OF CONTRAVENTION OF LEGAL PROVISIONS

The contraventions at (A) above expose M/s XXX/Mr. Z to the following action under the CGST Act, 2017 (read with the corresponding provisions of the UPGST Act, 2017):

1. Reversal / demand - under **Section 74A(1) of the CGST Act, 2017** (and the UPGST Act), as the periods fall in FY 2025-26 [Section 74A(12); Notification No.17/2024-Central Tax dated 27.09.2024]. The amount demanded is the proportion of the credit corresponding to the unpaid value of invoices 1, 3

and 5 which remain unpaid, being the amount that was required to be paid or reversed under the second proviso to Section 16(2) and Rule 37(1). The notice may be issued within forty-two months from the due date of the annual return for FY 2025-26 [Section 74A(2); due on 31.12.2026 under Section 44 read with Rule 80(1)]; the order within twelve months of the notice [Section 74A(7)].

2. Interest - under **Section 50(1) of the CGST Act, 2017** at 18% per annum (Notification No.13/2017-Central Tax), as the second proviso to Section 16(2) requires payment of the amount 'along with interest payable under section 50'. Interest is worked out from the day following the due date of the GSTR-3B for the tax period in which the reversal was required [Section 50(2); Rule 88B(2)] up to the date of payment/reversal. Section 50(3) (24%) is not proposed, since the credit was validly availed on receipt of the invoice and goods and its subsequent reversal is a consequence of non-payment, and not a case of credit 'wrongly availed'.

3. Penalty - under **Section 74A(5)(i) of the CGST Act, 2017**: ten per cent of the tax due or Rs.10,000/-, whichever is higher, under each Act, on the tax at 1. *Why not Section 74A(5)(ii)?* The invoices, the creditors and the credit were all openly recorded; the Noticee did not hide the non-payment and produced the records, and nothing shows that the non-reversal was a device to evade tax. The case is thus one other than fraud, wilful misstatement or suppression of facts. In the alternative, and without prejudice, Section 122(2)(a) is cited, subject to Section 75(13). The Noticee can avoid penalty altogether by paying the tax and interest before the notice or within sixty days of its issue [Section 74A(8)(i) and (ii)]. A notice-stage payment of the tax is not a bar to the Noticee later re-availing the credit as and when it pays the suppliers, within the third proviso to Section 16(2) and Rule 37(2).

4. Re-availment - the Noticee should be informed in the notice that on payment to each supplier of the balance value with tax, the credit reversed may be re-availed in a later return; the time limit in Section 16(4) is not applicable to such re-availment [Rule 37(4)].

5. Recovery and prosecution - Sections 78 and 79 if the confirmed amount is not paid. Section 132 is not proposed.

6. Issuing authority - the central tax involved (Rs.16,54,322/-) exceeds Rs.10 lakh and is below Rs.1 crore; the notice is to be issued by the Deputy/Assistant Commissioner of Central Tax [Circular No.31/05/2018-GST dated 09.02.2018].

Illustrative working of the ITC to be paid/reversed (central tax; the State tax is equal) = ITC on the invoice x (value unpaid at the end of 180 days / invoice value including tax), and of interest up to 31.10.2026 (in the case of invoice 4, up to the date of payment, 12.07.2026):

Sl.	180 days end on	Return period (3B)	GSTR-3B due	ITC to be reversed (each of CGST and UPGST) (Rs.)	Interest to (Rs.)	Days	Interest @18% on each head (Rs.)
1	09.10.2025	Nov 2025	20.12.2025	7,13,898	31.10.2026	315	1,10,899
3	17.12.2025	Jan 2026	20.02.2026	5,83,475	31.10.2026	253	72,798
4	11.01.2026	Feb 2026	20.03.2026	4,32,000	12.07.2026	114	24,287
5	06.02.2026	Mar 2026	20.04.2026	3,56,949	31.10.2026	194	34,150
			TOTAL (incl. inv. 4)	**20,86,322**			**2,42,134**

Basis: *Tax demanded (invoices 1, 3 and 5): Rs.16,54,322/- central tax and Rs.16,54,322/- State tax, total Rs.33,08,644/-. Interest on those: Rs.2,17,847/- each; interest-only item (invoice 4): Rs.24,287/- each; total interest worked out: Rs.2,42,134/- (central) + Rs.2,42,134/- (State) = Rs.4,84,268/-. The reversal return is taken to be the GSTR-3B for the month following the month in which the 180th day falls (e.g., invoice 1: 180 days end on 09.10.2025; return for November 2025, due 20.12.2025).*

C. CHARGING PARAGRAPH OF THE SHOW CAUSE NOTICE

[The following is the operative charging paragraph proposed for incorporation in the Show Cause Notice at Part D below.]

Now, therefore, M/s XXX, a proprietary concern of Mr. Z, situated at YYYY, Ghaziabad, Uttar Pradesh (GSTIN: [•]), and Mr. Z, Proprietor of M/s XXX, in his personal capacity as the 'person' constituting the said proprietary concern (M/s XXX and Mr. Z being one and the same person in law), are hereby called upon to show cause in writing to the Deputy/Assistant Commissioner of Central Tax, Division - [•], Ghaziabad CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) *an amount of Rs.16,54,322/- (Central tax) and Rs.16,54,322/- (Uttar Pradesh State tax), total Rs.33,08,644/- (Rupees Thirty-Three Lakh Eight Thousand Six Hundred Forty-Four only), being the input tax credit proportionate to the value of invoices 1, 3 and 5 not paid to the suppliers within one hundred and eighty days from the date of issue of the invoices, as detailed in Annexure-A to this notice, which was required to be paid/reversed under the second proviso to Section 16(2) of the CGST Act, 2017 read with Rule 37(1) of the CGST Rules, 2017, should not be demanded and recovered from them under Section 74A(1) of the CGST Act, 2017 and the corresponding provisions of the UPGST Act, 2017;*

(ii) *interest at the applicable rate under Section 50(1) of the CGST Act, 2017/UPGST Act, 2017 should not be charged and recovered on the amount at (i) above from the day following the due date of the GSTR-3B for the respective tax period till the date of payment, and interest of Rs.24,287/- each of Central tax and State tax on the credit relating to invoice 4, for the period from 21.03.2026 to 12.07.2026, should not likewise be recovered;*

(iii) *a penalty of Rs.1,65,432/- (Central tax) and Rs.1,65,432/- (Uttar Pradesh State tax), total Rs.3,30,864/-, being ten per cent of the tax due, should not be imposed on them under Section 74A(5)(i) of the CGST Act, 2017/UPGST Act, 2017 (without prejudice to the benefit of nil penalty to which they may become entitled under Section 74A(8) on payment of tax and interest within the time therein specified); and*

(iv) *in the alternative to (iii) above, and without prejudice to it, penalty should not be imposed under Section 122(2)(a) of the CGST Act, 2017/UPGST Act, 2017, subject to Section 75(13) of the CGST Act, 2017.*

D. DRAFT SHOW CAUSE NOTICE

F. No. GEXCOM/ADJN/SCN/[•]/2026-GHAZIABAD

DIN: [Document Identification Number to be auto-generated on issue]

Office of the Deputy/Assistant Commissioner, CGST Division - [•], Ghaziabad CGST Commissionerate, Uttar Pradesh

Date: [•].11.2026

SHOW CAUSE NOTICE

(Issued under Section 74A of the Central Goods and Services Tax Act, 2017 read with Section 74A of the Uttar Pradesh Goods and Services Tax Act, 2017)

To,
Mr. Z,
Proprietor, M/s XXX,
(GSTIN: [•]),
YYYY, Ghaziabad, Uttar Pradesh.

(hereinafter referred to as 'the Noticee', which expression shall, unless the context otherwise requires, include M/s XXX and Mr. Z, the two being one and the same 'person' within the meaning of Section 2(84) of the CGST Act, 2017)

WHEREAS the Noticee, M/s XXX, a proprietary concern of Mr. Z, having its place of business at YYYY, Ghaziabad, is engaged in wholesale trading of industrial packaging materials, is registered under the CGST Act, 2017/UPGST Act, 2017, and files monthly returns;

2. AND WHEREAS risk-based analysis of the GSTR-3B and GSTR-2B data for FY 2025-26 showed that the Noticee had availed ITC in full every month without any reversal in Table 4(B)(2) of GSTR-3B although its creditors had grown sharply (RUD-1). A summons dated 02.09.2026 under Section 70 of the CGST Act, 2017 (RUD-2) was issued to Mr. Z, who produced on 16.09.2026 the creditors' ledgers, bank statements and ITC register for FY 2025-26 (RUD-3 to RUD-5); balance confirmations were obtained from the suppliers (RUD-6);

3. AND WHEREAS the said records disclosed that, in respect of the following invoices issued by registered suppliers in Uttar Pradesh in April to August 2025, the Noticee availed the ITC in the month of the invoice but did not pay the whole of the value with tax to the supplier within one hundred and eighty days from the date of the invoice:

Sl.	Supplier / invoice date	Invoice value incl. tax (Rs.)	Unpaid at end of 180 days (Rs.)	ITC to be reversed - central tax = UPGST (Rs. each)	Reversal return / due date
1	M/s AAA Polymers - 12.04.2025	1,41,60,000	93,60,000	7,13,898	Nov 2025 / 20.12.2025
3	M/s CCC Papers - 20.06.2025	88,50,000	76,50,000	5,83,475	Jan 2026 / 20.02.2026
4	M/s DDD Chemicals - 15.07.2025	56,64,000	56,64,000	4,32,000	Feb 2026 / 20.03.2026
5	M/s EEE Corrugators - 10.08.2025	70,80,000	46,80,000	3,56,949	Mar 2026 / 20.04.2026
	TOTAL	**3,57,54,000**	**2,73,54,000**	**20,86,322**	

4. AND WHEREAS the balance confirmations of M/s AAA Polymers, M/s CCC Papers and M/s EEE Corrugators match the unpaid balances, and the bank statements show no further payment to them, so that invoices 1, 3 and 5 remain unpaid in part to date; the invoice 4 of M/s DDD Chemicals was paid in full only on 12.07.2026, i.e. after the due date of the return in which the reversal was required; and invoices 2 and 6 were paid in full within the period. The Noticee has not reversed any credit in any of its returns for November 2025 to March 2026;

5. AND WHEREAS Mr. Z, in his statement recorded under Section 70 of the CGST Act, 2017 on 24.09.2026 (RUD-7), inter alia, admitted that the balances could not be paid because of shortage of working capital, that he did not know that credit has to be reversed when the supplier is not paid within 180 days, that no reversal has been made, and that the payment to M/s DDD Chemicals was made on 12.07.2026;

6. AND WHEREAS it appears that, in terms of the second proviso to Section 16(2) of the CGST Act, 2017 and Rule 37(1) of the CGST Rules, 2017, the amount of ITC proportionate to the unpaid value was required to be paid or reversed, with interest under Section 50, in the GSTR-3B for the tax period immediately following the period of 180 days; the amount so payable in respect of invoices 1, 3 and 5, which still remain unpaid, is Rs.16,54,322/- of central tax and Rs.16,54,322/- of State tax. The credit of invoice 4 is, after payment, available to the Noticee (third proviso to Section 16(2); Rule 37(2)), but interest is payable for the period of delay. The tax paid by the Noticee on reverse charge on the goods transport services is outside the second proviso and is not questioned in this notice;

7. AND WHEREAS interest at 18 per cent per annum under Section 50(1) is payable on the amount at para 6, worked out up to 31.10.2026 as Rs.2,17,847/- each of central tax and State tax (Annexure-A), and continuing till payment, and Rs.24,287/- each on invoice 4 for the period from 21.03.2026 to 12.07.2026;

8. AND WHEREAS the invoices and creditors were openly recorded in the books and the Noticee produced the records on summons; no evidence has been found of any fraud, wilful misstatement or suppression of facts to evade tax, and the case is appearing to be one attracting penalty under Section 74A(5)(i) of the CGST Act, 2017/UPGST Act, 2017;

9. AND WHEREAS it thus appears that the Noticee has contravened the second proviso to Section 16(2) of the CGST Act, 2017 read with Rule 37(1) of the CGST Rules, 2017 and Section 39(1) and (7) of the CGST Act, 2017 (and the corresponding provisions of the UPGST Act, 2017), and is liable to (a) demand and recovery of the amount under Section 74A(1); (b) interest under Section 50(1); (c) penalty under Section 74A(5)(i); and (d) in the alternative, penalty under Section 122(2)(a), subject to Section 75(13) of the CGST Act, 2017;

NOW, THEREFORE

M/s XXX, a proprietary concern of Mr. Z, situated at YYYY, Ghaziabad, Uttar Pradesh, and Mr. Z, Proprietor of M/s XXX, are hereby called upon to show cause in writing to the Deputy/Assistant Commissioner of Central Tax, Division - [•], Ghaziabad CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) an amount of Rs.16,54,322/- (Central tax) and Rs.16,54,322/- (Uttar Pradesh State tax), total Rs.33,08,644/- (Rupees Thirty-Three Lakh Eight Thousand Six Hundred Forty-Four only), being the input tax credit proportionate to the value of invoices 1, 3 and 5 not paid to the suppliers within one hundred and eighty days from the date of issue of the invoices, as detailed in Annexure-A to this notice, which was required to be paid/reversed under the second proviso to Section 16(2) of the CGST Act, 2017 read with Rule 37(1) of the CGST Rules, 2017, should not be demanded and recovered from them under Section 74A(1) of the CGST Act, 2017 and the corresponding provisions of the UPGST Act, 2017;

(ii) interest at the applicable rate under Section 50(1) of the CGST Act, 2017/UPGST Act, 2017 should not be charged and recovered on the amount at (i) above from the day following the due date of the GSTR-3B for the respective tax period till the date of payment, and interest of Rs.24,287/- each of Central tax and State tax on the credit relating to invoice 4, for the period from 21.03.2026 to 12.07.2026, should not likewise be recovered;

(iii) a penalty of Rs.1,65,432/- (Central tax) and Rs.1,65,432/- (Uttar Pradesh State tax), total Rs.3,30,864/-, being ten per cent of the tax due, should not be imposed on them under Section 74A(5)(i) of the CGST Act, 2017/UPGST Act, 2017 (without prejudice to the benefit of nil penalty to which they may become entitled under Section 74A(8) on payment of tax and interest within the time therein specified); and

(iv) in the alternative to (iii) above, and without prejudice to it, penalty should not be imposed under Section 122(2)(a) of the CGST Act, 2017/UPGST Act, 2017, subject to Section 75(13) of the CGST Act, 2017.

10. The Noticee is further informed that:

- a written reply to this notice, along with all documents relied upon, must be furnished within thirty (30) days of receipt of this notice, failing which the case will be decided ex parte on the basis of available records, on merits;
- an opportunity of personal hearing will be granted before adjudication, on a date to be separately intimated, and the Noticee (or an authorised representative) may appear in person or through counsel;
- attention is drawn to the benefit available under Section 74A(8) of the CGST Act, 2017/UPGST Act, 2017, whereby, if the tax at (i) above and the interest at (ii) above are paid before the issue of this notice, no notice shall be served in respect of the said tax; and if they are paid within sixty (60) days of the issue of this notice, no penalty shall be payable and all proceedings in respect of the said notice shall be deemed to be concluded;
- on payment to the suppliers of the balance value with tax, the Noticee may re-avail the credit so reversed, and the time limit under Section 16(4) shall not apply to such re-availment [Rule 37(4)];
- this notice is issued without prejudice to any other action that may be taken against the Noticee or any other person under the CGST Act, 2017/UPGST Act, 2017, or any other law for the time being in force.

List of Relied Upon Documents (RUDs):

RUD-1: Risk-based analysis report on GSTR-3B/GSTR-2B data for FY 2025-26;

RUD-2: Summons dated 02.09.2026 under Section 70 of the CGST Act, 2017, with proof of service;

RUD-3: Creditors' ledgers of the Noticee for FY 2025-26 and 2026-27 (up to 30.09.2026);

RUD-4: Bank statements of the Noticee for April 2025 to September 2026;

RUD-5: ITC register, purchase invoices and GSTR-3B returns for April 2025 to April 2026;

RUD-6: Balance confirmations of M/s AAA Polymers, M/s CCC Papers, M/s EEE Corrugators and M/s DDD Chemicals;

RUD-7: Statement of Mr. Z recorded under Section 70 of the CGST Act, 2017 on 24.09.2026;

Annexure-A: Invoice-wise statement of the ITC to be paid/reversed and of interest [as per the working in Part B].

(_____)

Deputy/Assistant Commissioner, CGST
Division - [•], Ghaziabad CGST Commissionerate

Copy to: The Superintendent, CGST Range - [•], Ghaziabad, for information.

Drafting note (not part of the notice):

- *The addressee, jurisdictional range/officer, F. No./DIN and dates shown in square brackets/blanks are illustrative placeholders and must be completed with the correct particulars before issue.*
- ***Working basis.*** *The reversal is proportionate to the unpaid portion of the invoice value including tax; the return in which the reversal was due is taken as the GSTR-3B for the month following the month in which the 180th day falls. The wording of Rule 37(1) ('the tax period immediately following the period of one hundred and eighty days') does not settle the month beyond doubt; if the department adopts the month in which the 180 days expire, interest will increase by one month. The 180 days are counted as invoice date plus 180 days. The central tax, State tax and their interest are computed separately.*
- ***Interest.*** *Section 50(1) at 18% is used because the second proviso to Section 16(2) speaks of interest 'under section 50' on an amount payable by the recipient. The earlier text of Rule 37(3), which ran interest from the date of availing credit, was omitted w.e.f. 01.10.2022, and the present rule does not state the period; the draft therefore runs interest from the due date of the reversal return. This reading is not settled by any authority checked for this exercise and the interest period should be confirmed against current departmental instructions before issue; a broader reading (from the date of availment) would increase the interest.*
- ***Invoice 4 - interest only.*** *It is a deliberate teaching point that payment after the 180 days (but before audit) removes the tax demand but not the interest. Whether interest alone can be demanded by an SCN under Section 74A where the tax stands paid/re-availed is not settled by any authority checked; if doubtful, collect the interest through FORM GST DRC-03 and keep it out of the notice.*
- ***Penalty and pre-notice payment.*** *Payment of the tax and interest before the SCN, with intimation in writing, ends the matter without penalty [Section 74A(8)(i)]; it should be offered in FORM GST DRC-01A (Rule 142(1A)) first - confirm that the current text of Rule 142 applies the intimation to Section 74A cases, which was not independently verified here. Credit re-availed after payment is entitled and does not attract further penalty.*
- ***Do not mix grounds.*** *Non-payment to the supplier for 180 days (second proviso to Section 16(2) and Rule 37) is a different ground from the supplier's failure to pay tax to Government [Section 16(2)(c), Rule 37A]. The SCN is confined to the former; under Section 75(7) no demand can be confirmed on a ground not stated in the notice. The reverse-charge freight is outside the 180-day rule by the express exclusion.*
- *The draft should be settled by the jurisdictional Range/Division before issue (DRC-01), including verification of the monetary-limit-based issuing/adjudicating authority under Circular No. 31/05/2018-GST dated 09.02.2018 (Superintendent: central tax up to Rs.10 lakh; Deputy/Assistant Commissioner: above Rs.10 lakh up to Rs.1 crore; Additional/Joint Commissioner: above Rs.1 crore). Here the central tax demand is Rs.16,54,322/-, so the Deputy/Assistant Commissioner is the proper authority.*
- *Return of non-RUDs (Non-Relied Upon Documents): When the SCN is issued to the taxpayer in the form of DRC-01 (uploaded on the portal if registered, as well as delivered as per the provisions of law), non-RUDs must be returned to the noticee under due acknowledgement within seven days of issuance of the SCN.*

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Exercise 12

Availing input tax credit on invoices of the previous year after the 30th November cut-off - Section 16(4)

Exercise 12: Availing input tax credit on invoices of the previous year after the 30th November cut-off - Section 16(4)

Situation in Brief:

1. M/s XXX Pvt. Ltd. (the Company), having its registered office at YYYY, Visakhapatnam, Andhra Pradesh, is a wholesale trader of agro-commodities, buying from suppliers within Andhra Pradesh (central tax and State tax) and from other States (integrated tax), and selling mainly within the State. Mr. Z is its Director in charge of finance. It is registered under the CGST Act, 2017/APGST Act, 2017 and files monthly returns.

2. A data-analytics report received by the Visakhapatnam CGST Commissionerate compared the invoice dates of the ITC claimed in GSTR-3B with the date of filing the return, and flagged the Company for availing, in returns filed after 30.11.2023, credit on invoices of FY 2022-23. A summons dated 03.08.2026 under Section 70 of the CGST Act, 2017 was issued to Mr. Z for the purchase register for FY 2022-23, GSTR-2B statements, GSTR-3B returns, the annual return for FY 2022-23 and the electronic credit ledger for FY 2023-24. Mr. Z produced them on 20.08.2026. The Company filed its annual return (GSTR-9) for FY 2022-23 on 28.12.2023.

3. Scrutiny of the records shows that the Company availed, in its GSTR-3B returns for October 2023 to March 2024, ITC on invoices and debit notes *dated between April 2022 and March 2023* (FY 2022-23), which the suppliers had reported late in their GSTR-1 so that they became visible in the Company's GSTR-2B only from October-November 2023 onwards. The ITC so availed was as under (the return for October 2023 was filed on 18.11.2023, before 30.11.2023, and the credit availed in it is not questioned):

Tax period of GSTR-3B	Filed on	IGST (Rs.)	CGST (Rs.)	APGST (Rs.)	Position
Oct 2023	18.11.2023	6,00,000	1,50,000	1,50,000	in time
Nov 2023	19.12.2023	62,00,000	8,40,000	8,40,000	after 30.11.2023
Dec 2023	20.01.2024	48,50,000	5,90,000	5,90,000	after 30.11.2023
Jan 2024	19.02.2024	41,00,000	4,25,000	4,25,000	after 30.11.2023
Feb 2024	20.03.2024	22,50,000	3,10,000	3,10,000	after 30.11.2023
Mar 2024	19.04.2024	15,00,000	1,60,000	1,60,000	after 30.11.2023
TOTAL (after 30.11.2023)		**1,89,00,000**	**23,25,000**	**23,25,000**	

4. The electronic credit ledger for FY 2023-24 shows that the Company paid its liability for each month through the return and that the balance of credit remaining in the ledger after the payment, in each return filed after 30.11.2023, was as follows (filing dates as in the table above):

Tax period	IGST balance (Rs.)	CGST balance (Rs.)	APGST balance (Rs.)
Nov 2023	20,00,000	3,00,000	5,00,000
Dec 2023	35,00,000	6,00,000	4,00,000
Jan 2024	18,00,000	2,50,000	3,00,000
Feb 2024	41,00,000	8,00,000	6,50,000
Mar 2024	9,00,000	-	1,00,000

5. In his statement dated 20.08.2026 recorded under Section 70, Mr. Z stated that all the invoices pertain to FY 2022-23 and were bought and received in that year; that the suppliers uploaded them late; that, because the invoices appeared in GSTR-2B, the Company availed them in the next return as a matter

of course; that he did not know of the Section 16(4) deadline of 30th November following the financial year; that the credit has not been reversed; and that the Company's annual return for FY 2022-23 was filed on 28.12.2023. FORM GST ASMT-10 dated 14.09.2026 was thereafter issued; in its reply dated 05.10.2026 the Company submitted that credit cannot be denied for delay of the suppliers and that relief available for earlier years should be extended. The reply was not accepted as no law supports it.

6. The goods and services covered by the invoices were received in FY 2022-23, the suppliers have paid the tax to Government, the invoices are genuine and no allegation of non-receipt or of fake invoices is made. The Company has furnished all records called for.

7. Now in the light of the above, -

(i) Identify the provision(s) of GST law contravened by M/s XXX Pvt. Ltd. (under heading **Contravention**).

(ii) Identify the provision(s) of GST law under which action is to be taken against M/s XXX Pvt. Ltd. (under heading **Consequences of Contravention of legal Provisions**).

(iii) Draft the **Charging Paragraph** of the Show Cause Notice proposed to be issued to M/s XXX Pvt. Ltd., calling upon M/s XXX Pvt. Ltd. to show cause as to why action should not be taken against them, while listing the proposed action to be taken against M/s XXX Pvt. Ltd..

(iv) Also prepare the **draft Show Cause Notice** for issuance to M/s XXX Pvt. Ltd..

***

SUGGESTED SOLUTION

(Inquiry on summons, scrutiny of returns, Determination of ITC wrongly availed and utilised under Section 73, and Draft Show Cause Notice - M/s XXX Pvt. Ltd., Visakhapatnam CGST Commissionerate)

A. CONTRAVENTION

On the facts as recorded, the following provisions of law stand contravened (in each case read with the corresponding provisions of the Andhra Pradesh Goods and Services Tax Act, 2017 [APGST Act], Section 20 of the Integrated Goods and Services Tax Act, 2017 [IGST Act] for the integrated tax, and the Rules made under the Acts):

1. **Section 16(4) of the CGST Act, 2017** - a registered person is not entitled to take ITC in respect of any invoice or debit note for supply of goods or services after the thirtieth day of November following the end of the financial year to which the invoice or debit note pertains, or the furnishing of the relevant annual return, whichever is earlier. For invoices of FY 2022-23 the cut-off was 30.11.2023 (the annual return having been filed later, on 28.12.2023). The Company took credit on such invoices in returns filed on and after 19.12.2023.

2. **Section 16(1) read with Section 16(4) of the CGST Act, 2017** - the entitlement to credit under Section 16(1) is subject to the conditions of Section 16, one of which is the time limit; credit taken after the cut-off was therefore wrongly availed and, to the extent that the ledger balance was exhausted, wrongly utilised.

***Note:* Considered and not invoked (1) - Section 16(5) and 16(6):** *Sub-section (5), which allows credit in any return filed up to 30.11.2021, is confined to invoices or debit notes of FY 2017-18 to FY 2020-21; it does not cover FY 2022-23. Sub-section (6) applies only to a registration that was cancelled and then revoked, which is not the case. No relief is therefore available, and the Company's plea of 'relief for earlier years' fails on the text.*

***Note:* Considered and not invoked (2) - the October 2023 return:** *The return for October 2023 was filed on 18.11.2023, before the cut-off of 30.11.2023, so the credit availed in it is in time and is not demanded. The 'date of availing' is the date of the return in which the credit is taken, not the date on which the invoice became visible in GSTR-2B or the date of the invoice. Equally, had the Company filed its annual return for FY 2022-23 earlier than 30.11.2023, that earlier date would have been the cut-off ('whichever is earlier'); its actual annual return (28.12.2023) was later and so does not advance the date.*

***Note:* Considered and not invoked (3) - the supplier's late reporting:** *Section 16(2)(aa) (invoice details furnished by the supplier in GSTR-1 and communicated to the recipient) is a further condition and the supplier's delay may explain the Company's late claim but is not an exception to Section 16(4). Neither Section 16(2)(c) (supplier's payment of tax) nor Section 122(1)(vii) (no receipt of goods) is alleged. No allegation of fraud or suppression is made.*

***Note:* Which regime?** *The invoices are of FY 2022-23, but the credit was taken in tax periods October 2023 to March 2024 which fall in FY 2023-24; the wrong availment, the annual return that should have declared it (FY 2023-24) and the demand periods all relate to FY 2023-24. Section 73 therefore applies [Section 73(12); Section 74A applies from FY 2024-25 only, by Section 74A(12)]. Had the credit been taken in a return of FY 2024-25 (invoices of FY 2023-24 availed after 30.11.2024), Section 74A would apply. The tax period of availment, and not the year of the invoice, decides the regime.*

B. CONSEQUENCES OF CONTRAVENTION OF LEGAL PROVISIONS

The contraventions at (A) above expose M/s XXX Pvt. Ltd. to the following action under the CGST Act, 2017 (read with the corresponding provisions of the APGST Act, 2017 and Section 20 of the IGST Act, 2017):

1. Demand - under **Section 73(1) of the CGST Act, 2017** (the APGST Act for State tax; Section 20 of the IGST Act for integrated tax), the wrongly availed credit being: integrated tax Rs.1,89,00,000/-, central tax Rs.23,25,000/- and State tax Rs.23,25,000/-, in all Rs.2,35,50,000/-. *Limitation:* the annual return

for FY 2023-24 was due on 31.12.2024 [Section 44; Rule 80(1)]; the order must be passed within three years from that date, i.e. by 31.12.2027 [Section 73(10)], and the notice at least three months before, i.e. not later than 30.09.2027 [Section 73(2)]. A notice in November 2026 is within time.

2. Interest - under **Section 50(3) of the CGST Act, 2017** at 24% per annum (Notification No.13/2017-Central Tax) on the credit that was wrongly availed *and utilised*, from the date of utilisation till reversal [Rule 88B(3)]. Under the Explanation to Rule 88B, credit is deemed utilised when the balance in the electronic credit ledger falls below the amount wrongly availed, the utilised amount being the shortfall, and, where the shortfall arises on payment of tax through the return, the date of utilisation is the earlier of the due date and the filing date of that return. The ledger balances after each return have been tested head by head; the amounts utilised are: integrated tax Rs.1,80,00,000/-, central tax Rs.23,25,000/- and State tax Rs.22,25,000/-. The balance that was never utilised (integrated tax Rs.9,00,000/- and State tax Rs.1,00,000/-) attracts no interest under Section 50(3) and can be recovered by reversal in the ledger.

3. Penalty - under **Section 73(9) of the CGST Act, 2017**: ten per cent of the tax or Rs.10,000/-, whichever is higher, i.e. Rs.18,90,000/- (integrated tax), Rs.2,32,500/- (central tax) and Rs.2,32,500/- (State tax). *Why not Section 74 / penalty equal to tax?* Neither fraud nor wilful misstatement nor suppression is made out: the invoices are genuine, were received and reflected in GSTR-2B, the credit was openly claimed in the returns filed in the normal course, and the Company's lapse arose from ignorance of the time limit. The concession in **Section 73(8)** (no penalty if tax and interest are paid within thirty days of the notice) and Section 73(5) (pre-notice payment) are available. In the alternative, Section 122(2)(a) is cited, subject to Section 75(13).

4. Recovery and prosecution - Sections 78 and 79 if the confirmed amount is not paid. Section 132 is not proposed.

5. Issuing authority - the integrated tax and central tax demand together (Rs.2,12,25,000/-) exceeds Rs.2 crore; the notice is to be issued by the Additional/Joint Commissioner of Central Tax [Circular No.31/05/2018-GST dated 09.02.2018].

Illustrative working of utilisation of the wrongly availed credit and of interest up to 31.10.2026 (the interest continues to accrue till reversal/payment) - integrated tax:

Tax period	Utilisation date	Cum. wrongly availed (Rs.)	Closing balance (Rs.)	Cum. utilised (Rs.)	Utilised in month (Rs.)	Days	Interest @24% (Rs.)
Nov 2023	19.12.2023	62,00,000	20,00,000	42,00,000	42,00,000	1047	28,91,441
Dec 2023	20.01.2024	1,10,50,000	35,00,000	75,50,000	33,50,000	1015	22,35,781
Jan 2024	19.02.2024	1,51,50,000	18,00,000	1,33,50,000	58,00,000	985	37,56,493
Feb 2024	20.03.2024	1,74,00,000	41,00,000	1,33,50,000	-	955	-
Mar 2024	19.04.2024	1,89,00,000	9,00,000	1,80,00,000	46,50,000	925	28,28,219
TOTAL		**1,89,00,000**		**1,80,00,000**			**1,17,11,934**

Central tax:

Tax period	Utilisation date	Cum. wrongly availed (Rs.)	Closing balance (Rs.)	Cum. utilised (Rs.)	Utilised in month (Rs.)	Days	Interest @24% (Rs.)
Nov 2023	19.12.2023	8,40,000	3,00,000	5,40,000	5,40,000	1047	3,71,757
Dec 2023	20.01.2024	14,30,000	6,00,000	8,30,000	2,90,000	1015	1,93,545
Jan 2024	19.02.2024	18,55,000	2,50,000	16,05,000	7,75,000	985	5,01,945
Feb 2024	20.03.2024	21,65,000	8,00,000	16,05,000	-	955	-
Mar 2024	19.04.2024	23,25,000	-	23,25,000	7,20,000	925	4,37,918
TOTAL		**23,25,000**		**23,25,000**			**15,05,165**

State tax (APGST):

Tax period	Utilisation date	Cum. wrongly availed (Rs.)	Closing balance (Rs.)	Cum. utilised (Rs.)	Utilised in month (Rs.)	Days	Interest @24% (Rs.)
Nov 2023	19.12.2023	8,40,000	5,00,000	3,40,000	3,40,000	1047	2,34,069
Dec 2023	20.01.2024	14,30,000	4,00,000	10,30,000	6,90,000	1015	4,60,504
Jan 2024	19.02.2024	18,55,000	3,00,000	15,55,000	5,25,000	985	3,40,027
Feb 2024	20.03.2024	21,65,000	6,50,000	15,55,000	-	955	-
Mar 2024	19.04.2024	23,25,000	1,00,000	22,25,000	6,70,000	925	4,07,507
TOTAL		**23,25,000**		**22,25,000**			**14,42,107**

Basis: *Cumulative utilisation = the larger of the earlier cumulative figure and (cumulative wrongly availed credit less closing ledger balance), not below nil. Interest = amount utilised in the month x 24% x days / 365 (rounded), days counted from the day following the utilisation date to 31.10.2026. Total interest: integrated tax Rs.1,17,11,934/-, central tax Rs.15,05,165/-, State tax Rs.14,42,107/-, in all Rs.1,46,59,206/-. In February 2024 the closing balance was higher than in the previous month, so no fresh utilisation arises in that month for any head. Utilisation by the IGST credit of CGST/State tax liability, as per Section 49(5), is ignored; the balances of each head are taken as given.*

C. CHARGING PARAGRAPH OF THE SHOW CAUSE NOTICE

[The following is the operative charging paragraph proposed for incorporation in the Show Cause Notice at Part D below.]

Now, therefore, M/s XXX Pvt. Ltd., a company incorporated under the Companies Act, 2013, having its registered office at YYYY, Visakhapatnam, Andhra Pradesh (GSTIN: [•]), is hereby called upon to show cause in writing to the Additional/Joint Commissioner of Central Tax, Visakhapatnam CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) *the input tax credit of Rs.1,89,00,000/- (Integrated tax), Rs.23,25,000/- (Central tax) and Rs.23,25,000/- (Andhra Pradesh State tax), total Rs.2,35,50,000/- (Rupees Two Crore Thirty-Five Lakh Fifty Thousand only), availed in the GSTR-3B returns for November 2023 to March 2024 on invoices and debit notes pertaining to FY 2022-23 after the thirtieth day of November 2023, as detailed in Annexure-A to this notice, being credit barred by Section 16(4) of the CGST Act, 2017/APGST Act, 2017 (read with Section 20 of the IGST Act, 2017 as regards integrated tax), should not be held to have been wrongly availed and, to the extent of Rs.1,80,00,000/- (integrated tax), Rs.23,25,000/- (central tax) and Rs.22,25,000/- (State tax), also wrongly utilised, and should not be demanded and recovered from it under Section 73(1) of the CGST Act, 2017 and the corresponding provisions of the APGST Act, 2017 and the IGST Act, 2017;*

(ii) *interest at the rate of 24 per cent per annum under Section 50(3) of the CGST Act, 2017/APGST Act, 2017 (read with Section 20 of the IGST Act, 2017), read with Rule 88B(3) of the CGST Rules, 2017, should not be charged and recovered on the amount of credit utilised, from the respective dates of utilisation up to the date of reversal/payment;*

(iii) *a penalty of Rs.18,90,000/- (Integrated tax), Rs.2,32,500/- (Central tax) and Rs.2,32,500/- (Andhra Pradesh State tax), total Rs.23,55,000/-, being ten per cent of the tax, should not be imposed on it under Section 73(9) of the CGST Act, 2017/APGST Act, 2017 (read with Section 20 of the IGST Act, 2017) (without prejudice to the benefit of nil penalty to which it may become entitled under Section 73(8) on payment of tax and interest within thirty days of the issue of this notice); and*

(iv) *in the alternative to (iii) above, and without prejudice to it, penalty should not be imposed under Section 122(2)(a) of the CGST Act, 2017/APGST Act, 2017, subject to Section 75(13) of the CGST Act, 2017.*

D. DRAFT SHOW CAUSE NOTICE

F. No. GEXCOM/ADJN/SCN/[•]/2026-VSKP

DIN: [Document Identification Number to be auto-generated on issue]

Office of the Additional/Joint Commissioner, Visakhapatnam CGST Commissionerate, Andhra Pradesh

Date: [•].11.2026

SHOW CAUSE NOTICE

(Issued under Section 73 of the Central Goods and Services Tax Act, 2017 read with Section 73 of the Andhra Pradesh Goods and Services Tax Act, 2017 and Section 20 of the Integrated Goods and Services Tax Act, 2017)

To,
M/s XXX Pvt. Ltd.,
(GSTIN: [•]),
YYYY, Visakhapatnam, Andhra Pradesh.

(hereinafter referred to as 'the Noticee' or 'the Company')

WHEREAS the Noticee, M/s XXX Pvt. Ltd., having its registered office at YYYY, Visakhapatnam, is a wholesale trader of agro-commodities, registered under the CGST Act, 2017/APGST Act, 2017, and files monthly returns;

2. AND WHEREAS a data-analytics report received by the Visakhapatnam CGST Commissionerate (RUD-1) flagged that the Noticee had availed, in returns filed after 30.11.2023, ITC on invoices of FY 2022-23. A summons dated 03.08.2026 under Section 70 of the CGST Act, 2017 (RUD-2) was issued to Mr. Z, Director of the Noticee, who produced on 20.08.2026 the purchase register for FY 2022-23, the GSTR-2B statements, the GSTR-3B returns, the annual return for FY 2022-23 (filed on 28.12.2023) and the electronic credit ledger for FY 2023-24 (RUD-3 to RUD-6);

3. AND WHEREAS scrutiny of these records revealed that the Noticee availed in its GSTR-3B returns for November 2023 to March 2024, filed on 19.12.2023, 20.01.2024, 19.02.2024, 20.03.2024 and 19.04.2024 respectively, ITC of integrated tax Rs.1,89,00,000/-, central tax Rs.23,25,000/- and State tax Rs.23,25,000/- (total Rs.2,35,50,000/-) on invoices and debit notes dated between April 2022 and March 2023, i.e. pertaining to FY 2022-23, which the suppliers had uploaded late in their GSTR-1 returns; the credit availed on such invoices in the GSTR-3B for October 2023, filed on 18.11.2023, was in time and is not questioned;

4. AND WHEREAS Section 16(4) of the CGST Act, 2017 provides that a registered person shall not be entitled to take ITC in respect of any invoice or debit note after the thirtieth day of November following the end of the financial year to which the invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier; the relevant date for FY 2022-23 invoices was 30.11.2023, the annual return having been furnished only on 28.12.2023. Section 16(5), which extends the time limit up to 30.11.2021, is confined to FY 2017-18 to FY 2020-21, and Section 16(6) concerns revoked cancellations; neither applies. The credit of Rs.2,35,50,000/- was therefore wrongly availed;

5. AND WHEREAS Mr. Z, in his statement recorded under Section 70 of the CGST Act, 2017 on 20.08.2026 (RUD-7), inter alia, admitted that all the invoices pertain to FY 2022-23, that the credit was availed in the next return after the invoices appeared in GSTR-2B, that he was not aware of the Section 16(4) deadline, that no credit has been reversed and that the annual return for FY 2022-23 was filed on 28.12.2023. FORM GST ASMT-10 was issued on 14.09.2026 (RUD-8) and the Company's reply dated

05.10.2026 (RUD-9), which pleaded relief on account of the suppliers' delay, discloses no ground recognised by the Act;

6. AND WHEREAS the electronic credit ledger (RUD-6) shows that the balance after payment of liability in each return filed after 30.11.2023 fell below the cumulative amount of wrongly availed credit, so that, in terms of the Explanation to Rule 88B of the CGST Rules, 2017, credit of integrated tax Rs.1,80,00,000/-, central tax Rs.23,25,000/- and State tax Rs.22,25,000/- stands wrongly utilised; the date of utilisation being the filing date of each return, which is earlier than or the same as the due date. Interest at 24 per cent per annum under Section 50(3) read with Rule 88B(3) worked out up to 31.10.2026 is Rs.1,17,11,934/- (integrated tax), Rs.15,05,165/- (central tax) and Rs.14,42,107/- (State tax), in all Rs.1,46,59,206/-, and continues to accrue till reversal (Annexure-A). The unutilised credit of integrated tax Rs.9,00,000/- and State tax Rs.1,00,000/- remains in the ledger and may be reversed there without interest under Section 50(3);

7. AND WHEREAS the goods and services were received in FY 2022-23, the invoices are genuine and were openly reflected in GSTR-2B and the returns, and no evidence has been found of fraud, wilful misstatement or suppression of facts to evade tax; the case is appearing to be one for determination under Section 73 and not Section 74, attracting penalty under Section 73(9) of the CGST Act, 2017/APGST Act, 2017;

8. AND WHEREAS it thus appears that the Noticee has contravened Section 16(4) read with Section 16(1) of the CGST Act, 2017 (and the corresponding provisions of the APGST Act, 2017 and the IGST Act, 2017) by availing and utilising ITC after the time limit, and is liable to (a) demand and recovery of the credit under Section 73(1); (b) interest under Section 50(3); (c) penalty under Section 73(9); and (d) in the alternative, penalty under Section 122(2)(a), subject to Section 75(13) of the CGST Act, 2017;

NOW, THEREFORE

M/s XXX Pvt. Ltd., a company having its registered office at YYYY, Visakhapatnam, Andhra Pradesh, is hereby called upon to show cause in writing to the Additional/Joint Commissioner of Central Tax, Visakhapatnam CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) the input tax credit of Rs.1,89,00,000/- (Integrated tax), Rs.23,25,000/- (Central tax) and Rs.23,25,000/- (Andhra Pradesh State tax), total Rs.2,35,50,000/- (Rupees Two Crore Thirty-Five Lakh Fifty Thousand only), availed in the GSTR-3B returns for November 2023 to March 2024 on invoices and debit notes pertaining to FY 2022-23 after the thirtieth day of November 2023, as detailed in Annexure-A to this notice, being credit barred by Section 16(4) of the CGST Act, 2017/APGST Act, 2017 (read with Section 20 of the IGST Act, 2017 as regards integrated tax), should not be held to have been wrongly availed and, to the extent of Rs.1,80,00,000/- (integrated tax), Rs.23,25,000/- (central tax) and Rs.22,25,000/- (State tax), also wrongly utilised, and should not be demanded and recovered from it under Section 73(1) of the CGST Act, 2017 and the corresponding provisions of the APGST Act, 2017 and the IGST Act, 2017;

(ii) interest at the rate of 24 per cent per annum under Section 50(3) of the CGST Act, 2017/APGST Act, 2017 (read with Section 20 of the IGST Act, 2017), read with Rule 88B(3) of the CGST Rules, 2017, should not be charged and recovered on the amount of credit utilised, from the respective dates of utilisation up to the date of reversal/payment;

(iii) a penalty of Rs.18,90,000/- (Integrated tax), Rs.2,32,500/- (Central tax) and Rs.2,32,500/- (Andhra Pradesh State tax), total Rs.23,55,000/-, being ten per cent of the tax, should not be imposed on it under Section 73(9) of the CGST Act, 2017/APGST Act, 2017 (read with Section 20 of the IGST Act, 2017) (without prejudice to the benefit of nil penalty to which it may become entitled under Section 73(8) on payment of tax and interest within thirty days of the issue of this notice); and

(iv) in the alternative to (iii) above, and without prejudice to it, penalty should not be imposed under Section 122(2)(a) of the CGST Act, 2017/APGST Act, 2017, subject to Section 75(13) of the CGST Act, 2017.

9. The Noticee is further informed that:

- a written reply to this notice, along with all documents relied upon, must be furnished within thirty (30) days of receipt of this notice, failing which the case will be decided ex parte on the basis of available records, on merits;
- an opportunity of personal hearing will be granted before adjudication, on a date to be separately intimated, and the Noticee (or an authorised representative) may appear in person or through counsel;
- attention is drawn to the benefit available under Section 73(8) of the CGST Act, 2017/APGST Act, 2017, whereby, if the tax at (i) above and the interest at (ii) above are paid within thirty (30) days of the issue of this notice, no penalty shall be payable and all proceedings in respect of the said notice shall be deemed to be concluded;
- this notice is issued without prejudice to any other action that may be taken against the Noticee or any other person under the CGST Act, 2017/APGST Act, 2017/IGST Act, 2017, or any other law for the time being in force.

List of Relied Upon Documents (RUDs):

RUD-1: Data-analytics report on ITC availed after 30.11.2023 on invoices of FY 2022-23;

RUD-2: Summons dated 03.08.2026 under Section 70 of the CGST Act, 2017, with proof of service;

RUD-3: Purchase register for FY 2022-23 (relevant extracts) and invoices/debit notes;

RUD-4: GSTR-2B statements for October 2023 to March 2024;

RUD-5: GSTR-3B returns for October 2023 to March 2024 and annual return for FY 2022-23 filed on 28.12.2023;

RUD-6: Electronic credit ledger of the Noticee for FY 2023-24;

RUD-7: Statement of Mr. Z recorded under Section 70 of the CGST Act, 2017 on 20.08.2026;

RUD-8: FORM GST ASMT-10 dated 14.09.2026;

RUD-9: Reply of the Noticee dated 05.10.2026;

Annexure-A: Month-wise statement of ITC availed after 30.11.2023, utilisation and interest under Section 50(3) up to 31.10.2026 [as per the working in Part B].

(_____)
Additional/Joint Commissioner, CGST
Visakhapatnam CGST Commissionerate

Copy to: The Deputy/Assistant Commissioner, CGST Division - [•], Visakhapatnam, for information.

Drafting note (not part of the notice):

- *The addressee, jurisdictional range/officer, F. No./DIN and dates shown in square brackets/blanks are illustrative placeholders and must be completed with the correct particulars before issue.*
- ***Choice of facts.*** *A scenario of FY 2023-24 invoices availed after 30.11.2024 with Section 73. Credit taken in tax periods of FY 2024-25 (December 2024 onwards) falls under Section 74A, not Section 73, because Section 73 and 74A are keyed to the period to which the tax (here, the wrongly availed credit) relates*

and Section 74A(12) applies from FY 2024-25. To keep Section 73 in play, the exercise uses invoices of FY 2022-23 availed in tax periods of FY 2023-24, with the 30.11.2023 cut-off. That 'the tax period of availment determines the regime' is the position taken in this exercise and has not been confirmed from a judicial or departmental authority; it should be re-checked by the user before use.

- ***Cut-off date.*** *Section 16(4) allows the earlier of 30th November and the date of furnishing the annual return. Always check the annual return date; if the annual return for FY 2022-23 had been filed on, say, 10.11.2023, credit taken in the return of October 2023 filed on 18.11.2023 would also be barred. The date of availing is the date of the return in which the credit is taken.*
- ***Interest only on utilised credit.*** *The ledger test of Rule 88B has been applied month by month and head by head. Utilisation, once it has occurred, is not undone by a later rise in the balance. The part of the credit that stayed unutilised is demanded (to be reversed in the ledger) but carries no Section 50(3) interest. Check the actual ledger entries; the assumption that integrated tax credit was used first for integrated tax liability (Section 49(5)) does not change the test, which is applied on the closing balance of each head as given.*
- ***Demand of integrated tax.*** *The integrated tax demand is made under the CGST Act's Section 73 as applied by Section 20 of the IGST Act; the proper officer's jurisdiction and cross-empowerment for the State tax must be ensured. Section 20 of the IGST Act was not independently reconfirmed from the text for this exercise and should be re-checked.*
- ***Fairness.*** *The Company's claim may look harsh because the suppliers uploaded late, but Section 16(4) has no exception for that, and Section 16(5) was Parliament's one-time relief for earlier years. The SCN should state the law accurately and not stretch it; the Company may seek the benefit of Section 73(8) by payment within thirty days.*
- *The draft should be settled by the jurisdictional Range/Division before issue (DRC-01), including verification of the monetary-limit-based issuing/adjudicating authority under Circular No. 31/05/2018-GST dated 09.02.2018 (Superintendent: central tax up to Rs.10 lakh; Deputy/Assistant Commissioner: above Rs.10 lakh up to Rs.1 crore; Additional/Joint Commissioner: above Rs.1 crore). Here the combined central and integrated tax demand is Rs.2,12,25,000/-, above Rs.2 crore, so the Additional/Joint Commissioner is the proper authority.*
- *Return of non-RUDs (Non-Relied Upon Documents): When the SCN is issued to the taxpayer in the form of DRC-01 (uploaded on the portal if registered, as well as delivered as per the provisions of law), non-RUDs must be returned to the noticee under due acknowledgement within seven days of issuance of the SCN.*

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Exercise 13

Undervaluation of supplies of tiles - cash received over and above the invoice value (on-money) detected in search

Exercise 13: Undervaluation of supplies of tiles - cash received over and above the invoice value (on-money) detected in search

Situation in Brief:

1. M/s XXX Pvt. Ltd. (GSTIN: [to be inserted]), a registered person at YYYY, Faridabad, Haryana, is a dealer in ceramic and vitrified floor and wall tiles (HSN 6907) and sells to contractors, builders and sub-dealers, all located in Haryana, at a rate of tax of 18% (9% CGST + 9% HGST). Mr. Z is its Director and controls its business; Mr. P is its Accounts Manager. On 17.06.2026 the Anti-Evasion Section of the Faridabad CGST Commissionerate received specific information that the company was recovering a part of the agreed price of tiles in cash, over and above the amounts shown in its tax invoices, and maintained a parallel record of such cash. Examination of the returns showed that the company had declared, for FY 2024-25, taxable outward supplies equal to the aggregate of its invoice values and had never reported any cash receipt other than the invoice value.

2. The Joint Commissioner, being satisfied that there were reasons to believe that useful records and things were secreted, authorised the search of the premises under Section 67(2) of the CGST Act, 2017 on 08.07.2026. The search was conducted on 09.07.2026 at (a) the registered office-cum-showroom and (b) the godown of the company, in the presence of two independent witnesses (panchas) and of Mr. Z, who remained present throughout. Under the panchnama of 09.07.2026 the following were recovered: (i) three hard-bound registers (marked A-1 to A-3) found in a steel almirah in the cabin of Mr. P, in the handwriting of Mr. P, covering 01.04.2024 to 08.07.2026; (ii) a laptop and a pen drive, from which, in the presence of the witnesses, a forensic image was taken and a spreadsheet titled 'Diff_Cash' and a second Tally company data set were identified; (iii) cash of Rs.12,60,000/- in the office safe, which tallied with the closing 'cash difference' balance in the last page of register A-3 as on 08.07.2026, and which was seized as a thing relevant to the proceedings; and (iv) the mobile phone of Mr. P, from which WhatsApp chats were extracted with his consent.

3. Each page of the registers carries date-wise entries with the headings 'Party', 'Bill No.', 'Bill Amt', 'Cash', 'Total' and 'Z Drawn'. The 'Bill Amt' entries match the taxable value of the corresponding tax invoices issued and declared by the company in its GSTR-1 and GSTR-3B; the 'Cash' column records amounts received in cash, over and above the invoice value, against the same bill. The same entries are reproduced in the spreadsheet 'Diff_Cash' and in the second Tally data set. The WhatsApp chats between Mr. P and the sales staff and customers carry messages such as 'bill 7 lakh, 2 lakh in cash' and 'cash diff. to be kept ready before dispatch'. A certificate under Section 145(2) of the CGST Act, 2017 was obtained from the forensic officer regarding the extraction of the electronic records.

4. Mr. P's statement was recorded under Section 70 of the CGST Act, 2017 on 09.07.2026 and 22.07.2026. He stated that the registers were maintained by him since April 2024 on the oral instructions of Mr. Z; that the agreed price of tiles with regular contractors and sub-dealers was split between an invoice value and a 'cash difference' at the time of sale; that tax invoices were prepared only for the invoice value; that the cash was handed over to Mr. Z every evening, and the 'Z Drawn' column records what Mr. Z took away; and that the data in the registers were correct. He put his dated signature on every page of the registers (A-1 to A-3) in token of their correctness.

5. Mr. Z's statement was recorded under Section 70 on 10.07.2026 and 05.08.2026. He admitted that the registers, 'Diff_Cash' and the second Tally data belong to the company; that for most regular customers, to match the market price quoted by other dealers, the invoice was made for a lower value and the balance of the price was taken in cash; that the invoice value alone was declared in the returns and no GST was paid on the cash portion; that he himself decided the invoice-cash split for large customers; and that of the cash received, 75% was drawn by him for personal and investment purposes

and the rest was spent on cash wages, freight and other unrecorded expenses. He admitted that GST had not been charged or paid on the cash received.

6. Summons under Section 70 were issued to M/s AAA Builders, M/s BBB Traders and M/s CCC Contractors, who appear in the registers as the largest cash payers. Their proprietors appeared in August 2026 and stated that the price of tiles had been agreed with Mr. Z or Mr. P as a total amount plus GST, that the invoice was raised for a smaller amount (and GST was charged and paid only on that smaller amount), and that the balance was paid in cash against a slip or on assurance that 'cash portion needs no bill'. They produced their purchase invoices and ledger extracts and identified the dates and amounts of the cash payments. The test-check of the three customers is as follows:

Customer	Invoices in register (no.)	Invoice value (Rs.)	Cash per register (Rs.)	Cash admitted by customer (Rs.)
M/s AAA Builders	14	52,60,000	13,40,000	13,40,000
M/s BBB Traders	9	31,80,000	8,10,000	8,10,000
M/s CCC Contractors	6	24,50,000	6,75,000	6,75,000
TOTAL	**29**	**1,08,90,000**	**28,25,000**	**28,25,000**

7. The month-wise position for FY 2024-25, as extracted from the registers and reconciled with the tax invoices declared in the returns, is as follows. The registers and the data also cover 01.04.2025 to 08.07.2026, but that period is under examination and is not covered by this exercise.

Month	Taxable value of invoices issued and declared (Rs.)	Cash received over invoice value, per private register (Rs.)	Cash as % of invoice value
Apr-2024	62,40,000	14,80,000	23.7%
May-2024	71,20,000	17,10,000	24.0%
Jun-2024	68,50,000	15,25,000	22.3%
Jul-2024	74,80,000	18,40,000	24.6%
Aug-2024	79,60,000	19,05,000	23.9%
Sep-2024	84,10,000	21,35,000	25.4%
Oct-2024	96,30,000	24,60,000	25.5%
Nov-2024	91,70,000	22,10,000	24.1%
Dec-2024	88,40,000	20,85,000	23.6%
Jan-2025	76,90,000	17,95,000	23.3%
Feb-2025	73,20,000	16,30,000	22.3%
Mar-2025	85,10,000	20,45,000	24.0%
FY 2024-25	**9,52,20,000**	**2,28,20,000**	**24.0%**

8. Now in the light of the above, -

(i) Identify the provision(s) of GST law contravened by M/s XXX Pvt. Ltd. (under heading **Contravention**).

(ii) Identify the provision(s) of GST law under which action is to be taken against M/s XXX Pvt. Ltd. (under heading **Consequences of Contravention of legal Provisions**).

(iii) Draft the **Charging Paragraph** of the Show Cause Notice proposed to be issued to M/s XXX Pvt. Ltd., calling upon M/s XXX Pvt. Ltd., its Director Mr. Z and its Accounts Manager Mr. P to show cause as to why action should not be taken against them, while listing the proposed action to be taken against M/s XXX Pvt. Ltd., its Director Mr. Z and its Accounts Manager Mr. P.

(iv) Also prepare the **draft Show Cause Notice** for issuance to M/s XXX Pvt. Ltd..

***

SUGGESTED SOLUTION

(Search under Section 67, statements under Section 70, Determination of Tax under Section 74A - M/s XXX Pvt. Ltd., Director Mr. Z and Accounts Manager Mr. P, Faridabad CGST Commissionerate)

A. CONTRAVENTION

On the facts as recorded, the following provisions of law stand contravened (in each case read with the corresponding provisions of the Haryana Goods and Services Tax Act, 2017 [HGST Act] and the Rules made under the two Acts):

1. **Section 15(1) of the CGST Act, 2017** - the value of the supplies was understated: the 'price actually paid or payable' for the tiles included the cash portion, but only the invoice portion was treated as the transaction value.
2. **Section 9(1) of the CGST Act, 2017 read with Section 39(7)** - tax at 18% was not paid on the cash portion of the consideration by the due date of the return for the tax period.
3. **Section 31(1) of the CGST Act, 2017 read with Rule 46** - the tax invoices issued did not show the true 'value of goods' supplied and were therefore incorrect invoices with regard to the supplies.
4. **Sections 37(1) and 39(1) of the CGST Act, 2017** - furnishing of statements of outward supplies (GSTR-1) and returns (GSTR-3B) that declared the value of outward supplies short by the cash received.
5. **Section 35(1) of the CGST Act, 2017 read with Rule 56** - the books of account kept as the official books did not contain a 'true and correct account' of the outward supply of goods (a parallel set of books was kept).

Note:* Considered but not invoked:** *(a)* ***Rules 27 to 35 of the CGST Rules, 2017 *(valuation rules) - these are relevant only where the value cannot be determined under Section 15(1), e.g. where the consideration is not wholly in money, or where the parties are related or a distinct person is involved. Here the whole consideration is in money, the parties are unrelated and the price is the sole consideration; the price (invoice + cash) is determined from the registers, the customers' statements and the electronic data, so Section 15(1) applies directly and no rule-based valuation is required (and none is proposed). The learning point is that on-money is not a valuation dispute; it is unrecorded consideration. (b)* ***Section 76*** *- no tax was collected from customers on the cash portion, so there is no 'amount collected as tax'. (c)* ***Section 15(3)*** *(discounts) - not available, since the 'discount' was never recorded in the invoice nor linked to the invoices after supply with a reversal of ITC by the recipient. (d) No ITC provision is invoked: the customers' ITC on the invoice values is not disturbed.*

B. CONSEQUENCES OF CONTRAVENTION OF LEGAL PROVISIONS

The contraventions at (A) above expose Noticee No.1 (M/s XXX Pvt. Ltd.), Noticee No.2 (Mr. Z) and Noticee No.3 (Mr. P) to the following action under the CGST Act, 2017 (read with the corresponding provisions of the HGST Act, 2017):

1. Determination and recovery of tax - under **Section 74A(1) of the CGST Act, 2017** (and the HGST Act) from Noticee No.1. FY 2024-25 is a period to which Section 74A applies [Section 74A(12); Notification No.17/2024-Central Tax dated 27.09.2024]. The notice may be issued within forty-two months of the due date of the annual return for FY 2024-25 (31.12.2025), i.e. up to 30.06.2029 [Section 74A(2)], and the order must be passed within twelve months of the notice, extendable by up to six months in the manner laid down in Section 74A(7). The demand is confined to the cash consideration: tax on the invoice value was paid, and no further tax is demanded on it.
2. Interest - under **Section 50(1)** at the notified rate of 18% per annum from the day after the due date of GSTR-3B of each tax period till the date of payment (indicative working in the table below).
3. Penalty on Noticee No.1: fraud or non-fraud? Penalty equal to the tax due is proposed under **Section 74A(5)(ii)**. A non-fraud penalty under 74A(5)(i) (10% or Rs.10,000/-) would be inadequate because (i)

a parallel set of books was maintained for 15 months; (ii) the invoice-cash split was decided by the Director in advance and communicated to the customer at the time of sale; (iii) the cash was withdrawn by the Director; and (iv) the false value was repeated in every GSTR-1 and GSTR-3B. These facts show wilful misstatement and suppression of facts to evade tax; the non-declaration of the cash consideration in the return is also 'suppression' within Explanation 2 to Section 74A. The concessions under **Section 74A(9)** are available (15% penalty if tax and interest are paid before the notice; 25% if paid within sixty days of the notice; 50% if paid within sixty days of communication of the order), whereupon the proceedings are concluded; under Explanation 1 to Section 74A, proceedings against the other noticees under Section 122 in the same notice are deemed concluded if the proceedings against Noticee No.1 are concluded.

4. Specific penalties - Section 122(1)(i) (incorrect invoice), 122(1)(x) (false information/return with intent to evade tax) and 122(1)(xv) (suppression of turnover leading to evasion of tax) are attracted against Noticee No.1. As Section 74A(5)(ii) penalty is proposed for the same default, these are proposed without prejudice and in the alternative, subject to Section 75(13) and to the proportionality disciplines of Section 126. The penalty under Section 122(2)(b) is not separately proposed, being subsumed in Section 74A(5)(ii).

5. Mr. Z (Noticee No.2) - **Section 122(1A)**: he is a person who retained the benefit of a transaction covered by clause (i) of Section 122(1) (issue of incorrect invoices) and at whose instance it was conducted. The three ingredients are shown by the evidence: transaction of the clause (i) type; benefit retained (75% of cash drawn by him, as per register and his own admission); and at his instance (his statement, the chats and Mr. P's statement). Penalty equal to the tax evaded is therefore proposed. Section 137 has not been invoked because it deals with offences by companies (i.e. prosecution) and not with the penalty; it is kept in view for any complaint under Section 132.

6. Mr. P (Noticee No.3) - **Section 122(3)(a)**: he knowingly aided the offences under clauses (i), (x) and (xv) of Section 122(1) by keeping the parallel registers and splitting the bills; penalty up to Rs.25,000/- is proposed. No penalty under 122(1A) is proposed on him, since he did not retain the benefit.

7. Prosecution - Section 132(1)(e) (evasion of tax) and 132(1)(f) (false records) have been considered. The tax evaded (Rs.41,07,600/-) is below the monetary thresholds of the clauses of Section 132(1) that depend on the amount of tax (the lowest being above Rs.1 crore); clause (f) has no monetary threshold but the decision to prosecute rests with the Commissioner (previous sanction under Section 132(6)). Prosecution is therefore not proposed in this notice. Explanation 1 to Section 74A confirms that payment under 74A(9) does not bar Section 132.

8. Proper officer - the central tax demand (Rs.20,53,800/-) is above Rs.10 lakh and up to Rs.1 crore; the notice is therefore issued by the Deputy/Assistant Commissioner, as per the monetary limits in Circular No.31/05/2018-GST dated 09.02.2018.

Illustrative working of tax on the unrecorded cash consideration (tax is computed on the cash received as the additional price, in addition to the tax already paid on the invoice value):

Month	Cash over invoice value (Rs.)	CGST @9% (Rs.)	HGST @9% (Rs.)	GSTR-3B due date	Indicative interest on CGST to 30.11.2026 (Rs.)
Apr-2024	14,80,000	1,33,200	1,33,200	20.05.2024	60,695
May-2024	17,10,000	1,53,900	1,53,900	20.06.2024	67,775
Jun-2024	15,25,000	1,37,250	1,37,250	20.07.2024	58,412
Jul-2024	18,40,000	1,65,600	1,65,600	20.08.2024	67,946
Aug-2024	19,05,000	1,71,450	1,71,450	20.09.2024	67,725
Sep-2024	21,35,000	1,92,150	1,92,150	20.10.2024	73,059
Oct-2024	24,60,000	2,21,400	2,21,400	20.11.2024	80,796

Nov-2024	22,10,000	1,98,900	1,98,900	20.12.2024	69,642
Dec-2024	20,85,000	1,87,650	1,87,650	20.01.2025	62,834
Jan-2025	17,95,000	1,61,550	1,61,550	20.02.2025	51,625
Feb-2025	16,30,000	1,46,700	1,46,700	20.03.2025	44,854
Mar-2025	20,45,000	1,84,050	1,84,050	20.04.2025	53,460
TOTAL	**2,28,20,000**	**20,53,800**	**20,53,800**		**7,58,823**

Basis: *Cash received of Rs.2,28,20,000/- is treated as the price of the goods in addition to the invoice value, with tax at 18% charged over it, i.e. Rs.41,07,600/- (CGST Rs.20,53,800/- + HGST Rs.20,53,800/-). Interest of about Rs.7,58,823/- (CGST) plus an equal amount (HGST), total about Rs.15,17,646/-, runs up to 30.11.2026 at 18% on a simple-interest basis and continues till payment. If the Noticee were to succeed in showing that the cash portion was agreed inclusive of GST, Rule 35 (tax = value x 18/118) would reduce the tax to Rs.34,81,017/-; the statements of the customers (price agreed as a total plus GST) support the exclusive treatment adopted here.*

C. CHARGING PARAGRAPH OF THE SHOW CAUSE NOTICE

[The following is the operative charging paragraph proposed for incorporation in the Show Cause Notice at Part D below.]

Now, therefore, (1) M/s XXX Pvt. Ltd., (2) Mr. Z, Director of M/s XXX Pvt. Ltd., and (3) Mr. P, Accounts Manager of M/s XXX Pvt. Ltd., are hereby called upon to show cause in writing to the Deputy/Assistant Commissioner, CGST Division - [•], Faridabad CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) *the transaction value of the supplies of tiles made by Noticee No.1 during FY 2024-25 should not be held to be Rs.11,80,40,000/- (invoice value Rs.9,52,20,000/- plus cash received Rs.2,28,20,000/-) under Section 15(1) of the CGST Act, 2017/HGST Act, 2017, and the cash consideration of Rs.2,28,20,000/- should not be held to have been suppressed and not declared in the returns;*

(ii) *an amount of Rs.20,53,800/- (Central tax) and Rs.20,53,800/- (Haryana State tax), total Rs.41,07,600/- (Rupees Forty-One Lakh Seven Thousand Six Hundred only), being tax not paid on the cash consideration as detailed in Annexure-A, should not be demanded and recovered from Noticee No.1 under Section 74A(1) of the CGST Act, 2017 and the corresponding provisions of the HGST Act, 2017;*

(iii) *interest at the applicable rate under Section 50(1) of the CGST Act, 2017/HGST Act, 2017 should not be charged and recovered from Noticee No.1 on the tax at (ii) above, from the respective due dates till the date of payment;*

(iv) *a penalty of Rs.20,53,800/- (Central tax) and Rs.20,53,800/- (Haryana State tax), total Rs.41,07,600/-, equal to the tax due, should not be imposed on Noticee No.1 under Section 74A(5)(ii) of the CGST Act, 2017/HGST Act, 2017 (without prejudice to the reduced penalty payable under Section 74A(9) on payment within the time therein specified);*

(v) *penalty should not separately be imposed on Noticee No.1 under Sections 122(1)(i), 122(1)(x) and 122(1)(xv) of the CGST Act, 2017/HGST Act, 2017, without prejudice to (iv) above and subject to Section 75(13) and Section 126;*

(vi) *a penalty of Rs.20,53,800/- (Central tax) and Rs.20,53,800/- (Haryana State tax), equal to the tax evaded, should not be imposed on Noticee No.2 (Mr. Z) under Section 122(1A) of the CGST Act, 2017/HGST Act, 2017;*

(vii) *a penalty of up to Rs.25,000/- under each Act should not be imposed on Noticee No.3 (Mr. P) under Section 122(3)(a) of the CGST Act, 2017/HGST Act, 2017.*

D. DRAFT SHOW CAUSE NOTICE

F. No. GEXCOM/ADJN/SCN/[•]/2026-FARIDABAD

DIN: [Document Identification Number to be auto-generated on issue]

Office of the Deputy/Assistant Commissioner, CGST Division - [•], Faridabad CGST Commissionerate, Haryana

Date: [•].11.2026

SHOW CAUSE NOTICE

(Issued under Section 74A of the Central Goods and Services Tax Act, 2017 read with Section 74A of the Haryana Goods and Services Tax Act, 2017)

To,
1. M/s XXX Pvt. Ltd., YYYY, Faridabad, Haryana. (Noticee No.1)
2. Mr. Z, Director, M/s XXX Pvt. Ltd., residing at [•], Faridabad. (Noticee No.2)
3. Mr. P, Accounts Manager, M/s XXX Pvt. Ltd., residing at [•], Faridabad. (Noticee No.3)

(Noticee No.1, Noticee No.2 and Noticee No.3 are hereinafter referred to individually by their respective numbers and together as 'the Noticees')

1. WHEREAS specific information was received on 17.06.2026 that M/s XXX Pvt. Ltd. (Noticee No.1), a dealer in ceramic and vitrified tiles (HSN 6907) located at YYYY, Faridabad, was recovering a part of the price of tiles in cash, over and above the amounts shown in its tax invoices, and was maintaining a parallel record of such cash (RUD-1);

2. AND WHEREAS the Joint Commissioner, CGST, authorised a search under Section 67(2) of the CGST Act, 2017 on 08.07.2026 (RUD-2), and the search was conducted on 09.07.2026 at the registered office-cum-showroom and the godown of Noticee No.1, in the presence of two independent witnesses and Noticee No.2. The panchnama (RUD-3) records the recovery of: three hard-bound registers (A-1 to A-3) in the handwriting of Noticee No.3 covering 01.04.2024 to 08.07.2026 (RUD-4); a laptop and a pen drive from which a forensic image, including the spreadsheet 'Diff_Cash' and a second Tally data set, was extracted (RUD-5), with a certificate under Section 145(2) of the CGST Act, 2017 (RUD-6); the WhatsApp chats of Noticee No.3 (RUD-7); and cash of Rs.12,60,000/- (seized, RUD-8), which tallied with the closing 'cash difference' balance recorded in register A-3 as on 08.07.2026;

3. AND WHEREAS the registers contain date-wise entries under the heads 'Party', 'Bill No.', 'Bill Amt', 'Cash', 'Total' and 'Z Drawn'. The entries in 'Bill Amt' match the taxable value of the corresponding tax invoices issued and declared by Noticee No.1 in its returns, and the entries in 'Cash' record the amounts received in cash over and above the invoice value, against the same bills. The same data are in 'Diff_Cash' and in the second Tally data set. The WhatsApp chats contain instructions of the kind 'bill 7 lakh, 2 lakh cash' and 'cash diff. to be kept ready before dispatch';

4. AND WHEREAS Noticee No.3, in his statements recorded under Section 70 of the CGST Act, 2017 on 09.07.2026 and 22.07.2026 (RUD-9), inter alia admitted and stated that:

- he maintained the registers from April 2024 on the oral instructions of Noticee No.2;
- the agreed price with regular contractors and sub-dealers was split into an invoice value and a cash difference; tax invoices were prepared only for the invoice value;
- the cash was handed over to Noticee No.2 every evening, and the 'Z Drawn' column shows what Noticee No.2 took away; and
- every page of the registers was signed by him and the entries are correct;

5. AND WHEREAS Noticee No.2, in his statements recorded under Section 70 on 10.07.2026 and 05.08.2026 (RUD-10), inter alia admitted that the registers, the spreadsheet and the second Tally data belong to Noticee No.1; that to match the market prices quoted by other dealers the invoice was issued for a lower value and the balance price was collected in cash; that only the invoice values were declared in GSTR-1 and GSTR-3B and no GST was paid on the cash received; that he decided the invoice-cash split for large customers; and that 75% of the cash received was drawn by him for personal and investment purposes and the balance was spent on cash wages, freight and other unrecorded expenses;

6. AND WHEREAS M/s AAA Builders, M/s BBB Traders and M/s CCC Contractors, in statements recorded under Section 70 in August 2026 (RUD-11 to RUD-13), stated that the price of tiles was agreed as a total amount plus GST, that invoices were raised for a smaller amount with GST on that amount only, and that the balance was paid in cash. They produced purchase invoices and ledger extracts (RUD-14) and identified cash payments of Rs.28,25,000/- in all, which tally exactly with the entries in the registers (invoices of Rs.1,08,90,000/- in 29 bills);

7. AND WHEREAS it appears that the total price actually paid or payable for the supply of tiles in FY 2024-25 was the sum of the invoice value (Rs.9,52,20,000/-) and the cash received (Rs.2,28,20,000/-), i.e. Rs.11,80,40,000/-, and that, in terms of Section 15(1) of the CGST Act, 2017, the cash received forms part of the transaction value, which was neither invoiced nor declared in the returns. The tax payable at 18% (9% CGST + 9% HGST) on the cash is worked out in Annexure-A as under:

Particulars	Value (Rs.)	CGST @9% (Rs.)	HGST @9% (Rs.)
Invoice value declared (tax paid)	9,52,20,000	-	-
Cash received over invoice value (not declared)	2,28,20,000	20,53,800	20,53,800
Tax demanded	**2,28,20,000**	**20,53,800**	**20,53,800**

8. AND WHEREAS, since the split of the price was deliberately decided in advance, a parallel set of books was maintained for fifteen months, the cash was withdrawn by Noticee No.2, and false values were declared in every return, the short payment of tax is by reason of wilful misstatement and suppression of facts to evade tax, attracting Section 74A(5)(ii) of the CGST Act, 2017/HGST Act, 2017 and not Section 74A(5)(i);

9. AND WHEREAS it thus appears that Noticee No.1 has contravened the following provisions of the CGST Act, 2017 (and the corresponding provisions of the HGST Act, 2017):

- Section 15(1) - understatement of the transaction value;
- Section 9(1) read with Section 39(7) - non-payment of tax on the cash consideration;
- Section 31(1) read with Rule 46 - issue of incorrect invoices;
- Sections 37(1) and 39(1) - furnishing of incorrect statements and returns;
- Section 35(1) read with Rule 56 - non-maintenance of a true and correct account of outward supplies;

10. AND WHEREAS Noticee No.2 appears to have retained the benefit of the transactions covered by Section 122(1)(i) and to have conducted them at his instance, rendering him liable under Section 122(1A); and Noticee No.3 appears to have aided and abetted the said offences, rendering him liable under Section 122(3)(a);

11. AND WHEREAS the aforesaid acts and omissions render Noticee No.1 liable to demand of tax under Section 74A(1), interest under Section 50(1), penalty under Section 74A(5)(ii) and (without prejudice to and subject to Section 75(13) of the CGST Act, 2017) penalty under Section 122(1)(i), 122(1)(x) and

122(1)(xv); Noticee No.2 to penalty under Section 122(1A); and Noticee No.3 to penalty under Section 122(3)(a), of the CGST Act, 2017/HGST Act, 2017;

NOW, THEREFORE

(1) M/s XXX Pvt. Ltd., (2) Mr. Z, Director, and (3) Mr. P, Accounts Manager, are hereby called upon to show cause in writing to the Deputy/Assistant Commissioner, CGST Division - [•], Faridabad CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) the transaction value of the supplies of tiles made by Noticee No.1 during FY 2024-25 should not be held to be Rs.11,80,40,000/- (invoice value Rs.9,52,20,000/- plus cash received Rs.2,28,20,000/-) under Section 15(1) of the CGST Act, 2017/HGST Act, 2017, and the cash consideration of Rs.2,28,20,000/- should not be held to have been suppressed and not declared in the returns;

(ii) an amount of Rs.20,53,800/- (Central tax) and Rs.20,53,800/- (Haryana State tax), total Rs.41,07,600/- (Rupees Forty-One Lakh Seven Thousand Six Hundred only), being tax not paid on the cash consideration as detailed in Annexure-A, should not be demanded and recovered from Noticee No.1 under Section 74A(1) of the CGST Act, 2017 and the corresponding provisions of the HGST Act, 2017;

(iii) interest at the applicable rate under Section 50(1) of the CGST Act, 2017/HGST Act, 2017 should not be charged and recovered from Noticee No.1 on the tax at (ii) above, from the respective due dates till the date of payment;

(iv) a penalty of Rs.20,53,800/- (Central tax) and Rs.20,53,800/- (Haryana State tax), total Rs.41,07,600/-, equal to the tax due, should not be imposed on Noticee No.1 under Section 74A(5)(ii) of the CGST Act, 2017/HGST Act, 2017 (without prejudice to the reduced penalty payable under Section 74A(9) on payment within the time therein specified);

(v) penalty should not separately be imposed on Noticee No.1 under Sections 122(1)(i), 122(1)(x) and 122(1)(xv) of the CGST Act, 2017/HGST Act, 2017, without prejudice to (iv) above and subject to Section 75(13) and Section 126;

(vi) a penalty of Rs.20,53,800/- (Central tax) and Rs.20,53,800/- (Haryana State tax), equal to the tax evaded, should not be imposed on Noticee No.2 (Mr. Z) under Section 122(1A) of the CGST Act, 2017/HGST Act, 2017;

(vii) a penalty of up to Rs.25,000/- under each Act should not be imposed on Noticee No.3 (Mr. P) under Section 122(3)(a) of the CGST Act, 2017/HGST Act, 2017.

12. The Noticees are further informed that:

- a written reply, with all documents relied upon, must be furnished within thirty (30) days of receipt of this notice, failing which the case will be decided ex parte on merits on the basis of the available records;
- an opportunity of personal hearing will be given before adjudication, on a date to be separately intimated; any Noticee may appear in person or through an authorised representative;
- Noticee No.1 is informed of the benefit under Section 74A(9) of the CGST Act, 2017/HGST Act, 2017: if the tax at (ii) and the interest at (iii) are paid before the issue of this notice (with a penalty of 15%), or within sixty (60) days of the issue of this notice (with a penalty of 25%), or within sixty (60) days of communication of the order (with a penalty of 50%), all proceedings against Noticee No.1 shall be deemed concluded, and, in terms of Explanation 1 to Section 74A, proceedings against the other Noticees under Section 122 in this notice shall also be deemed concluded;
- this notice is without prejudice to any other action, including under Section 132, that may be taken against the Noticees or any other person under the CGST Act, 2017/HGST Act, 2017 or any other law

for the time being in force, and to the proceedings for the periods not covered by this notice (FY 2025-26 and FY 2026-27 up to 08.07.2026).

List of Relied Upon Documents (RUDs):

RUD-1: Intelligence note dated 17.06.2026; **RUD-2:** Authorisation dated 08.07.2026 under Section 67(2); **RUD-3:** Panchnama dated 09.07.2026 with inventory of seized items;

RUD-4: Registers A-1 to A-3; **RUD-5:** Forensic image of laptop and pen drive (spreadsheet 'Diff_Cash' and second Tally data) with hash values; **RUD-6:** Certificate under Section 145(2); **RUD-7:** WhatsApp chats of Mr. P;

RUD-8: Seizure list of cash of Rs.12,60,000/-; **RUD-9:** Statements of Mr. P dated 09.07.2026 and 22.07.2026; **RUD-10:** Statements of Mr. Z dated 10.07.2026 and 05.08.2026;

RUD-11 to RUD-13: Statements of the proprietors of M/s AAA Builders, M/s BBB Traders and M/s CCC Contractors; **RUD-14:** Purchase invoices and ledger extracts produced by them;

RUD-15: GSTR-1 and GSTR-3B of Noticee No.1 for April 2024 to March 2025; **RUD-16:** Tax invoices issued by Noticee No.1 for the same period;

Annexure-A: Month-wise statement of cash consideration, tax and interest for FY 2024-25 [as per the working in Part B].

(_____)
Deputy/Assistant Commissioner, CGST
Division - [•], Faridabad CGST Commissionerate

Copy to: The Joint/Additional Commissioner, CGST Faridabad, for information.

Drafting note (not part of the notice):

- *The addressee, jurisdictional range/officer, F. No./DIN and dates shown in square brackets/blanks are illustrative placeholders and must be completed with the correct particulars before issue.*
- *The tax, interest and penalty figures are worked out on the reasoned basis explained in Part B and remain subject to reconciliation with the seized/recorded documents. The demand is based on the cash recorded in the registers and corroborated by the customers; where a cash entry is not corroborated, the officer should consider limiting the demand to the corroborated entries.*
- ***Valuation or unrecorded consideration?*** *Section 15(1) fixes value by reference to the price actually paid or payable; the cash is part of that price. The valuation Rules 27 to 35 are not needed. Over-citing the rules is a drafting error because it suggests a valuation dispute where there is none. The cash entries must be linked, by invoice number, with the invoices already declared.*
- ***Cum-tax or ex-tax?*** *The Act has no cum-tax provision for suppressed consideration in the way the service-tax law had. Rule 35 applies when the value of a supply is inclusive of tax. The draft treats the cash as ex-tax because the customers state that price was agreed as an amount plus GST. If the facts show a tax-inclusive price, the Rule 35 formula (tax = value x 18/118) applies; the difference is shown in Part B. UNCERTAIN: no authority was verified on this point; the officer should check current departmental instructions.*
- ***Fraud.*** *Penalty equal to tax requires evidence of intent to evade, and the draft therefore leads with the registers, signed pages, chats and admissions. Without them, Section 74A(5)(i) would be the correct charge.*

- ***Mr. Z and Section 122(1A).*** *The penalty requires both retention of benefit and the 'instance' of the transaction, and is on top of the company's penalty; charge it only if the evidence of withdrawal is firm. Mr. Z's penalty is not 'in the alternative' to the company's. Explanation 1 to Section 74A deems 122/125 proceedings against others in the notice concluded if the main person's proceedings are concluded. Section 137 (offences by companies) concerns prosecution, not penalties.*
- ***Seized cash and recovery safeguards.*** *The cash of Rs.12,60,000/- is held as seized under Section 67(2). The Department should decide whether and how it may be adjusted against the dues, and whether provisional attachment under Section 83 is needed to protect revenue. UNCERTAIN: whether Section 83 expressly covers proceedings under Section 74A was not confirmed; verify before using.*
- ***Rate.*** *Tiles (HSN 6907) are taken at 18% for FY 2024-25. UNCERTAIN: the rate was confirmed from secondary sources only (the rate notification itself was not accessed); confirm against Notification No.1/2017-Central Tax (Rate), Schedule III, before issue.*
- *Other periods: the same registers cover 01.04.2025 to 08.07.2026. Quantify the later periods and proceed by a separate notice, or by a statement under Section 74A(3) if the facts and grounds are the same, so that the limitation of each financial year is preserved.*
- *Prosecution: tax evaded is below the amount-based tiers of Section 132(1). Clause (f) (false records) carries a separate tier with no monetary threshold. Decide on the complaint separately; do not mix prosecution reasoning into the SCN.*
- *The draft should be settled by the jurisdictional Range/Division before issue (DRC-01), including verification of the monetary-limit-based issuing/adjudicating authority under Circular No. 31/05/2018-GST dated 09.02.2018 (Superintendent: central tax up to Rs.10 lakh; Deputy/Assistant Commissioner: above Rs.10 lakh up to Rs.1 crore; Additional/Joint Commissioner: above Rs.1 crore). Here the central tax demand is Rs.20,53,800/-, so the Deputy/Assistant Commissioner issues the notice.*
- *Return of non-RUDs (Non-Relied Upon Documents): When the SCN is issued to the taxpayer in the form of DRC-01 (uploaded on the portal if registered, as well as delivered as per the provisions of law), non-RUDs must be returned to the noticee under due acknowledgement within seven days of issuance of the SCN.*

***

Exercise 14

Suppression of turnover detected in search - parallel Tally books, loose sheets, UPI settlements and bank credits (two financial years)

Exercise 14: Suppression of turnover detected in search - parallel Tally books, loose sheets, UPI settlements and bank credits (two financial years)

Situation in Brief:

1. M/s XXX is a proprietary concern of Mr. Z, registered at YYYY, Jaipur, Rajasthan, engaged in the wholesale and retail sale of mobile handsets and accessories (all taxable at 18%: 9% CGST + 9% RGST). It operates two showrooms. Mr. P is its Manager-cum-cashier. The Anti-Evasion wing of the Jaipur CGST Commissionerate received information (supported by an analysis of the UPI-merchant data of the area) that the business was receiving much larger UPI and cash receipts than the turnover it declared. On the file, the declared taxable value was Rs.38,40,00,000/- in FY 2024-25 and Rs.41,25,00,000/- in FY 2025-26, on which the tax declared in GSTR-3B was paid. The Joint Commissioner (Anti-Evasion) authorised a search under Section 67(2) of the CGST Act, 2017 on 21.07.2026.

2. The search was conducted on 22.07.2026 at the two showrooms and the office of M/s XXX, in the presence of independent witnesses and of Mr. Z. The panchnama records the recovery of: (i) 406 loose sheets (daily sales slips) for 61 days between 02.04.2025 and 15.07.2026, showing 'cash sale - not deposited' of Rs.38,26,000/- in all; (ii) a desktop computer carrying Tally Prime with two companies - 'XXX' (the official books) and 'XXX-B' - and an external hard disk with backups, the data of which were copied in the presence of the witnesses after hash verification (a certificate under Section 145(2) of the CGST Act, 2017 was obtained); (iii) a mobile phone of Mr. P with QR-payment alerts; and (iv) the pass books and cheque books of the current account of the firm and of the savings account of Mrs. W, wife of Mr. Z.

3. The company 'XXX-B' in Tally contains a sales register for every month from April 2024 to July 2026, with no GST ledger, no invoice numbers and no customer names but with the model, IMEI number and the amount received (cash/UPI/card) against each handset or accessory. The sales register for 'XXX-B' was totalled for the two financial years under examination as follows (the month-wise receipts are all-inclusive; no tax was ever shown on them):

Month	FY 2024-25: unrecorded sales per 'Tally-B' (Rs.)	Month	FY 2025-26: unrecorded sales per 'Tally-B' (Rs.)
Apr-2024	52,40,000	Apr-2025	56,80,000
May-2024	55,10,000	May-2025	60,15,000
Jun-2024	49,80,000	Jun-2025	54,20,000
Jul-2024	58,60,000	Jul-2025	63,40,000
Aug-2024	61,25,000	Aug-2025	66,05,000
Sep-2024	66,30,000	Sep-2025	71,90,000
Oct-2024	84,90,000	Oct-2025	91,25,000
Nov-2024	79,45,000	Nov-2025	86,70,000
Dec-2024	64,20,000	Dec-2025	69,10,000
Jan-2025	53,75,000	Jan-2026	58,35,000
Feb-2025	50,60,000	Feb-2026	55,90,000
Mar-2025	57,35,000	Mar-2026	62,45,000
FY 2024-25	**7,33,70,000**	**FY 2025-26**	**7,96,25,000**

4. The UPI QR codes displayed at the counters were mapped to a payment aggregator account settling into the savings account of Mrs. W. The summoned statements of the aggregator and of the bank (Section 70) show settlement credits month by month. The credits in the current account of the firm

and in the savings account of Mrs. W, after excluding credits verified as non-sale, were compared with the receipts accounted for in the returns of M/s XXX. The bank-credit analysis for the two years is as follows:

Particulars (Rs.)	FY 2024-25	FY 2025-26
(A) Total credits in current account, savings account of Mrs. W and UPI-QR settlements	55,62,10,000	59,84,65,000
(B) Less: credits verified as non-sale (inter-account transfers, loans, capital, refunds, reversals)	3,18,40,000	3,46,15,000
(C) Sale-related credits (A - B)	52,43,70,000	56,38,50,000
(D) Less: receipts accounted for in returns (declared taxable value + declared tax)	45,31,20,000	48,67,50,000
(E) Unaccounted receipts on bank-credit analysis (C - D)	7,12,50,000	7,71,00,000
(F) Unrecorded sales per 'Tally-B' register	7,33,70,000	7,96,25,000
(G) (E) as % of (F) - balance is cash sale not deposited (loose sheets)	97.1%	96.8%

5. In his statement dated 27.07.2026 and 12.08.2026 under Section 70, Mr. Z admitted that 'XXX-B' was maintained since April 2024 for the sale of handsets which were not billed; that the entries of 'XXX-B' are correct and reflect the actual sales; that customers walking in were quoted an all-inclusive price and no GST was shown or collected separately on either set of sales; that sales were not billed for customers who did not ask for a bill, to avoid paying GST; that he had asked Mrs. W to allow the UPI settlements into her account so that they were not seen in the books of the firm; and that the money was used in the business and for family expenses and the purchase of property. Mr. P, in his statement of 26.07.2026, stated that he maintained 'XXX-B' and the loose sheets on the instructions of Mr. Z and handed the cash to Mr. Z every evening. Mrs. W's statement dated 13.08.2026 shows that she had no role in the business; she allowed the use of her account at the request of her husband.

6. A stock reconciliation of the handsets with the purchase invoices (all from registered suppliers, with GST paid and ITC availed by M/s XXX in its GSTR-3B and matched with GSTR-2B) shows that the sales recorded in 'XXX-B' relate to goods covered by the purchase invoices recorded in the official books. No purchase was found to be unrecorded.

7. Now in the light of the above, -

(i) Identify the provision(s) of GST law contravened by M/s XXX (under heading **Contravention**).

(ii) Identify the provision(s) of GST law under which action is to be taken against M/s XXX (under heading **Consequences of Contravention of legal Provisions**).

(iii) Draft the **Charging Paragraph** of the Show Cause Notice proposed to be issued to M/s XXX, calling upon M/s XXX (Proprietor Mr. Z) and Mr. P to show cause as to why action should not be taken against them, while listing the proposed action to be taken against M/s XXX (Proprietor Mr. Z) and Mr. P.

(iv) Also prepare the **draft Show Cause Notice** for issuance to M/s XXX.

***

SUGGESTED SOLUTION

(Search under Section 67, statements under Section 70, Determination of Tax under Section 74A for two financial years - M/s XXX, Prop. Mr. Z and Mr. P, Jaipur CGST Commissionerate)

A. CONTRAVENTION

On the facts as recorded, the following provisions of law stand contravened (in each case read with the corresponding provisions of the Rajasthan Goods and Services Tax Act, 2017 [RGST Act] and the Rules made under the two Acts):

1. **Section 9(1) of the CGST Act, 2017 read with Section 39(7)** - tax at 18% was not paid on the outward supplies of mobile handsets and accessories made but not recorded or declared in FY 2024-25 and FY 2025-26.
2. **Section 31(1) of the CGST Act, 2017** - failure to issue tax invoices at the time of removal/delivery of goods for the supplies recorded in 'XXX-B'.
3. **Sections 37(1) and 39(1) of the CGST Act, 2017** - the outward supplies were not declared in GSTR-1 and GSTR-3B.
4. **Section 35(1) of the CGST Act, 2017 read with Rule 56** - the official books did not contain a true and correct account of the outward supplies, which were recorded in a separate Tally company.
5. **Section 122(1)(i), (x) and (xv)** (penal provisions) as explained in Part B.

Note:* Considered but not invoked:** *(a) Section 17 or Section 16 - no ITC is denied: the purchases of the goods sold were recorded in the official books and the ITC was properly availed. The demand is on output tax only, and no further ITC can be allowed against it unless the Noticee proves it under Section 16 (see the working note). (b) Section 76 - no tax was collected separately from the customers. (c) Section 15 and Rules 27-35 - the price is the actual amount received; there is no valuation dispute. (d) Section 62 (best judgement) - not applicable, as the Noticee is a regular return filer and the demand is on evidence of unrecorded receipts. (e)* ***Mrs. W *- used as a conduit account but no evidence of knowledge or benefit; no penalty is proposed on her; her statement is relied on.*

B. CONSEQUENCES OF CONTRAVENTION OF LEGAL PROVISIONS

The contraventions at (A) above expose Noticee No.1 (M/s XXX, a proprietary concern of Mr. Z) and Noticee No.2 (Mr. P) to the following action under the CGST Act, 2017 (read with the corresponding provisions of the RGST Act, 2017):

1. Determination and recovery of tax - under **Section 74A(1) of the CGST Act, 2017** (and the RGST Act) for FY 2024-25 and FY 2025-26, both being periods to which Section 74A applies [Section 74A(12); Notification No.17/2024-Central Tax]. The tax is computed **separately for each financial year**, because the limitation is reckoned from the due date of the annual return of each year [Section 74A(2): forty-two months]: for FY 2024-25 (annual return due 31.12.2025) the notice can be issued up to 30.06.2029, and for FY 2025-26 (due 31.12.2026) up to 30.06.2030. The notice is issued as a consolidated notice with the demand for each year shown separately; the order must be passed within twelve months of the notice [Section 74A(7)].
2. Quantification - the 'XXX-B' register is the primary evidence, admitted by Mr. Z, and the bank-credit analysis is a corroboration (it explains 97.1% and 96.8% of the register for the two years; the balance is the cash sale not deposited, supported by the loose sheets). The register figure is adopted, since it is the Noticee's own record of the actual sales. Receipts are taken as **inclusive of tax** (the customers were quoted all-inclusive prices and no tax was ever shown), so tax is computed under the Rule 35

formula, value x 18/118, and not as an extra over the receipts. That is the more favourable view for the Noticee and the safer view for the notice.

3. Interest - under **Section 50(1)** at the notified rate of 18% per annum from the day after the due date of GSTR-3B for each tax period till the date of payment (indicative working below).

4. Penalty on Noticee No.1 - equal to the tax due under **Section 74A(5)(ii)**, for each year. The facts show a deliberate and sustained scheme: separate unofficial books, UPI collections routed into a family member's account, customers not billed, and withdrawal of the proceeds. These facts are 'fraud or wilful misstatement or suppression of facts to evade tax'; the non-declaration of the facts in the returns is also suppression within Explanation 2. The concessions of **Section 74A(9)** (15%, 25%, 50% of tax as penalty depending on when payment is made) are available. Penalty under Section 122(1)(i) (supply without invoice), 122(1)(x) (false information/return) and 122(1)(xv) (suppression of turnover) is proposed in the alternative and without prejudice to the penalty under 74A(5)(ii), subject to Section 75(13) and Section 126.

5. Noticee No.2 (Mr. P) - penalty up to Rs.25,000/- under **Section 122(3)(a)** for aiding and abetting the offences under Section 122(1)(i), (x) and (xv). No separate penalty is proposed on Mr. Z, since he and the proprietary concern are one 'person' (Section 2(84)).

6. Prosecution - the unrecorded sales, being supplies without invoice with intent to evade tax, fall under **Section 132(1)(a)**. The total tax (central + State) of Rs.2,33,38,220/- exceeds Rs.2 crore, which, if the tax of both Acts is counted, falls in the band above Rs.200 lakh and up to Rs.500 lakh (imprisonment up to three years and fine; minimum six months under Section 132(3), unless special reasons are recorded). The offence is non-cognizable and bailable, since the cognizable and non-bailable category under Section 132(5) requires an amount above Rs.500 lakh. If only the central tax (Rs.1,16,69,110/-) is counted, it falls in the band of Rs.100 lakh to Rs.200 lakh, for which the verified text confines the tier to clause (b) offences. Prosecution requires the Commissioner's previous sanction [Section 132(6)] and is dealt with separately from the notice; it is not barred by payment under Section 74A(9) (Explanation 1 to Section 74A).

7. Proper officer - the central tax demand exceeds Rs.1 crore (Rs.1,16,69,110/-), and the notice is therefore issued by the Additional/Joint Commissioner, as per Circular No.31/05/2018-GST dated 09.02.2018.

Illustrative year-wise working of the tax (receipts are all-inclusive; tax = receipts x 18/118, shown as CGST 9/118 and RGST 9/118 each):

Financial year	Gross receipts (Rs.)	Taxable value (Rs.)	CGST @9% (Rs.)	RGST @9% (Rs.)	Last date for notice
FY 2024-25	7,33,70,000	6,21,77,966	55,96,017	55,96,017	30.06.2029
FY 2025-26	7,96,25,000	6,74,78,814	60,73,093	60,73,093	30.06.2030
TOTAL	**15,29,95,000**	**12,96,56,780**	**1,16,69,110**	**1,16,69,110**	

Month-wise working of CGST (RGST is equal) and GSTR-3B due dates:

Month	Receipts (Rs.)	CGST @9% (Rs.)	Due date	Month	Receipts (Rs.)	CGST @9% (Rs.)	Due date
Apr-2024	52,40,000	3,99,661	20.05.2024	Apr-2025	56,80,000	4,33,220	20.05.2025
May-2024	55,10,000	4,20,254	20.06.2024	May-2025	60,15,000	4,58,771	20.06.2025
Jun-2024	49,80,000	3,79,831	20.07.2024	Jun-2025	54,20,000	4,13,390	20.07.2025
Jul-2024	58,60,000	4,46,949	20.08.2024	Jul-2025	63,40,000	4,83,559	20.08.2025
Aug-2024	61,25,000	4,67,161	20.09.2024	Aug-2025	66,05,000	5,03,771	20.09.2025

Sep-2024	66,30,000	5,05,678	20.10.2024	Sep-2025	71,90,000	5,48,390	20.10.2025
Oct-2024	84,90,000	6,47,542	20.11.2024	Oct-2025	91,25,000	6,95,975	20.11.2025
Nov-2024	79,45,000	6,05,975	20.12.2024	Nov-2025	86,70,000	6,61,271	20.12.2025
Dec-2024	64,20,000	4,89,661	20.01.2025	Dec-2025	69,10,000	5,27,034	20.01.2026
Jan-2025	53,75,000	4,09,958	20.02.2025	Jan-2026	58,35,000	4,45,042	20.02.2026
Feb-2025	50,60,000	3,85,932	20.03.2025	Feb-2026	55,90,000	4,26,356	20.03.2026
Mar-2025	57,35,000	4,37,415	20.04.2025	Mar-2026	62,45,000	4,76,314	20.04.2026
FY 24-25	**7,33,70,000**	**55,96,017**		**FY 25-26**	**7,96,25,000**	**60,73,093**	

Basis: *Interest at 18% up to 30.11.2026 on CGST: Rs.20,77,532/- (FY 2024-25) and Rs.11,61,055/- (FY 2025-26); an equal amount for RGST; to continue till payment. If the receipts were held to be exclusive of tax, the tax would be Rs.2,75,39,100/- instead of Rs.2,33,38,220/-.* ***ITC:*** *ITC on the purchases of the goods sold has already been availed in the returns; no further ITC arises against the demand. Any claim of ITC not yet availed would have to meet Section 16 (including the time limit of Section 16(4) - the earlier of 30 November following the financial year or the date of the annual return).*

C. CHARGING PARAGRAPH OF THE SHOW CAUSE NOTICE

[The following is the operative charging paragraph proposed for incorporation in the Show Cause Notice at Part D below.]

Now, therefore, (1) M/s XXX, a proprietary concern of Mr. Z, YYYY, Jaipur, Rajasthan, and Mr. Z, its Proprietor, in his personal capacity as the 'person' and 'taxable person' constituting the said concern (M/s XXX and Mr. Z being one and the same person in law), and (2) Mr. P, Manager of M/s XXX, are hereby called upon to show cause in writing to the Additional/Joint Commissioner, CGST, Jaipur CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) *the outward supplies of mobile handsets and accessories of gross value Rs.15,29,95,000/- (FY 2024-25: Rs.7,33,70,000/-; FY 2025-26: Rs.7,96,25,000/-), recorded in the 'XXX-B' register and not declared in the returns, should not be held to be taxable supplies made without issue of invoice and without payment of tax;*

(ii) *an amount of Rs.1,16,69,110/- (Central tax) and Rs.1,16,69,110/- (Rajasthan State tax), total Rs.2,33,38,220/- (Rupees Two Crore Thirty-Three Lakh Thirty-Eight Thousand Two Hundred Twenty only), being tax not paid for FY 2024-25 (Rs.55,96,017/- + Rs.55,96,017/-) and FY 2025-26 (Rs.60,73,093/- + Rs.60,73,093/-), as detailed in Annexure-A, should not be demanded and recovered from Noticee No.1 under Section 74A(1) of the CGST Act, 2017 and the corresponding provisions of the RGST Act, 2017;*

(iii) *interest at the applicable rate under Section 50(1) of the CGST Act, 2017/RGST Act, 2017 should not be charged and recovered from Noticee No.1 on the tax at (ii) above, from the respective due dates till the date of payment;*

(iv) *a penalty of Rs.1,16,69,110/- (Central tax) and Rs.1,16,69,110/- (Rajasthan State tax), total Rs.2,33,38,220/-, equal to the tax due, should not be imposed on Noticee No.1 under Section 74A(5)(ii) of the CGST Act, 2017/RGST Act, 2017 (without prejudice to the reduced penalty payable under Section 74A(9) on payment within the time therein specified);*

(v) *penalty should not separately be imposed on Noticee No.1 under Sections 122(1)(i), 122(1)(x) and 122(1)(xv) of the CGST Act, 2017/RGST Act, 2017, without prejudice to (iv) above and subject to Section 75(13) and Section 126;*

(vi) *a penalty of up to Rs.25,000/- under each Act should not be imposed on Noticee No.2 (Mr. P) under Section 122(3)(a) of the CGST Act, 2017/RGST Act, 2017.*

D. DRAFT SHOW CAUSE NOTICE

F. No. GEXCOM/ADJN/SCN/[•]/2026-JAIPUR

DIN: [Document Identification Number to be auto-generated on issue]

Office of the Additional/Joint Commissioner, CGST, Jaipur CGST Commissionerate, Rajasthan

Date: [•].11.2026

SHOW CAUSE NOTICE

(Issued under Section 74A of the Central Goods and Services Tax Act, 2017 read with Section 74A of the Rajasthan Goods and Services Tax Act, 2017)

To,
1. M/s XXX, YYYY, Jaipur, Rajasthan, through its Proprietor Mr. Z. (Noticee No.1)
2. Mr. P, Manager, M/s XXX, residing at [•], Jaipur. (Noticee No.2)

(hereinafter referred to as 'Noticee No.1' and 'Noticee No.2' respectively, and together as 'the Noticees'; M/s XXX and its Proprietor Mr. Z being one and the same 'person' within the meaning of Section 2(84) of the CGST Act, 2017)

1. WHEREAS M/s XXX, a proprietary concern of Mr. Z at YYYY, Jaipur, is engaged in the sale of mobile handsets and accessories, taxable at 18% (9% CGST + 9% RGST). Information was received that its UPI and cash receipts far exceeded the turnover declared in its returns. The declared taxable value was Rs.38,40,00,000/- for FY 2024-25 and Rs.41,25,00,000/- for FY 2025-26 (RUD-1);

2. AND WHEREAS, on the authorisation of the Joint Commissioner (Anti-Evasion) dated 21.07.2026 under Section 67(2) of the CGST Act, 2017 (RUD-2), a search was conducted on 22.07.2026 at the showrooms and office of Noticee No.1 in the presence of two independent witnesses and Mr. Z. The panchnama (RUD-3) records the recovery of 406 loose sheets showing cash sales not deposited (Rs.38,26,000/-) (RUD-4); the Tally Prime data of the desktop and hard disk, copied after hash verification, containing a second company 'XXX-B' (RUD-5), with a certificate under Section 145(2) of the CGST Act, 2017 (RUD-6); the mobile phone of Noticee No.2 (RUD-7); and the pass books of the current account of Noticee No.1 and of the savings account of Mrs. W (RUD-8);

3. AND WHEREAS 'XXX-B' contains a monthly sales register with no invoice number, customer name or GST ledger, but with the model, IMEI and amount received against each sale. The totals are Rs.7,33,70,000/- for FY 2024-25 and Rs.7,96,25,000/- for FY 2025-26 (RUD-5). The UPI QR codes at the counters settled to the savings account of Mrs. W, as shown by the statements of the payment aggregator and the bank (RUD-9 and RUD-10);

4. AND WHEREAS the bank-credit analysis (RUD-11) shows that, after excluding verified non-sale credits, the receipts in the current account and the savings account exceeded the receipts accounted for in the returns by Rs.7,12,50,000/- in FY 2024-25 and Rs.7,71,00,000/- in FY 2025-26, which is 97.1% and 96.8% of the 'XXX-B' register; the balance represents cash sales not deposited, as shown by the loose sheets;

5. AND WHEREAS Mr. Z, in his statements recorded under Section 70 on 27.07.2026 and 12.08.2026 (RUD-12), inter alia admitted that 'XXX-B' was maintained from April 2024 for sales which were not billed; that its entries reflect the actual sales; that all-inclusive prices were quoted and no GST was shown or collected on either set of sales; that goods were not billed to avoid GST; and that he asked Mrs. W to allow UPI settlement into her account to keep the receipts out of the firm's books. Mr. P, in his statement dated 26.07.2026 (RUD-13), stated that he maintained 'XXX-B' and the loose sheets on the instructions of Mr. Z and handed the cash to him daily. Mrs. W's statement dated 13.08.2026 (RUD-14) shows that she had no role in the business;

6. AND WHEREAS the purchases of the goods sold have been recorded in the official books, the ITC thereon has been availed and matches GSTR-2B (RUD-15), and the stock reconciliation (RUD-16) shows that the sales recorded in 'XXX-B' relate to goods so purchased. No further ITC is therefore admissible against the demand;

7. AND WHEREAS, since the receipts are all-inclusive prices from which no tax was ever shown, the tax has been computed by applying Rule 35 of the CGST Rules, 2017 (value x 18/118) on the 'XXX-B' receipts, separately for each financial year, as follows (month-wise working in Annexure-A):

Financial year	Gross receipts (Rs.)	Taxable value (Rs.)	CGST @9% (Rs.)	RGST @9% (Rs.)	Last date for notice
FY 2024-25	7,33,70,000	6,21,77,966	55,96,017	55,96,017	30.06.2029
FY 2025-26	7,96,25,000	6,74,78,814	60,73,093	60,73,093	30.06.2030
TOTAL	**15,29,95,000**	**12,96,56,780**	**1,16,69,110**	**1,16,69,110**	

8. AND WHEREAS the Noticee No.1 has maintained unofficial books for over two financial years, routed UPI receipts into the account of a family member, not billed the customers, and withdrawn the proceeds, with the deliberate intent not to pay GST. The non-payment of tax is thus by reason of wilful misstatement and suppression of facts to evade tax, attracting Section 74A(5)(ii) of the CGST Act, 2017/RGST Act, 2017;

9. AND WHEREAS it thus appears that Noticee No.1 has contravened the following provisions of the CGST Act, 2017 (and the corresponding provisions of the RGST Act, 2017):

- Section 9(1) read with Section 39(7) - non-payment of tax on the outward supplies;
- Section 31(1) - non-issue of tax invoices;
- Sections 37(1) and 39(1) - non-declaration of the outward supplies in GSTR-1 and GSTR-3B;
- Section 35(1) read with Rule 56 - non-maintenance of true and correct accounts in the official books;

10. AND WHEREAS Noticee No.2 appears to have aided and abetted the said offences by maintaining 'XXX-B' and the loose sheets, rendering him liable to penalty under Section 122(3)(a) of the CGST Act, 2017/RGST Act, 2017;

11. AND WHEREAS the aforesaid acts and omissions render Noticee No.1 liable to demand of tax under Section 74A(1), interest under Section 50(1), penalty under Section 74A(5)(ii) and (without prejudice to and subject to Section 75(13)) penalty under Sections 122(1)(i), 122(1)(x) and 122(1)(xv), and Noticee No.2 liable to penalty under Section 122(3)(a), of the CGST Act, 2017/RGST Act, 2017;

NOW, THEREFORE

(1) M/s XXX, through its Proprietor Mr. Z, and (2) Mr. P, are hereby called upon to show cause in writing to the Additional/Joint Commissioner, CGST, Jaipur CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) the outward supplies of mobile handsets and accessories of gross value Rs.15,29,95,000/- (FY 2024-25: Rs.7,33,70,000/-; FY 2025-26: Rs.7,96,25,000/-), recorded in the 'XXX-B' register and not declared in the returns, should not be held to be taxable supplies made without issue of invoice and without payment of tax;

(ii) an amount of Rs.1,16,69,110/- (Central tax) and Rs.1,16,69,110/- (Rajasthan State tax), total Rs.2,33,38,220/- (Rupees Two Crore Thirty-Three Lakh Thirty-Eight Thousand Two Hundred Twenty only), being tax not paid for FY 2024-25 (Rs.55,96,017/- + Rs.55,96,017/-) and FY 2025-26 (Rs.60,73,093/- + Rs.60,73,093/-), as detailed in Annexure-A, should not be demanded and

recovered from Noticee No.1 under Section 74A(1) of the CGST Act, 2017 and the corresponding provisions of the RGST Act, 2017;

(iii) interest at the applicable rate under Section 50(1) of the CGST Act, 2017/RGST Act, 2017 should not be charged and recovered from Noticee No.1 on the tax at (ii) above, from the respective due dates till the date of payment;

(iv) a penalty of Rs.1,16,69,110/- (Central tax) and Rs.1,16,69,110/- (Rajasthan State tax), total Rs.2,33,38,220/-, equal to the tax due, should not be imposed on Noticee No.1 under Section 74A(5)(ii) of the CGST Act, 2017/RGST Act, 2017 (without prejudice to the reduced penalty payable under Section 74A(9) on payment within the time therein specified);

(v) penalty should not separately be imposed on Noticee No.1 under Sections 122(1)(i), 122(1)(x) and 122(1)(xv) of the CGST Act, 2017/RGST Act, 2017, without prejudice to (iv) above and subject to Section 75(13) and Section 126;

(vi) a penalty of up to Rs.25,000/- under each Act should not be imposed on Noticee No.2 (Mr. P) under Section 122(3)(a) of the CGST Act, 2017/RGST Act, 2017.

12. The Noticees are further informed that:

- a written reply, with all documents relied upon, must be furnished within thirty (30) days of receipt of this notice, failing which the case will be decided ex parte on merits on the basis of the available records;
- an opportunity of personal hearing will be given before adjudication, on a date to be separately intimated; any Noticee may appear in person or through an authorised representative;
- Noticee No.1 is informed of the benefit under Section 74A(9) of the CGST Act, 2017/RGST Act, 2017: on payment of the tax and interest with penalty of 15% of the tax before the issue of this notice, 25% within sixty (60) days of the issue of this notice, or 50% within sixty (60) days of communication of the order, all proceedings against Noticee No.1 shall be deemed to be concluded, and, in terms of Explanation 1 to Section 74A, the proceedings against Noticee No.2 under Section 122 in this notice shall also be deemed to be concluded;
- this notice is without prejudice to any other action, including under Section 132, that may be taken against the Noticees or any other person under the CGST Act, 2017/RGST Act, 2017 or any other law for the time being in force, and to the proceedings for the period from 01.04.2026 to 22.07.2026.

List of Relied Upon Documents (RUDs):

RUD-1: Intelligence note and returns data; **RUD-2:** Authorisation dated 21.07.2026; **RUD-3:** Panchnama dated 22.07.2026; **RUD-4:** Loose sheets (406); **RUD-5:** Tally Prime data ('XXX-B') with hash values; **RUD-6:** Certificate under Section 145(2);

RUD-7: Mobile phone extraction of Mr. P; **RUD-8:** Pass books and cheque books; **RUD-9:** Statements of the payment aggregator; **RUD-10:** Bank statements/statements of the bank officer;

RUD-11: Bank-credit analysis; **RUD-12:** Statements of Mr. Z dated 27.07.2026 and 12.08.2026; **RUD-13:** Statement of Mr. P dated 26.07.2026; **RUD-14:** Statement of Mrs. W dated 13.08.2026;

RUD-15: GSTR-1, GSTR-3B, GSTR-2B and purchase invoices of M/s XXX for FY 2024-25 and FY 2025-26; **RUD-16:** Stock reconciliation statement;

Annexure-A: Month-wise statement of receipts, tax and interest for FY 2024-25 and FY 2025-26 [as per the working in Part B].

(_____)
Additional/Joint Commissioner, CGST

Jaipur CGST Commissionerate

Copy to: The Commissioner, CGST, Jaipur, for information.

Drafting note (not part of the notice):

- *The addressee, jurisdictional range/officer, F. No./DIN and dates shown in square brackets/blanks are illustrative placeholders and must be completed with the correct particulars before issue.*
- *The tax, interest and penalty figures are worked out on the reasoned basis explained in Part B and remain subject to reconciliation with the seized/recorded documents. The register is the primary evidence and the bank credits corroborate it; where the hard-disk data and the bank analysis differ, the officer must record why the higher (register) figure is adopted.*
- ***Per-year computation.*** *Each financial year has its own limitation under Section 74A(2), its own annual return due date and its own penalty. The draft shows them separately in one consolidated notice. UNCERTAIN: whether a single notice under Section 74A(1) can cover two financial years, or whether the second year should go by a statement under Section 74A(3), was not verified; settle this with the Range before issue.*
- ***Bank-credit analysis.*** *Total credits are never turnover. The analysis must exclude inter-account transfers, loans, capital, refunds and reversals, and must be documented line by line in the annexure; the Noticee will contest every excluded or included item.*
- ***Cum-tax.*** *The Act has no express cum-tax rule for tax-free collections. The draft treats the all-inclusive receipts as including tax (Rule 35 formula) on the Noticee's own admission that all-inclusive prices were quoted; the exclusive alternative is shown in Part B. UNCERTAIN: no authority on this point was verified.*
- ***ITC.*** *The ITC on the purchases was availed; the Noticee gets no second ITC. Do not allow set-off of unclaimed ITC against the demand without a Section 16 check.*
- ***Rate.*** *Handsets and accessories are taken at 18% for the whole period. UNCERTAIN: confirmed from secondary sources only (including the continuation of 18% after 22.09.2025); verify HSN-wise against Notification No.1/2017-Central Tax (Rate), as amended, before issue.*
- ***Prosecution.*** *The tier depends on whether central tax alone or the central and State tax together are the 'amount of tax evaded'. UNCERTAIN: not verified; also the tier for Rs.100-200 lakh is read as limited to clause (b) offences from one source whereas an older text reads 'any other offence'. The Commissioner decides on sanction under Section 132(6).*
- *The draft should be settled by the jurisdictional Range/Division before issue (DRC-01), including verification of the monetary-limit-based issuing/adjudicating authority under Circular No. 31/05/2018-GST dated 09.02.2018 (Superintendent: central tax up to Rs.10 lakh; Deputy/Assistant Commissioner: above Rs.10 lakh up to Rs.1 crore; Additional/Joint Commissioner: above Rs.1 crore). Here the central tax demand is Rs.1,16,69,110/-, so the Additional/Joint Commissioner issues the notice.*
- *Return of non-RUDs (Non-Relied Upon Documents): When the SCN is issued to the taxpayer in the form of DRC-01 (uploaded on the portal if registered, as well as delivered as per the provisions of law), non-RUDs must be returned to the noticee under due acknowledgement within seven days of issuance of the SCN.*

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Exercise 15

Mismatch between outward supplies in GSTR-1 and GSTR-3B - reconciliation, Section 75(12) carve-out and notice under Section 73

Exercise 15: Mismatch between outward supplies in GSTR-1 and GSTR-3B - reconciliation, Section 75(12) carve-out and notice under Section 73

Situation in Brief:

1. M/s XXX is a partnership firm (partners: Mr. Z and Mr. P) registered at YYYY, Raipur, Chhattisgarh, manufacturing and supplying fabricated steel products at 18% (9% CGST + 9% CGGST) to dealers and contractors. It files GSTR-1 and GSTR-3B monthly and its aggregate turnover has never exceeded Rs.5 crore. Its annual return (GSTR-9) for FY 2023-24 was filed on 27.12.2024. The GSTIN was selected for scrutiny of returns for FY 2023-24 by the departmental analytics wing on the risk parameter 'liability in GSTR-1 exceeds the liability paid through GSTR-3B' and placed on the scrutiny dashboard of the proper officer, the Superintendent of the jurisdictional Range.

2. Notice in FORM GST ASMT-10 under Section 61 read with Rule 99 was issued on 11.03.2026 asking for an explanation of the difference of Rs.22,55,000/- (taxable value; tax Rs.4,05,900/-) between the outward supplies in the GSTR-1 for FY 2023-24 as originally filed and those in GSTR-3B. The firm replied in FORM GST ASMT-11 on 09.04.2026, explaining that (i) the differences in June-2023 and March-2024 were timing differences, as the invoices were included in the GSTR-3B of July-2023 and April-2024; (ii) the difference in December-2023 had been corrected by amending 14 invoices of that month in Table 9A of the GSTR-1 for February-2024, because the orders were 'cancelled or returned'; and (iii) the differences in October-2023 and January-2024 were due to a mapping error of the billing software, which was 'to be set right'. The month-wise position, as per the portal, is as follows:

Month	GSTR-1 as originally filed (Rs.)	Table 9A amendments (Rs.)	GSTR-1 net (Rs.)	GSTR-3B Table 3.1(a) (Rs.)	GSTR-1 net minus GSTR-3B (Rs.)
Apr-2023	36,40,000	-	36,40,000	36,40,000	-
May-2023	38,10,000	-	38,10,000	38,10,000	-
Jun-2023	35,20,000	-	35,20,000	32,00,000	3,20,000
Jul-2023	39,60,000	-	39,60,000	42,80,000	-3,20,000
Aug-2023	41,30,000	-	41,30,000	41,30,000	-
Sep-2023	40,15,000	-	40,15,000	40,15,000	-
Oct-2023	44,75,000	-	44,75,000	39,35,000	5,40,000
Nov-2023	42,20,000	-	42,20,000	42,20,000	-
Dec-2023	46,50,000	-	46,50,000	36,90,000	9,60,000
Jan-2024	38,90,000	-	38,90,000	36,15,000	2,75,000
Feb-2024	37,45,000	-9,60,000	27,85,000	37,45,000	-9,60,000
Mar-2024	43,60,000	-	43,60,000	38,80,000	4,80,000
FY 2023-24	**4,84,15,000**	**-9,60,000**	**4,74,55,000**	**4,61,60,000**	**12,95,000**

3. The timing explanation at (i) was verified from the GSTR-3B of July-2023 (which includes Rs.3,20,000/- of June invoices, paid on 18.08.2023) and of April-2024 (which includes Rs.4,80,000/- of March invoices, paid on 20.05.2024). The explanation at (iii) was accepted as a fact by the firm: the invoices of Rs.5,40,000/- (October-2023) and Rs.2,75,000/- (January-2024) were reported in GSTR-1 but the tax thereon has not been paid in any GSTR-3B till date.

4. For the amendments at (ii), the firm was asked on 21.04.2026 to furnish the credit notes, proof of return of goods and customer correspondence. The reply of 14.05.2026 gave credit notes, goods-return gate entries and debit entries in the buyers' ledgers for five invoices (taxable value Rs.3,60,000/-). For the remaining nine invoices (taxable value Rs.6,00,000/-, details in Annexure-A), no credit note, no return of goods and no buyer confirmation was produced; the firm only repeated that the orders

were cancelled. The Range then obtained (a) the e-way bills generated by the firm itself in December-2023 against each of the nine invoices (each invoice being above Rs.50,000/-), (b) the transporters' lorry receipts bearing the consignees' acknowledgement of delivery, and (c) letters from six of the nine consignees confirming receipt of the goods in December-2023 and payment of the invoice amount (the three others did not respond). The consignees had also taken the tax charged in these invoices as input tax credit in December-2023, and none of them had received a credit note.

5. ASMT-12 was issued on 16.06.2026 in respect of the explanation accepted (timing differences and the five invoices supported by credit notes). For the Rs.8,15,000/- declared but unpaid tax-value in October-2023 and January-2024, the Range, following Instruction No. 01/2022-GST dated 07.01.2022, communicated the shortfall of Rs.1,46,700/- (CGST Rs.73,350/- + CGGST Rs.73,350/-) with interest, and asked for payment or explanation, by letter dated 24.06.2026; no payment or explanation has been received. For the nine unsupported amendments, a communication in Part A of FORM GST DRC-01A was issued on 05.08.2026 for tax of Rs.1,08,000/-, and the firm replied in Part B on 19.08.2026 without any document. No part of the amount has been paid.

6. Now in the light of the above, -

(i) Identify the provision(s) of GST law contravened by M/s XXX (under heading **Contravention**).

(ii) Identify the provision(s) of GST law under which action is to be taken against M/s XXX (under heading **Consequences of Contravention of legal Provisions**).

(iii) Draft the **Charging Paragraph** of the Show Cause Notice proposed to be issued to M/s XXX, calling upon M/s XXX (through its partner Mr. Z) to show cause as to why action should not be taken against them, while listing the proposed action to be taken against M/s XXX (through its partner Mr. Z).

(iv) Also prepare the **draft Show Cause Notice** for issuance to M/s XXX.

***

SUGGESTED SOLUTION

(Scrutiny of returns under Section 61, reconciliation of timing differences and amendments, Determination of Tax under Section 73 - M/s XXX, Raipur CGST Commissionerate)

A. CONTRAVENTION

On the facts as recorded, the following provisions of law stand contravened by M/s XXX in respect of the nine invoices of December-2023 (read with the corresponding provisions of the Chhattisgarh Goods and Services Tax Act, 2017 [CGGST Act] and the Rules made under the two Acts):

1. **Section 9(1) of the CGST Act, 2017 read with Section 39(7)** - tax at 18% on the outward supplies of the nine invoices (taxable value Rs.6,00,000/-) was not paid by the due date of the return for December-2023.
2. **Section 39(1) of the CGST Act, 2017** - the return for December-2023 did not declare the outward supplies of the nine invoices.
3. **Section 37(3) of the CGST Act, 2017** - the rectification procedure is available only for an actual 'error or omission' in the details of outward supplies; the Table 9A amendments reducing the value of invoices for supplies that were in fact made were not a valid rectification.

Note:* Considered but not invoked:** *(a)* ***Section 74A *- the tax pertains to FY 2023-24, for which Sections 73/74 apply; Section 73(12) confirms that Section 73 applies to periods up to FY 2023-24. (b)* ***Section 74*** *- no evidence of intent; the amendments were made openly in a filed GSTR-1 and the invoices and e-way bills stood in the Government's records. (c)* ***Section 75(12) read with Section 79*** *- applies to the self-assessed tax shown in GSTR-1 but not paid in GSTR-3B (Rs.8,15,000/- of value, i.e. component (b) in Part B). That component is therefore deliberately excluded from the demand in this notice, to avoid two proceedings for the same tax. (d) The timing differences - tax stands paid; no demand.*

B. CONSEQUENCES OF CONTRAVENTION OF LEGAL PROVISIONS

The contraventions at (A) above expose M/s XXX to the following action under the CGST Act, 2017 (read with the corresponding provisions of the CGGST Act, 2017):

1. Reconciliation first: which part needs a notice? The difference of Rs.22,55,000/- between GSTR-1 (as filed) and GSTR-3B breaks up as shown in the table below. Only component (d) needs a show cause notice.

Component of the difference	Taxable value (Rs.)	Tax at 18% (Rs.)	Route
(a) March-2024 invoices paid in the April-2024 3B (timing). June-2023 invoices (Rs.3,20,000/-) paid in the July-2023 3B net to nil within the year	4,80,000	86,400	No tax demand; interest only
(b) Declared in GSTR-1 (Oct-2023, Jan-2024) but never paid in GSTR-3B	8,15,000	1,46,700	Section 75(12) read with Section 79 (outside this notice)
(c) Table 9A amendments supported by credit notes and return of goods (5 invoices)	3,60,000	64,800	Accepted; no demand
(d) Table 9A amendments with no credit note, and goods delivered (9 invoices)	6,00,000	1,08,000	Section 73 - this notice
TOTAL - difference between GSTR-1 as originally filed and GSTR-3B (ASMT-10 figure)	**22,55,000**	**4,05,900**	

2. Why Section 75(12) cannot be used for component (d) - Section 75(12) allows recovery under Section 79, without a notice under Section 73, of 'self-assessed tax in accordance with a return furnished under Section 39' and, by its Explanation, of tax payable on the details of outward supplies furnished under

Section 37 but not included in the Section 39 return. For component (d) the firm itself had amended the Section 37 details, and the question whether the amendments are bona fide, which requires evidence and a hearing, is the heart of the matter. The safer course is to adjudicate it through a notice. *(Component (b) is the opposite case: the details furnished under Section 37 stand, and the unpaid tax is recoverable under Section 79 after the communication required by Instruction No. 01/2022-GST.)*

3. Determination of tax - under **Section 73(1) of the CGST Act, 2017** (and the CGGST Act), on the ground that tax has been short paid for a reason other than fraud, wilful misstatement or suppression. The annual return for FY 2023-24 was due on 31.12.2024; the order must be passed within three years of that date, i.e. by 31.12.2027 [Section 73(10)], and the notice must be issued at least three months before that date, i.e. on or before 30.09.2027 [Section 73(2)]. Rule 142(1A) (FORM GST DRC-01A) has been followed.

4. Interest - under **Section 50(1)** at the notified rate of 18% per annum from 21.01.2024 (the day after the due date for GSTR-3B of December-2023, 20.01.2024) till payment: indicatively Rs.27,828/- for each Act up to 30.11.2026.

5. Penalty - **Section 73(9)**: ten per cent of the tax or Rs.10,000/-, whichever is higher, for each Act: here 10% of Rs.54,000/- is Rs.5,400/-, so the minimum of Rs.10,000/- applies, giving Rs.10,000/- under each Act. A fraud penalty is not proposed. The concession of **Section 73(8)** (payment of tax and interest within thirty days of issue of the notice: no penalty and the proceedings are concluded) is available; Section 73(11) is not attracted since the tax is not self-assessed tax shown in the Section 39 return.

6. Other noticees - none. The case rests on the firm's own returns and no separate act or abetment by a partner or employee has been established; Section 137 and Section 122 are not invoked.

7. Other action - (i) recovery of Rs.1,46,700/- (components (b)) with interest under Section 75(12)/79 on the lines of Instruction No. 01/2022-GST, separately; (ii) the interest on the timing items (about Rs.2,102/- for both Acts) is payable under Section 50(1) by the firm, to be asked for in the same letter. *The legal route for recovery of interest alone, where tax was paid late, is not confirmed.*

8. Proper officer - the central tax demand (Rs.54,000/-) is within Rs.10 lakh and the notice is therefore issued by the Superintendent, as per Circular No.31/05/2018-GST dated 09.02.2018.

Basis: *Tax on component (d): taxable value Rs.6,00,000/- x 9% = Rs.54,000/- CGST + Rs.54,000/- CGGST = Rs.1,08,000/-. Interest of Rs.27,828/- is indicative per Act up to 30.11.2026. Interest on component (b), for comparison, is about Rs.38,884/- per Act up to the same date.*

C. CHARGING PARAGRAPH OF THE SHOW CAUSE NOTICE

[The following is the operative charging paragraph proposed for incorporation in the Show Cause Notice at Part D below.]

Now, therefore, M/s XXX, a partnership firm, YYYY, Raipur, Chhattisgarh, through its partner Mr. Z, are hereby called upon to show cause in writing to the Superintendent, CGST Range - [•], Raipur CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) *the amendments in Table 9A of GSTR-1 for February-2024, reducing the outward supplies of nine invoices of December-2023 (taxable value Rs.6,00,000/-), should not be held to be invalid, and the said supplies should not be held to have been made and to be liable to tax;*

(ii) *an amount of Rs.54,000/- (Central tax) and Rs.54,000/- (Chhattisgarh State tax), total Rs.1,08,000/- (Rupees One Lakh Eight Thousand only), being tax short paid on the said supplies, as detailed in Annexure-A to this notice, should not be demanded and recovered from them under Section 73(1) of the CGST Act, 2017 and the corresponding provisions of the CGGST Act, 2017;*

(iii) *interest at the applicable rate under Section 50(1) of the CGST Act, 2017/CGGST Act, 2017 should not be charged and recovered on the tax at (ii) above, from 21.01.2024 till the date of payment;*

(iv) *a penalty of Rs.10,000/- (Central tax) and Rs.10,000/- (Chhattisgarh State tax), total Rs.20,000/- , being the higher of ten per cent of the tax or Rs.10,000/- under each Act, should not be imposed on them under Section 73(9) of the CGST Act, 2017/CGGST Act, 2017 (without prejudice to the benefit of nil penalty under Section 73(8) on payment of tax and interest within thirty days of the issue of the notice).*

D. DRAFT SHOW CAUSE NOTICE

F. No. GEXCOM/ADJN/SCN/[•]/2026-RAIPUR

DIN: [Document Identification Number to be auto-generated on issue]

Office of the Superintendent, CGST Range - [•], Division - [•], Raipur CGST Commissionerate, Chhattisgarh

Date: [•].11.2026

SHOW CAUSE NOTICE

(Issued under Section 73 of the Central Goods and Services Tax Act, 2017 read with Section 73 of the Chhattisgarh Goods and Services Tax Act, 2017)

To,
M/s XXX,
(through its partner Mr. Z),
YYYY, Raipur, Chhattisgarh.

(hereinafter referred to as 'the Noticee')

1. WHEREAS M/s XXX, a partnership firm registered at YYYY, Raipur, and engaged in the manufacture and supply of fabricated steel products, was selected for scrutiny of its returns for FY 2023-24 on the parameter 'liability in GSTR-1 exceeds the liability paid in GSTR-3B' (RUD-1). A notice in FORM GST ASMT-10 under Section 61 of the CGST Act, 2017 read with Rule 99 of the CGST Rules, 2017 was issued on 11.03.2026 (RUD-2) asking for an explanation of the difference of Rs.22,55,000/- (taxable value) between the GSTR-1 as originally filed and the GSTR-3B for FY 2023-24;

2. AND WHEREAS the Noticee replied in FORM GST ASMT-11 on 09.04.2026 (RUD-3), stating, among other things, that the difference of Rs.9,60,000/- in December-2023 had been corrected by amending 14 invoices of December-2023 in Table 9A of the GSTR-1 for February-2024, as the orders had been cancelled or returned. The explanation in respect of timing differences and of five of the 14 invoices (Rs.3,60,000/-), supported by credit notes and goods-return documents (RUD-4), was accepted and ASMT-12 was issued on 16.06.2026 (RUD-5);

3. AND WHEREAS, for the remaining nine invoices (taxable value Rs.6,00,000/-), the Noticee produced no credit note, no proof of return of goods and no buyer confirmation, and merely repeated that the orders were cancelled (RUD-6). Verification by the Range showed that e-way bills had been generated by the Noticee itself against all nine invoices in December-2023 (RUD-7), that the transporters' lorry receipts carry the consignees' acknowledgement of delivery (RUD-8), and that six of the nine consignees confirmed in writing the receipt of goods and payment of the invoice value (RUD-9) and had taken input tax credit of the tax on the invoices in December-2023 without having received any credit note (RUD-10);

4. AND WHEREAS it therefore appears that the supplies covered by the nine invoices, listed in Annexure-A, were actually made in December-2023; that the tax thereon had not been paid in the GSTR-3B for December-2023 (which reported Rs.9,60,000/- less than the GSTR-1 as originally filed); and that the subsequent amendments in Table 9A of GSTR-1, being unsupported by any credit note or return of goods, are not a valid rectification of any 'error or omission' under Section 37(3) of the CGST Act, 2017 and do not reduce the tax liability. The tax short paid on the nine invoices, worked out at 18% (9% CGST + 9% CGGST) is as under:

Sl.	Invoice no.	Date	E-way bill no.	Taxable value (Rs.)	Tax at 18% (Rs.)
1	XXX/23-24/1180	04.12.2023	[EWB no. to be inserted]	60,000	10,800
2	XXX/23-24/1197	07.12.2023	[EWB no. to be inserted]	72,000	12,960

3	XXX/23-24/1214	11.12.2023	[EWB no. to be inserted]	55,000	9,900
4	XXX/23-24/1231	14.12.2023	[EWB no. to be inserted]	68,000	12,240
5	XXX/23-24/1248	18.12.2023	[EWB no. to be inserted]	64,000	11,520
6	XXX/23-24/1265	21.12.2023	[EWB no. to be inserted]	58,000	10,440
7	XXX/23-24/1282	26.12.2023	[EWB no. to be inserted]	70,000	12,600
8	XXX/23-24/1299	28.12.2023	[EWB no. to be inserted]	53,000	9,540
9	XXX/23-24/1316	30.12.2023	[EWB no. to be inserted]	1,00,000	18,000
	TOTAL			**6,00,000**	**1,08,000**

5. AND WHEREAS the Noticee's GSTR-1 as originally filed, the e-way bills, the lorry receipts and the consignees' statements are all part of the record, and the amendments were made openly in a return filed on the portal. There is no evidence of fraud, wilful misstatement or suppression of facts to evade tax; the short payment is therefore appearing to be for reasons other than fraud and is covered by Section 73 and not Section 74 of the CGST Act, 2017;

6. AND WHEREAS the tax of Rs.1,46,700/- on the supplies of Rs.8,15,000/- reported in GSTR-1 for October-2023 and January-2024 but not paid in GSTR-3B has been communicated for recovery under Section 75(12) read with Section 79 of the CGST Act, 2017 (RUD-11) and is not included in this notice, which is confined to the amount of tax in the table above;

7. AND WHEREAS a communication in Part A of FORM GST DRC-01A dated 05.08.2026 was issued under Rule 142(1A) for the tax of Rs.1,08,000/-, to which the Noticee replied in Part B on 19.08.2026 without furnishing any document (RUD-12), and the amount has not been paid;

8. AND WHEREAS it thus appears that the Noticee has contravened Section 9(1) read with Section 39(7), Section 39(1) and Section 37(3) of the CGST Act, 2017 (and the corresponding provisions of the CGGST Act, 2017), and is liable to determination of tax under Section 73(1), interest under Section 50(1) and penalty under Section 73(9) of the CGST Act, 2017/CGGST Act, 2017;

NOW, THEREFORE

M/s XXX, a partnership firm, YYYY, Raipur, Chhattisgarh, through its partner Mr. Z, is hereby called upon to show cause in writing to the Superintendent, CGST Range - [•], Raipur CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) the amendments in Table 9A of GSTR-1 for February-2024, reducing the outward supplies of nine invoices of December-2023 (taxable value Rs.6,00,000/-), should not be held to be invalid, and the said supplies should not be held to have been made and to be liable to tax;

(ii) an amount of Rs.54,000/- (Central tax) and Rs.54,000/- (Chhattisgarh State tax), total Rs.1,08,000/- (Rupees One Lakh Eight Thousand only), being tax short paid on the said supplies, as detailed in Annexure-A to this notice, should not be demanded and recovered from them under Section 73(1) of the CGST Act, 2017 and the corresponding provisions of the CGGST Act, 2017;

(iii) interest at the applicable rate under Section 50(1) of the CGST Act, 2017/CGGST Act, 2017 should not be charged and recovered on the tax at (ii) above, from 21.01.2024 till the date of payment;

(iv) a penalty of Rs.10,000/- (Central tax) and Rs.10,000/- (Chhattisgarh State tax), total Rs.20,000/-, being the higher of ten per cent of the tax or Rs.10,000/- under each Act, should not be imposed on them under Section 73(9) of the CGST Act, 2017/CGGST Act, 2017 (without prejudice to the benefit of nil penalty under Section 73(8) on payment of tax and interest within thirty days of the issue of the notice).

9. The Noticee is further informed that:

- a written reply, with all documents relied upon, must be furnished within thirty (30) days of receipt of this notice, failing which the case will be decided ex parte on merits on the basis of the available records;
- an opportunity of personal hearing will be given before adjudication, on a date to be separately intimated; the Noticee may appear in person or through an authorised representative;
- attention is drawn to Section 73(8) of the CGST Act, 2017/CGGST Act, 2017: if the tax at (ii) and the interest at (iii) are paid within thirty (30) days of the issue of this notice, no penalty shall be payable and all proceedings in respect of this notice shall be deemed to be concluded;
- this notice is without prejudice to the recovery of the tax declared in GSTR-1 but not paid, and to any other action that may be taken against the Noticee under the CGST Act, 2017/CGGST Act, 2017 or any other law for the time being in force.

List of Relied Upon Documents (RUDs):

RUD-1: Scrutiny selection report; **RUD-2:** ASMT-10 dated 11.03.2026; **RUD-3:** ASMT-11 reply dated 09.04.2026 with reconciliation; **RUD-4:** credit notes and goods-return documents for five invoices; **RUD-5:** ASMT-12 dated 16.06.2026;

RUD-6: Letter dated 21.04.2026 and reply dated 14.05.2026; **RUD-7:** e-way bills for the nine invoices (portal data); **RUD-8:** lorry receipts with acknowledgements; **RUD-9:** confirmation letters of six consignees; **RUD-10:** GSTR-2B/GSTR-3B extracts of the consignees (December-2023);

RUD-11: Communication dated 24.06.2026 for tax declared in GSTR-1 but unpaid; **RUD-12:** DRC-01A dated 05.08.2026 with reply in Part B; **RUD-13:** GSTR-1, GSTR-3B and GSTR-9 of the Noticee for FY 2023-24;

Annexure-A: List of the nine invoices with taxable value and tax, and month-wise reconciliation [as per Part B].

(_____)
Superintendent, CGST
Range - [•], Division - [•], Raipur CGST Commissionerate

Copy to: The Deputy/Assistant Commissioner, CGST Division, Raipur, for information.

Drafting note (not part of the notice):

- *The addressee, jurisdictional range/officer, F. No./DIN and dates shown in square brackets/blanks are illustrative placeholders and must be completed with the correct particulars before issue.*
- *The tax, interest and penalty figures are worked out on the reasoned basis explained in Part B and remain subject to reconciliation with the seized/recorded documents.*
- ***Sequence.** ASMT-10 (Rule 99) -> ASMT-11 -> ASMT-12 for what is accepted -> DRC-01A (Rule 142(1A)) -> SCN (DRC-01). Section 61(3) allows the proper officer to proceed under Section 73 or 74 (and 74A for later periods) only after the 30-day explanation period is over or the discrepancy is accepted but not corrected. A scrutiny-found discrepancy cannot be corrected by the taxpayer through Section 39(9) as of right, since that sub-section is for errors not found by scrutiny, audit or inspection.*
- ***Not every mismatch needs an SCN.** The teaching point of this exercise is the split of the difference into (a) timing, (b) declared-but-unpaid (Section 75(12)/79) and (c)/(d) amendments. Compare with Exercise-17 (tax in GSTR-9 but not in GSTR-1/3B). UNCERTAIN: component (d) can be argued to be 'self-assessed' under the Explanation to Section 75(12) if the amendments are held invalid, since the original GSTR-1*

did declare the invoices. The draft prefers a notice because the validity of the amendments has to be adjudicated after hearing; the Range may take a different view with legal advice.

- ***Non-fraud.*** *Section 73 (and not 74) is proposed because the amendments were open, the e-way bills and invoices stood in Government records, and there is no evidence of intent. If the Noticee had, for example, amended after receipt of ASMT-10 or concealed the deliveries, the charge would need reconsideration.*
- ***Self-assessed tax and Section 73(11).*** *The draft treats the tax on component (d) as not 'self-assessed tax' for Section 73(11) and so offers the Section 73(8) concession. UNCERTAIN: whether the Explanation to Section 75(12) widens 'self-assessed tax' beyond that sub-section was not verified.*
- ***Recipients.*** *The buyers' ITC on the nine invoices is not disturbed; they are bona fide recipients (see Exercise-06 for the supplier-default situation).*
- ***Time limit.*** *The annual return due date for FY 2023-24 is taken as 31.12.2024. UNCERTAIN: no extension was seen in the sources reached; confirm before issue. Interest rate (18%) is as notified; the working is indicative.*
- *The draft should be settled by the jurisdictional Range/Division before issue (DRC-01), including verification of the monetary-limit-based issuing/adjudicating authority under Circular No. 31/05/2018-GST dated 09.02.2018 (Superintendent: central tax up to Rs.10 lakh; Deputy/Assistant Commissioner: above Rs.10 lakh up to Rs.1 crore; Additional/Joint Commissioner: above Rs.1 crore). Here the central tax demand is Rs.54,000/-, within the Superintendent's limit.*
- *Return of non-RUDs (Non-Relied Upon Documents): When the SCN is issued to the taxpayer in the form of DRC-01 (uploaded on the portal if registered, as well as delivered as per the provisions of law), non-RUDs must be returned to the noticee under due acknowledgement within seven days of issuance of the SCN.*

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Exercise 16

Under-reporting of outward supplies detected from e-way bill data - delivery challans used for supply, with CGST, MGST and IGST demand

Exercise 16: Under-reporting of outward supplies detected from e-way bill data - delivery challans used for supply, with CGST, MGST and IGST demand

Situation in Brief:

1. M/s XXX Pvt. Ltd., YYYY, Thane, Maharashtra, is a trader of industrial hardware and fasteners, registered since 2018 and covered by e-invoicing (its aggregate turnover is about Rs.190 crore). Mr. Z is its Director; Mr. P is its dispatch manager. Its returns are filed monthly. In regular invoices for the same goods, it charges 18% (CGST 9% + MGST 9% on intra-State supplies; IGST 18% on inter-State supplies), both before and after 22.09.2025. On 12.05.2026 the analytics wing of the department sent the Thane Commissionerate a risk report comparing e-way bill data with e-invoice (IRN) and GSTR-1/GSTR-3B data for the Noticee. It showed 1,182 e-way bills, generated by the Noticee itself as consignor between 01.04.2025 and 31.08.2026, against the document type 'Delivery Challan' and the sub-type 'Supply', with declared taxable value of Rs.29,71,60,000/- (tax rate and amount fields filled in by the Noticee), for which no tax invoice had been reported in the e-invoice data or in GSTR-1 as at the date of the report.

2. The portal data was extracted by the Range with a certificate under Section 145(2) of the CGST Act, 2017 from the officer in charge of the data. A summons under Section 70 dated 02.06.2026 required the Noticee to produce its Tally data, bank statements, challan books and transporter records. The records were produced on 15.06.2026. The Noticee's Tally data shows the goods against these challans as 'Stock with customers - challan basis' (an asset), and the money received against them from the consignees as 'Advance from customers - challan basis' (a liability), which were never set off against sales. Notices to the transporters (Section 70) produced the lorry receipts with consignees' acknowledgement.

3. The e-way bills were then sorted by the Range after the Noticee's explanation and the third-party enquiries, with the following result:

Category of e-way bills (document type 'Delivery Challan', sub-type 'Supply')	No. of EWBs	Taxable value declared in EWB (Rs.)	Outcome of verification
(A) Later covered by tax invoices with IRN, with tax paid in GSTR-3B	412	8,64,50,000	Excluded; no tax demand
(B) Goods sent for job work or returned to suppliers (movement not by way of supply)	96	1,92,30,000	Excluded
(C) Movement to 22 consignees, no invoice, payment received, delivery and purchase confirmed	531	16,73,10,000	Taxed in this notice
(D) Movement to 6 consignees who did not respond; no other proof of sale	143	2,41,70,000	Reserved; no demand now
TOTAL	**1182**	**29,71,60,000**	

4. Category (C) covers 22 consignees (14 in Maharashtra and 8 in other States - the statements of the latter were recorded through the jurisdictional officers). Their written statements, recorded under Section 70, confirm that they ordered and received the hardware, paid the Noticee through banking channels, and were not given any tax invoice nor charged any tax; 11 of them are unregistered persons or composition taxpayers who did not want a tax invoice. The Noticee's bank statements show receipts of Rs.16,41,60,000/- from these consignees against Rs.16,73,10,000/- declared taxable value of the e-way bills. The month-wise taxable value for category (C), as per the e-way bill data, is as follows:

Month (date of e-way bill)	Intra-State consignees (Maharashtra) - taxable value (Rs.)	Inter-State consignees - taxable value (Rs.)
Apr-2025	48,20,000	41,50,000

May-2025	51,60,000	44,20,000
Jun-2025	47,90,000	39,80,000
Jul-2025	55,30,000	47,60,000
Aug-2025	52,80,000	45,10,000
Sep-2025	58,40,000	50,30,000
Oct-2025	61,70,000	53,90,000
Nov-2025	57,90,000	49,40,000
Dec-2025	53,20,000	45,70,000
Jan-2026	49,60,000	42,80,000
Feb-2026	47,30,000	40,60,000
Mar-2026	56,10,000	48,90,000
Apr-2026	50,40,000	43,30,000
May-2026	53,70,000	46,50,000
Jun-2026	49,90,000	42,10,000
Jul-2026	54,80,000	47,00,000
Aug-2026	51,20,000	44,40,000
Apr-2025 to Aug-2026	**9,00,00,000**	**7,73,10,000**

5. In his statements dated 17.06.2026 and 03.07.2026 under Section 70, Mr. Z admitted that for customers who did not want a tax invoice, the Noticee used delivery challans and e-way bills of the 'challan' type instead of tax invoices and e-invoices; that he decided this method himself; that the goods were shown as 'stock with customers' in Tally to keep the stock record in agreement with the physical stock; and that the money received was credited as 'advance' so that it would not appear as sale. Mr. P stated on 18.06.2026 that he prepared the e-way bills on the instructions of Mr. Z. A communication in Part A of FORM GST DRC-01A was issued on 07.10.2026 for tax and interest with the option of paying the 15% penalty before notice; no payment has been made.

6. Now in the light of the above, -

(i) Identify the provision(s) of GST law contravened by M/s XXX Pvt. Ltd. (under heading **Contravention**).

(ii) Identify the provision(s) of GST law under which action is to be taken against M/s XXX Pvt. Ltd. (under heading **Consequences of Contravention of legal Provisions**).

(iii) Draft the **Charging Paragraph** of the Show Cause Notice proposed to be issued to M/s XXX Pvt. Ltd., calling upon M/s XXX Pvt. Ltd. to show cause as to why action should not be taken against them, while listing the proposed action to be taken against M/s XXX Pvt. Ltd..

(iv) Also prepare the **draft Show Cause Notice** for issuance to M/s XXX Pvt. Ltd..

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SUGGESTED SOLUTION

(Data analytics, summons under Section 70, third-party verification, Determination of Tax under Section 74A - M/s XXX Pvt. Ltd., Thane CGST Commissionerate)

A. CONTRAVENTION

On the facts as recorded, the following provisions of law stand contravened (in each case read with the corresponding provisions of the Maharashtra Goods and Services Tax Act, 2017 [MGST Act] and the Integrated Goods and Services Tax Act, 2017 [IGST Act], and the Rules made thereunder):

1. **Section 31(1) of the CGST Act, 2017 read with Rule 46 and Rule 48(4) of the CGST Rules, 2017** - failure to issue tax invoices (and to report them on the Invoice Registration Portal, the Noticee's turnover being above Rs.5 crore) at or before the removal of goods for supply.
2. **Rule 55(1) and (4) of the CGST Rules, 2017** - a delivery challan in lieu of an invoice is permitted only for the listed purposes (job work, transport for reasons other than supply, and notified cases) and not for ordinary supply; where a tax invoice could not be issued at removal, it must be issued after delivery. Neither was done.
3. **Section 9(1) of the CGST Act, 2017 (and Section 5(1) of the IGST Act, 2017) read with Section 12(2)(a) and Section 39(7)** - tax was not paid on the supplies; the time of supply of goods is the earlier of the date of invoice and the last date on which the invoice was required to be issued under Section 31(1), i.e. in the case of goods supplied by removal, the date of removal, and the tax is payable in the return for that month.
4. **Sections 37(1) and 39(1) of the CGST Act, 2017** - the outward supplies were not declared in GSTR-1 and GSTR-3B.
5. **Section 35(1) of the CGST Act, 2017 read with Rule 56** - the books showed sold goods as 'stock with customers' and receipts as 'advance', so that there was no true and correct account of the outward supplies.

Note:* Considered but not invoked:** *(a) Section 76 - no tax was collected from the consignees. (b)* ***Mr. Z and Mr. P as noticees *- Mr. Z's admission is relied on as evidence, but no penalty is proposed on him under Section 122(1A): that provision needs the retention of the benefit by him personally, and the sale proceeds and tax saving remained with the company (contrast Exercise-13, where the director's drawings were recorded). Mr. P acted as a dispatch manager on instructions and did not derive a benefit; no case of abetment under Section 122(3)(a) is made out. (c) Category (A) and (B) e-way bills - the Department has given credit for these. (d) Category (D) - no corroboration; a presumption from the e-way bill alone is not enough to demand tax. (e) Section 74A(5)(i) (non-fraud) - see the reasons in Part B.*

B. CONSEQUENCES OF CONTRAVENTION OF LEGAL PROVISIONS

The contraventions at (A) above expose M/s XXX Pvt. Ltd. to the following action under the CGST Act, 2017, the IGST Act, 2017 and the MGST Act, 2017 (Mr. Z and Mr. P are not charged):

1. Use of third-party data - what is enough? The e-way bill data is the Noticee's own filing and is admissible with a certificate under Section 145(2). It proves the movement and the Noticee's declared value and rate. By itself, however, a movement is not a supply (job work, returns and branch movements also carry e-way bills). The demand is therefore confined to category (C), where delivery to the consignee, purchase and payment were confirmed by independent evidence (consignee statements, lorry receipts, bank credits) and by the Noticee's own admission. Categories (A) and (B) have been excluded and category (D) reserved.
2. Determination and recovery of tax - under **Section 74A(1) of the CGST Act, 2017** (with the MGST Act) for the intra-State supplies and, for the inter-State supplies, with **Section 5(1) and Section 20 of the**

IGST Act, 2017 (by which the demand provisions of the CGST Act apply to integrated tax). Both FY 2025-26 and FY 2026-27 are periods to which Section 74A applies [Section 74A(12); Notification No.17/2024-Central Tax]. The notice for FY 2025-26 may be issued up to 30.06.2030 and for FY 2026-27 up to 30.06.2031 [Section 74A(2); forty-two months from the due date of the annual return]; the order must be passed within twelve months of the notice [Section 74A(7)]. The tax is on the taxable value declared by the Noticee in its own e-way bills, at the rate declared there, the same rate that the Noticee applied to its regular invoices of the same goods; the consignees paid the declared value and no tax, so the tax is added over the value.

3. Fraud or non-fraud? The Section 74A(5)(ii) penalty (equal to the tax) is proposed. A non-fraud charge under 74A(5)(i) would be right if the evidence showed only delayed or missing invoicing from oversight. Here: (i) the Noticee is an e-invoice taxpayer which issues e-invoices for the same goods to other customers, so it knows how to invoice; (ii) challans were used for the same 22 consignees for 17 months; (iii) the goods were shown as 'stock with customers' and the receipts as 'advance', which kept both the stock record and the sales ledger in harmony and the supplies out of the returns; and (iv) the Director admitted the method and the purpose. These facts show suppression with intent to evade tax. Explanation 2 to Section 74A treats non-declaration in the return of facts required to be declared as suppression, but the draft relies on the evidence of intent and not on the Explanation alone. The concessions of **Section 74A(9)** are available - Rs.45,17,370/- (15% of the tax) before the notice, Rs.75,28,950/- (25%) within sixty days of the notice and Rs.1,50,57,900/- (50%) within sixty days of the order, in addition to tax and interest - and the proceedings are then concluded.

4. Interest - under **Section 50(1)** at the notified rate of 18% per annum from the day after the due date of GSTR-3B of each month, being the month of removal of the goods, till payment (indicative working below).

5. Penalty - equal to the tax under Section 74A(5)(ii) of the CGST Act, 2017 and the MGST Act, and, for integrated tax, the corresponding penalty equal to the integrated tax by Section 20 of the IGST Act. Penalty under Section 122(1)(i) (supply without invoice), 122(1)(x) (false information/documents with intent to evade tax) and 122(1)(xv) (suppression of turnover) is proposed in the alternative and without prejudice, subject to Section 75(13) and Section 126.

6. Prosecution - the supplies without invoice with intent to evade tax fall under **Section 132(1)(a)**. The tax involved (Rs.3,01,15,800/- in all, and Rs.2,20,15,800/- even if only the central and integrated tax are counted) is above Rs.200 lakh and not more than Rs.500 lakh, i.e. punishable with imprisonment up to three years and fine under Section 132(1)(ii), with a minimum of six months unless special reasons are recorded [Section 132(3)]; the offence is non-cognizable and bailable, as Section 132(5) covers only the tier above Rs.500 lakh. The Commissioner's previous sanction is needed [Section 132(6)]. Prosecution is not part of this notice; the file may be put up to the Commissioner separately. Payment under Section 74A(9) does not bar Section 132 (Explanation 1 to Section 74A).

7. Proper officer - the combined central tax and integrated tax demand is Rs.2,20,15,800/-, i.e. above Rs.2 crore, and the notice is issued by the Additional/Joint Commissioner, as per Circular No.31/05/2018-GST dated 09.02.2018.

Illustrative working of the tax (intra-State supplies: CGST 9% + MGST 9%; inter-State: IGST 18%) and year-wise limitation:

Month	Intra-State value (Rs.)	CGST @9% (Rs.)	MGST @9% (Rs.)	Inter-State value (Rs.)	IGST @18% (Rs.)	GSTR-3B due date
Apr-2025	48,20,000	4,33,800	4,33,800	41,50,000	7,47,000	20.05.2025
May-2025	51,60,000	4,64,400	4,64,400	44,20,000	7,95,600	20.06.2025
Jun-2025	47,90,000	4,31,100	4,31,100	39,80,000	7,16,400	20.07.2025
Jul-2025	55,30,000	4,97,700	4,97,700	47,60,000	8,56,800	20.08.2025

Aug-2025	52,80,000	4,75,200	4,75,200	45,10,000	8,11,800	20.09.2025
Sep-2025	58,40,000	5,25,600	5,25,600	50,30,000	9,05,400	20.10.2025
Oct-2025	61,70,000	5,55,300	5,55,300	53,90,000	9,70,200	20.11.2025
Nov-2025	57,90,000	5,21,100	5,21,100	49,40,000	8,89,200	20.12.2025
Dec-2025	53,20,000	4,78,800	4,78,800	45,70,000	8,22,600	20.01.2026
Jan-2026	49,60,000	4,46,400	4,46,400	42,80,000	7,70,400	20.02.2026
Feb-2026	47,30,000	4,25,700	4,25,700	40,60,000	7,30,800	20.03.2026
Mar-2026	56,10,000	5,04,900	5,04,900	48,90,000	8,80,200	20.04.2026
Apr-2026	50,40,000	4,53,600	4,53,600	43,30,000	7,79,400	20.05.2026
May-2026	53,70,000	4,83,300	4,83,300	46,50,000	8,37,000	20.06.2026
Jun-2026	49,90,000	4,49,100	4,49,100	42,10,000	7,57,800	20.07.2026
Jul-2026	54,80,000	4,93,200	4,93,200	47,00,000	8,46,000	20.08.2026
Aug-2026	51,20,000	4,60,800	4,60,800	44,40,000	7,99,200	20.09.2026
TOTAL	**9,00,00,000**	**81,00,000**	**81,00,000**	**7,73,10,000**	**1,39,15,800**	

Financial year	Value (Rs.)	CGST (Rs.)	MGST (Rs.)	IGST (Rs.)	Last date for notice
FY 2025-26 (Apr-2025 to Mar-2026)	11,89,80,000	57,60,000	57,60,000	98,96,400	30.06.2030
FY 2026-27 (Apr-2026 to Aug-2026)	4,83,30,000	23,40,000	23,40,000	40,19,400	30.06.2031
TOTAL	**16,73,10,000**	**81,00,000**	**81,00,000**	**1,39,15,800**	

Basis: *Total tax Rs.3,01,15,800/- (CGST Rs.81,00,000/- + MGST Rs.81,00,000/- + IGST Rs.1,39,15,800/-). Indicative interest to 30.11.2026 at 18% (simple): CGST Rs.12,58,155/-, MGST Rs.12,58,155/- and IGST Rs.21,59,000/-, total Rs.46,75,310/-. Category (A): tax has been paid late (after the time of supply) and interest for the delay is due; the route for recovery of interest alone is not confirmed and is not included in this notice.*

C. CHARGING PARAGRAPH OF THE SHOW CAUSE NOTICE

[The following is the operative charging paragraph proposed for incorporation in the Show Cause Notice at Part D below.]

Now, therefore, M/s XXX Pvt. Ltd., YYYY, Thane, Maharashtra, is hereby called upon to show cause in writing to the Additional/Joint Commissioner, CGST, Thane CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) *the goods covered by e-way bills raised on delivery challans between 01.04.2025 and 31.08.2026, of declared taxable value Rs.16,73,10,000/- (intra-State Rs.9,00,00,000/-; inter-State Rs.7,73,10,000/-), and delivered to the 22 consignees against payment, should not be held to be outward supplies made without issue of invoice and without payment of tax;*

(ii) *an amount of Rs.81,00,000/- (Central tax), Rs.81,00,000/- (Maharashtra State tax) and Rs.1,39,15,800/- (Integrated tax), total Rs.3,01,15,800/- (Rupees Three Crore One Lakh Fifteen Thousand Eight Hundred only), being tax not paid for FY 2025-26 (Rs.2,14,16,400/-) and FY 2026-27 up to August 2026 (Rs.86,99,400/-), as detailed in Annexure-A, should not be demanded and recovered from the Noticee under Section 74A(1) of the CGST Act, 2017, the corresponding provisions of the MGST Act, 2017, and Section 20 of the IGST Act, 2017;*

(iii) *interest at the applicable rate under Section 50(1) of the CGST Act, 2017/MGST Act, 2017/IGST Act, 2017 should not be charged and recovered on the tax at (ii) above, from the respective due dates till the date of payment;*

(iv) *a penalty of Rs.81,00,000/- (Central tax), Rs.81,00,000/- (Maharashtra State tax) and Rs.1,39,15,800/- (Integrated tax), total Rs.3,01,15,800/-, equal to the tax due, should not be imposed on the Noticee under Section 74A(5)(ii) of the CGST Act, 2017, the corresponding provisions of the MGST Act, 2017, and Section 20 of the IGST Act, 2017 (without prejudice to the reduced penalty payable under Section 74A(9) on payment within the time therein specified);*

(v) *penalty should not separately be imposed on the Noticee under Sections 122(1)(i), 122(1)(x) and 122(1)(xv) of the CGST Act, 2017/MGST Act, 2017/IGST Act, 2017, without prejudice to (iv) above and subject to Section 75(13) and Section 126.*

D. DRAFT SHOW CAUSE NOTICE

F. No. GEXCOM/ADJN/SCN/[•]/2026-THANE

DIN: [Document Identification Number to be auto-generated on issue]

Office of the Additional/Joint Commissioner, CGST, Thane CGST Commissionerate, Maharashtra

Date: [•].11.2026

SHOW CAUSE NOTICE

(Issued under Section 74A of the Central Goods and Services Tax Act, 2017 read with Section 74A of the Maharashtra Goods and Services Tax Act, 2017 and Section 20 of the Integrated Goods and Services Tax Act, 2017)

To,
M/s XXX Pvt. Ltd.,
(through its Director Mr. Z),
YYYY, Thane, Maharashtra.

(hereinafter referred to as 'the Noticee')

1. WHEREAS M/s XXX Pvt. Ltd. (the Noticee), a trader of industrial hardware and fasteners, registered at YYYY, Thane, and covered by e-invoicing, was found in a data-analytics report dated 12.05.2026 (RUD-1) to have generated, as consignor, 1,182 e-way bills between 01.04.2025 and 31.08.2026 against the document type 'Delivery Challan' and sub-type 'Supply', of declared taxable value Rs.29,71,60,000/-, for which no tax invoice had been reported in the e-invoice data or in GSTR-1 as at the date of the report. The data was extracted with a certificate under Section 145(2) of the CGST Act, 2017 (RUD-2);

2. AND WHEREAS, under a summons dated 02.06.2026 issued under Section 70 (RUD-3), the Noticee produced its Tally data, bank statements and challan books on 15.06.2026 (RUD-4). The Tally data shows the goods dispatched against these challans as 'Stock with customers - challan basis' and the money received from the consignees as 'Advance from customers - challan basis', which were never set off against sales (RUD-5). The lorry receipts of the transporters, with the consignees' acknowledgement of delivery, were obtained under Section 70 (RUD-6);

3. AND WHEREAS the e-way bills were classified after verification: 412 bills (Rs.8,64,50,000/-) were covered by later tax invoices with IRN and tax paid, and 96 bills (Rs.1,92,30,000/-) related to job work or returns, and these are excluded; 143 bills (Rs.2,41,70,000/-) relate to six consignees who did not respond and are reserved; and the remaining 531 bills, of declared taxable value Rs.16,73,10,000/- (intra-State Rs.9,00,00,000/-; inter-State Rs.7,73,10,000/-), relate to 22 consignees who confirmed delivery and payment (RUD-7). The classification is shown in Annexure-A;

4. AND WHEREAS the 22 consignees, in statements recorded under Section 70 (RUD-8), stated that they ordered and received the goods, paid the Noticee through banking channels, and were given neither a tax invoice nor charged any tax; 11 of them are unregistered or composition taxpayers who did not want a tax invoice. The Noticee's bank statements show receipts of Rs.16,41,60,000/- from these consignees (RUD-9);

5. AND WHEREAS Mr. Z, Director of the Noticee, in his statements recorded under Section 70 on 17.06.2026 and 03.07.2026 (RUD-10), admitted that for customers who did not want a tax invoice, the Noticee used delivery challans and 'challan' e-way bills instead of tax invoices and e-invoices; that he decided this method; that the goods were shown as 'stock with customers' in Tally to keep the stock record tallied; and that the money was credited as 'advance' so that it would not show as sale. Mr. P,

dispatch manager, stated on 18.06.2026 (RUD-11) that he prepared the e-way bills on the instructions of Mr. Z;

6. AND WHEREAS it appears that the Noticee, in contravention of Section 31(1) of the CGST Act, 2017 and Rules 46, 48(4) and 55 of the CGST Rules, 2017, supplied goods to the 22 consignees without issuing tax invoices; that, under Section 12(2)(a) of the CGST Act, the time of supply is the date of removal, so that the tax was payable in the GSTR-3B of the month of the e-way bill; and that the tax, at the rate declared by the Noticee in the e-way bills (the rate it applies to its regular invoices of the same goods), has not been paid. The tax is worked out in Annexure-A, as under:

Financial year	Value (Rs.)	CGST (Rs.)	MGST (Rs.)	IGST (Rs.)	Last date for notice
FY 2025-26 (Apr-2025 to Mar-2026)	11,89,80,000	57,60,000	57,60,000	98,96,400	30.06.2030
FY 2026-27 (Apr-2026 to Aug-2026)	4,83,30,000	23,40,000	23,40,000	40,19,400	30.06.2031
TOTAL	**16,73,10,000**	**81,00,000**	**81,00,000**	**1,39,15,800**	

7. AND WHEREAS the Noticee, an e-invoicing taxpayer which issues e-invoices for the same goods to other customers, used delivery challans for the same 22 consignees for 17 months, showed the sold goods as 'stock with customers' and the receipts as 'advance', and thereby kept the supplies out of the returns; and its Director has admitted the method. The non-payment of tax is therefore by reason of wilful misstatement and suppression of facts to evade tax, attracting Section 74A(5)(ii) of the CGST Act, 2017/MGST Act, 2017/IGST Act, 2017;

8. AND WHEREAS a communication in Part A of FORM GST DRC-01A dated 07.10.2026 was issued under Rule 142(1A) (RUD-12), and the Noticee has not made any payment;

9. AND WHEREAS it thus appears that the Noticee has contravened the following provisions of the CGST Act, 2017 and the Rules (and the corresponding provisions of the MGST Act, 2017 and the IGST Act, 2017):

- Section 31(1) read with Rules 46, 48(4) and 55 - non-issue of tax invoices and use of delivery challans for supply;
- Section 9(1) read with Sections 12(2)(a) and 39(7) (and Section 5(1) of the IGST Act) - non-payment of tax;
- Sections 37(1) and 39(1) - non-declaration of outward supplies in GSTR-1 and GSTR-3B;
- Section 35(1) read with Rule 56 - non-maintenance of a true and correct account of outward supplies;

10. AND WHEREAS the aforesaid acts and omissions render the Noticee liable to demand of tax under Section 74A(1), interest under Section 50(1), penalty under Section 74A(5)(ii) and (without prejudice to and subject to Section 75(13)) penalty under Sections 122(1)(i), 122(1)(x) and 122(1)(xv) of the CGST Act, 2017/MGST Act, 2017/IGST Act, 2017;

NOW, THEREFORE

M/s XXX Pvt. Ltd., YYYY, Thane, Maharashtra, through its Director Mr. Z, is hereby called upon to show cause in writing to the Additional/Joint Commissioner, CGST, Thane CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) the goods covered by e-way bills raised on delivery challans between 01.04.2025 and 31.08.2026, of declared taxable value Rs.16,73,10,000/- (intra-State Rs.9,00,00,000/-; inter-State

Rs.7,73,10,000/-), and delivered to the 22 consignees against payment, should not be held to be outward supplies made without issue of invoice and without payment of tax;

(ii) an amount of Rs.81,00,000/- (Central tax), Rs.81,00,000/- (Maharashtra State tax) and Rs.1,39,15,800/- (Integrated tax), total Rs.3,01,15,800/- (Rupees Three Crore One Lakh Fifteen Thousand Eight Hundred only), being tax not paid for FY 2025-26 (Rs.2,14,16,400/-) and FY 2026-27 up to August 2026 (Rs.86,99,400/-), as detailed in Annexure-A, should not be demanded and recovered from the Noticee under Section 74A(1) of the CGST Act, 2017, the corresponding provisions of the MGST Act, 2017, and Section 20 of the IGST Act, 2017;

(iii) interest at the applicable rate under Section 50(1) of the CGST Act, 2017/MGST Act, 2017/IGST Act, 2017 should not be charged and recovered on the tax at (ii) above, from the respective due dates till the date of payment;

(iv) a penalty of Rs.81,00,000/- (Central tax), Rs.81,00,000/- (Maharashtra State tax) and Rs.1,39,15,800/- (Integrated tax), total Rs.3,01,15,800/-, equal to the tax due, should not be imposed on the Noticee under Section 74A(5)(ii) of the CGST Act, 2017, the corresponding provisions of the MGST Act, 2017, and Section 20 of the IGST Act, 2017 (without prejudice to the reduced penalty payable under Section 74A(9) on payment within the time therein specified);

(v) penalty should not separately be imposed on the Noticee under Sections 122(1)(i), 122(1)(x) and 122(1)(xv) of the CGST Act, 2017/MGST Act, 2017/IGST Act, 2017, without prejudice to (iv) above and subject to Section 75(13) and Section 126.

11. The Noticee is further informed that:

- a written reply, with all documents relied upon, must be furnished within thirty (30) days of receipt of this notice, failing which the case will be decided ex parte on merits on the basis of the available records;
- an opportunity of personal hearing will be given before adjudication, on a date to be separately intimated; the Noticee may appear in person or through an authorised representative;
- attention is drawn to the benefit under Section 74A(9) of the CGST Act, 2017/MGST Act, 2017/IGST Act, 2017: on payment of the tax and interest with penalty of 15% of the tax before the issue of this notice, 25% within sixty (60) days of the issue of this notice, or 50% within sixty (60) days of communication of the order, all proceedings in respect of the notice shall be deemed to be concluded;
- this notice is without prejudice to any other action, including under Section 132, that may be taken against the Noticee or any other person under the CGST Act, 2017/MGST Act, 2017/IGST Act, 2017 or any other law for the time being in force, and to the proceedings for the e-way bills of category (D) and for any period after 31.08.2026.

List of Relied Upon Documents (RUDs):

RUD-1: Data-analytics report dated 12.05.2026; **RUD-2:** E-way bill data extract with certificate under Section 145(2); **RUD-3:** Summons dated 02.06.2026; **RUD-4:** Tally data, bank statements and challan books produced on 15.06.2026;

RUD-5: Tally ledger extracts 'Stock with customers' and 'Advance from customers'; **RUD-6:** Lorry receipts and statements of transporters; **RUD-7:** E-way bill classification statement (categories A to D) with e-invoice (IRN) and GSTR-3B cross-checks;

RUD-8: Statements of 22 consignees; **RUD-9:** Bank-credit analysis; **RUD-10:** Statements of Mr. Z dated 17.06.2026 and 03.07.2026; **RUD-11:** Statement of Mr. P dated 18.06.2026; **RUD-12:** DRC-01A dated 07.10.2026;

RUD-13: GSTR-1 and GSTR-3B of the Noticee for April 2025 to August 2026;

Annexure-A: Classification of e-way bills, month-wise statement of taxable value, tax and interest [as per the working in Part B].

(_____)
Additional/Joint Commissioner, CGST
Thane CGST Commissionerate

Copy to: The Commissioner, CGST, Thane, for information.

Drafting note (not part of the notice):

- *The addressee, jurisdictional range/officer, F. No./DIN and dates shown in square brackets/blanks are illustrative placeholders and must be completed with the correct particulars before issue.*
- *The tax, interest and penalty figures are worked out on the reasoned basis explained in Part B and remain subject to reconciliation with the seized/recorded documents. Every e-way bill in category (C) must be linked to at least one independent proof of delivery or payment before it is included in Annexure-A.*
- ***Third-party data.** E-way bill data is evidence of movement, not of supply. Certification under Section 145(2) makes the printouts admissible but does not prove sale; the supply must be shown by delivery proof, payment trail and statements. Note the exclusion of categories (A), (B) and (D); over-reaching on data alone invites the objection that the demand is based on a presumption.*
- ***Fraud or non-fraud.** The draft chooses fraud (Section 74A(5)(ii)) because of the Tally treatment ('stock with customers', 'advance') and the Director's admission. Without the admission and the Tally treatment, the same data would support only 74A(5)(i), with a 'time of supply' interest charge. The reasons must be stated in the body of the notice, as done.*
- ***Time of supply and interest.** Section 12(2)(a) fixes the time of supply for goods by reference to the invoice date or the last date for issuing it under Section 31(1). Where a supply is invoiced late, tax is due for the month of removal and interest runs from that month's due date. UNCERTAIN: the route for recovery of interest alone on category (A) was not confirmed.*
- ***Rate.** The rate is taken from the Noticee's own e-way bills and regular invoices (18%). UNCERTAIN: no rate notification was consulted; if any item changed rate on 22.09.2025, apply the correct rate by HSN from the rate notification for the date.*
- ***Charged person.** Only the company is charged. See the note in Part A for why Mr. Z and Mr. P are not charged; if evidence emerges that Mr. Z drew the proceeds, add him under Section 122(1A).*
- ***IGST.** Section 20 of the IGST Act applies the CGST provisions on demands, recovery, interest and penalties to integrated tax; IGST and CGST/MGST are shown as separate heads, and the penalty under the IGST Act is a separate penalty (verified: the IGST Act proviso aggregates the penalty if both CGST and State Act penalties are leviable).*
- *The draft should be settled by the jurisdictional Range/Division before issue (DRC-01), including verification of the monetary-limit-based issuing/adjudicating authority under Circular No. 31/05/2018-GST dated 09.02.2018 (Superintendent: central tax up to Rs.10 lakh; Deputy/Assistant Commissioner: above Rs.10 lakh up to Rs.1 crore; Additional/Joint Commissioner: above Rs.1 crore). Here the combined CGST and IGST demand is Rs.2,20,15,800/-, so the Additional/Joint Commissioner issues the notice.*
- *Return of non-RUDs (Non-Relied Upon Documents): When the SCN is issued to the taxpayer in the form of DRC-01 (uploaded on the portal if registered, as well as delivered as per the provisions of law), non-RUDs must be returned to the noticee under due acknowledgement within seven days of issuance of the SCN.*

***

Exercise 17

Tax payable shown in the annual return (GSTR-9) in excess of tax paid through GSTR-3B - choice of route and notice under Section 73

Exercise 17: Tax payable shown in the annual return (GSTR-9) in excess of tax paid through GSTR-3B - choice of route and notice under Section 73

Situation in Brief:

1. M/s XXX LLP, YYYY, Rajkot, Gujarat, is a limited liability partnership (designated partners: Mr. Z and Mr. P) which manufactures furniture and sells it to dealers and, through its own showroom, to retail customers. Its aggregate turnover is about Rs.24 crore. It files GSTR-1 and GSTR-3B monthly and pays tax at 18% (9% CGST + 9% GGST). Its annual return in FORM GSTR-9 for FY 2023-24 was filed on 27.12.2024.

2. The risk parameter 'tax payable per GSTR-9 exceeds tax paid in the monthly returns' selected the GSTIN for scrutiny. The proper officer found that Table 4 of the GSTR-9 shows outward taxable supplies of Rs.24,55,00,000/-, against Rs.22,60,00,000/- in the GSTR-1 and in the GSTR-3B for the year, and that the tax payable shown in Table 9 exceeds the tax paid by Rs.17,55,000/- each under CGST and GGST. No amount was paid by FORM GST DRC-03 along with the annual return. The position is as follows:

Particulars	Taxable value (Rs.)	CGST @9% (Rs.)	GGST @9% (Rs.)
Outward supplies per GSTR-1 and GSTR-3B (aggregate, FY 2023-24)	22,60,00,000	2,03,40,000	2,03,40,000
Outward supplies per GSTR-9, Table 4 (as filed on 27.12.2024)	24,55,00,000	2,20,95,000	2,20,95,000
Tax payable per GSTR-9, Table 9, in excess of tax paid (cash + ITC) in the monthly returns	1,95,00,000	17,55,000	17,55,000

3. Notice in FORM GST ASMT-10 under Section 61 read with Rule 99 was issued on 24.02.2026. In the reply (FORM GST ASMT-11) dated 16.03.2026 the LLP stated that the retail counter sales of its showroom had been billed by cash memos in a point-of-sale (POS) system that was not connected to its return-filing software; that the omission was noticed when the books were closed and was therefore reported in Table 4 of the GSTR-9; and that it would pay the tax in instalments. It enclosed a month-wise summary of the POS sales, which is reproduced below. The Range checked the GSTR-1 (Table 7 and the other tables) and the GSTR-3B (Table 3.1(a)) of each of these months and found that none of these sales had been reported in either.

Month	Retail (B2C) showroom sales per POS data and books, not in GSTR-1/GSTR-3B (Rs.)	Tax at 18% - CGST @9% (Rs.)	Tax at 18% - GGST @9% (Rs.)
Jun-2023	22,00,000	1,98,000	1,98,000
Aug-2023	31,50,000	2,83,500	2,83,500
Oct-2023	30,00,000	2,70,000	2,70,000
Nov-2023	41,00,000	3,69,000	3,69,000
Jan-2024	32,50,000	2,92,500	2,92,500
Feb-2024	38,00,000	3,42,000	3,42,000
FY 2023-24	**1,95,00,000**	**17,55,000**	**17,55,000**

4. On 08.04.2026 the LLP paid Rs.5,50,000/- under CGST and Rs.5,50,000/- under GGST through FORM GST DRC-03, as tax on these supplies, and informed the Range in writing. No interest was paid. No further payment was made. A communication in Part A of FORM GST DRC-01A dated 14.08.2026 showed the balance tax and interest; in Part B (28.08.2026) the LLP repeated the request for instalments and furnished no other explanation.

5. Now in the light of the above, -

(i) Identify the provision(s) of GST law contravened by M/s XXX LLP (under heading **Contravention**).

(ii) Identify the provision(s) of GST law under which action is to be taken against M/s XXX LLP (under heading **Consequences of Contravention of legal Provisions**).

(iii) Draft the **Charging Paragraph** of the Show Cause Notice proposed to be issued to M/s XXX LLP, calling upon M/s XXX LLP (through its designated partner Mr. Z) to show cause as to why action should not be taken against them, while listing the proposed action to be taken against M/s XXX LLP (through its designated partner Mr. Z).

(iv) Also prepare the **draft Show Cause Notice** for issuance to M/s XXX LLP.

***

SUGGESTED SOLUTION

(Scrutiny of annual return, pre-notice payment, choice between Section 75(12) and Section 73, Determination of Tax under Section 73 - M/s XXX LLP, Rajkot CGST Commissionerate)

A. CONTRAVENTION

On the facts as recorded, the following provisions of law stand contravened by M/s XXX LLP (read with the corresponding provisions of the Gujarat Goods and Services Tax Act, 2017 [GGST Act] and the Rules made under the two Acts):

1. **Section 9(1) of the CGST Act, 2017 read with Section 39(7)** - tax at 18% on the retail supplies of Rs.1,95,00,000/- was not paid by the due date of the return of the respective months.
2. **Sections 37(1) and 39(1) of the CGST Act, 2017** - the outward supplies were not declared in the GSTR-1 and the GSTR-3B of the months of supply (Table 7 and Table 3.1(a)), and the tax was not paid with the returns.

Note: ***Considered but not invoked:*** *(a)* ***Section 44*** *- the annual return was filed in time and the Noticee disclosed the supplies in it; the annual return is therefore evidence of the liability and of the absence of concealment, not a contravention. (b)* ***Section 75(12) read with Section 79*** *- see Part B: not available here. (c)* ***Section 74A*** *- FY 2023-24 falls under Section 73 [Section 73(12)]. (d)* ***Section 122(1)(xv)*** *(suppression of turnover) and fraud penalty - the sales were recorded in the POS and the books and were disclosed in the annual return, so there is no wilful suppression; penalty is under Section 73(9) only. (e)* ***Mr. Z and Mr. P*** *- no separate act or benefit attributable to them is on record; the LLP alone is charged.*

B. CONSEQUENCES OF CONTRAVENTION OF LEGAL PROVISIONS

The contraventions at (A) above expose M/s XXX LLP to the following action under the CGST Act, 2017 (read with the corresponding provisions of the GGST Act, 2017):

1. Is a notice needed at all? Section 75(12) and Section 79 - Section 75(12) allows tax to be recovered under Section 79, notwithstanding Sections 73 and 74, without a notice, where 'self-assessed tax in accordance with a return furnished under Section 39' remains unpaid, and its Explanation includes in self-assessed tax the tax payable on details of outward supplies furnished under Section 37 but not included in the Section 39 return. Neither limb fits: (i) the annual return is a return under **Section 44**, not Section 39; and (ii) the supplies were never declared in GSTR-1 (Section 37), so the Explanation is not engaged; Instruction No. 01/2022-GST deals with tax declared in GSTR-1 but not paid through GSTR-3B. The liability is therefore not 'self-assessed' within Section 75(12), and a notice under Section 73 is the correct route (contrast Exercise-15, where the GSTR-1 had declared the tax).
2. Pre-notice payment and the balance (Section 73(5) to (7)) - the Noticee paid, on 08.04.2026, Rs.5,50,000/- each under CGST and GGST before any notice. Under Section 73(6) no notice is to be served, and no penalty is payable, in respect of the tax so paid; but since no interest was paid, the amount paid falls short of the amount payable, and under Section 73(7) the proper officer must proceed to issue a notice under Section 73(1) for the amount that falls short. The notice therefore demands (a) the balance tax of Rs.12,05,000/- each under CGST and GGST and (b) the interest on the whole tax of Rs.17,55,000/- each, including the tax paid on 08.04.2026 up to that date. The payment is credited first to the tax of the earliest months.
3. Determination of tax - under **Section 73(1)** of the CGST Act, 2017 and the GGST Act, since the tax is short paid for a reason other than fraud. The annual return for FY 2023-24 was due on 31.12.2024; the order must be passed by 31.12.2027 [Section 73(10)] and the notice issued at least three months before that, i.e. on or before 30.09.2027 [Section 73(2)].

4. Interest - under **Section 50(1)** at the notified rate of 18% per annum from the day after the due date of GSTR-3B of each month till payment (till 08.04.2026 for the tax paid, till actual payment for the balance); the indicative working to 30.11.2026 is in the table below.

5. Penalty - **Section 73(9)**: ten per cent of the tax or Rs.10,000/-, whichever is higher, on the balance tax (the tax paid before the notice is protected by Section 73(6)): 10% of Rs.12,05,000/- is Rs.1,20,500/- under each Act. The concession of **Section 73(8)** (payment of the tax and interest within thirty days of the issue of the notice: no penalty and conclusion of proceedings) is available. Section 73(11) is not attracted, as no self-assessed tax in a Section 39 return remains unpaid.

6. Proper officer - the central tax in the notice (Rs.12,05,000/-) exceeds Rs.10 lakh and is below Rs.1 crore, so the notice is issued by the Deputy/Assistant Commissioner, as per Circular No.31/05/2018-GST dated 09.02.2018.

Illustrative working (the tax is shown for each of CGST and GGST; interest is per Act):

Month	Value (Rs.)	CGST = GGST per head (Rs.)	Paid by DRC-03 on 08.04.2026 (Rs.)	Balance (Rs.)	GSTR-3B due date	Indicative interest, per Act (Rs.)
Jun-2023	22,00,000	1,98,000	1,98,000	-	20.07.2023	96,960
Aug-2023	31,50,000	2,83,500	2,83,500	-	20.09.2023	1,30,161
Oct-2023	30,00,000	2,70,000	68,500	2,01,500	20.11.2023	1,39,292
Nov-2023	41,00,000	3,69,000	-	3,69,000	20.12.2023	1,95,803
Jan-2024	32,50,000	2,92,500	-	2,92,500	20.02.2024	1,46,266
Feb-2024	38,00,000	3,42,000	-	3,42,000	20.03.2024	1,66,128
TOTAL	**1,95,00,000**	**17,55,000**	**5,50,000**	**12,05,000**		**8,74,610**

Basis: *Tax Rs.17,55,000/- per Act (9% of Rs.1,95,00,000/-); paid Rs.5,50,000/-; balance Rs.12,05,000/-. Interest at 18% simple: on the paid portion to 08.04.2026 and on the balance to 30.11.2026 - Rs.8,74,610/- per Act (Rs.17,49,220/- for both), continuing till payment; no interest has been paid. Penalty Rs.1,20,500/- per Act (total Rs.2,41,000/-).*

C. CHARGING PARAGRAPH OF THE SHOW CAUSE NOTICE

[The following is the operative charging paragraph proposed for incorporation in the Show Cause Notice at Part D below.]

Now, therefore, M/s XXX LLP, YYYY, Rajkot, Gujarat, through its designated partner Mr. Z, is hereby called upon to show cause in writing to the Deputy/Assistant Commissioner, CGST Division - [•], Rajkot CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) *the retail supplies of goods of value Rs.1,95,00,000/- made during June-2023 to February-2024, as detailed in Annexure-A to this notice, and declared by them in the annual return for FY 2023-24 but not in GSTR-1 and GSTR-3B, should not be held to be taxable supplies on which tax was payable with the returns of the respective months;*

(ii) *an amount of Rs.12,05,000/- (Central tax) and Rs.12,05,000/- (Gujarat State tax), total Rs.24,10,000/- (Rupees Twenty-Four Lakh Ten Thousand only), being the balance of tax not paid on the said supplies after crediting the payment of Rs.5,50,000/- each made on 08.04.2026 through FORM GST DRC-03, should not be demanded and recovered from them under Section 73(1) of the CGST Act, 2017 read with Section 73(7) and the corresponding provisions of the GGST Act, 2017;*

(iii) *interest at the applicable rate under Section 50(1) of the CGST Act, 2017/GGST Act, 2017 should not be charged and recovered on the entire tax of Rs.17,55,000/- under each Act (that is, also on*

the tax paid on 08.04.2026, up to that date), from the respective due dates till the date of payment, after giving credit for the interest, if any, paid;

(iv) *a penalty of Rs.1,20,500/- (Central tax) and Rs.1,20,500/- (Gujarat State tax), total Rs.2,41,000/-, being the higher of ten per cent of the balance tax or Rs.10,000/- under each Act, should not be imposed on them under Section 73(9) of the CGST Act, 2017/GGST Act, 2017 (without prejudice to the benefit of nil penalty under Section 73(8) on payment of tax and interest within thirty days of the issue of the notice).*

D. DRAFT SHOW CAUSE NOTICE

F. No. GEXCOM/ADJN/SCN/[•]/2026-RAJKOT

DIN: [Document Identification Number to be auto-generated on issue]

Office of the Deputy/Assistant Commissioner, CGST Division - [•], Rajkot CGST Commissionerate, Gujarat

Date: [•].11.2026

SHOW CAUSE NOTICE

(Issued under Section 73 of the Central Goods and Services Tax Act, 2017 read with Section 73 of the Gujarat Goods and Services Tax Act, 2017)

To,
M/s XXX LLP,
(through its designated partner Mr. Z),
YYYY, Rajkot, Gujarat.

(hereinafter referred to as 'the Noticee')

1. WHEREAS M/s XXX LLP, a limited liability partnership registered at YYYY, Rajkot, engaged in the manufacture and supply of furniture to dealers and retail customers at 18% (9% CGST + 9% GGST), filed its annual return in FORM GSTR-9 for FY 2023-24 on 27.12.2024. Table 4 of the annual return shows outward taxable supplies of Rs.24,55,00,000/-, against Rs.22,60,00,000/- in GSTR-1 and GSTR-3B, and Table 9 shows tax payable in excess of tax paid by Rs.17,55,000/- each under CGST and GGST, with no payment by DRC-03 (RUD-1);

2. AND WHEREAS a notice in FORM GST ASMT-10 under Section 61 read with Rule 99 of the CGST Rules, 2017 was issued on 24.02.2026 (RUD-2). The Noticee replied in FORM GST ASMT-11 on 16.03.2026 (RUD-3), stating that the retail counter sales of its showroom, billed by cash memos in a POS system not linked to the return-filing software, had not been reported in GSTR-1 and GSTR-3B, and enclosed a month-wise summary of the POS sales for June-2023 to February-2024 totalling Rs.1,95,00,000/- (RUD-4), and undertook to pay the tax in instalments;

3. AND WHEREAS the GSTR-1 (Table 7 and other tables) and the GSTR-3B (Table 3.1(a)) of the months concerned were examined (RUD-5), and none of the said sales was found to be reported in either return. The tax payable on them at 18% (9% CGST + 9% GGST) is Rs.17,55,000/- under each Act, as shown in Annexure-A;

4. AND WHEREAS the Noticee, on 08.04.2026, paid Rs.5,50,000/- each under CGST and GGST through FORM GST DRC-03 (RUD-6) and informed the proper officer in writing, but paid no interest and made no further payment. Since the amount so paid falls short of the amount payable, the proper officer is to proceed, under Section 73(7) of the CGST Act, 2017, to issue a notice under Section 73(1) for the amount that falls short, i.e., for the balance tax of Rs.12,05,000/- under each Act and for interest, on the entire tax, from the due dates till payment;

5. AND WHEREAS the Noticee reported the supplies in its own annual return, which was filed within time, and the supplies are recorded in its POS data and books. There is no evidence of fraud, wilful misstatement or suppression of facts to evade tax. The short payment is therefore appearing to be for a reason other than fraud, wilful misstatement or suppression of facts, and is covered by Section 73 of the CGST Act, 2017/GGST Act, 2017, and the periods concerned fall within the period up to FY 2023-24 for which Section 73 applies [Section 73(12)];

6. AND WHEREAS the amount is not recoverable under Section 75(12) read with Section 79 of the CGST Act, 2017 without notice, as the annual return is not a return under Section 39 and the supplies were

never furnished in GSTR-1 under Section 37, and a communication in Part A of FORM GST DRC-01A dated 14.08.2026 under Rule 142(1A) was issued to the Noticee; in its reply in Part B dated 28.08.2026 (RUD-7) the Noticee furnished no explanation except a request for instalments;

7. AND WHEREAS it thus appears that the Noticee has contravened Section 9(1) read with Section 39(7), and Sections 37(1) and 39(1) of the CGST Act, 2017 (and the corresponding provisions of the GGST Act, 2017), in that it did not declare the said supplies in GSTR-1 and GSTR-3B and did not pay tax thereon with the returns of the respective months, and is liable to payment of tax under Section 73(1), interest under Section 50(1) and penalty under Section 73(9) of the CGST Act, 2017/GGST Act, 2017;

NOW, THEREFORE

M/s XXX LLP, YYYY, Rajkot, Gujarat, through its designated partner Mr. Z, is hereby called upon to show cause in writing to the Deputy/Assistant Commissioner, CGST Division - [•], Rajkot CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) the retail supplies of goods of value Rs.1,95,00,000/- made during June-2023 to February-2024, as detailed in Annexure-A to this notice, and declared by them in the annual return for FY 2023-24 but not in GSTR-1 and GSTR-3B, should not be held to be taxable supplies on which tax was payable with the returns of the respective months;

(ii) an amount of Rs.12,05,000/- (Central tax) and Rs.12,05,000/- (Gujarat State tax), total Rs.24,10,000/- (Rupees Twenty-Four Lakh Ten Thousand only), being the balance of tax not paid on the said supplies after crediting the payment of Rs.5,50,000/- each made on 08.04.2026 through FORM GST DRC-03, should not be demanded and recovered from them under Section 73(1) of the CGST Act, 2017 read with Section 73(7) and the corresponding provisions of the GGST Act, 2017;

(iii) interest at the applicable rate under Section 50(1) of the CGST Act, 2017/GGST Act, 2017 should not be charged and recovered on the entire tax of Rs.17,55,000/- under each Act (that is, also on the tax paid on 08.04.2026, up to that date), from the respective due dates till the date of payment, after giving credit for the interest, if any, paid;

(iv) a penalty of Rs.1,20,500/- (Central tax) and Rs.1,20,500/- (Gujarat State tax), total Rs.2,41,000/- , being the higher of ten per cent of the balance tax or Rs.10,000/- under each Act, should not be imposed on them under Section 73(9) of the CGST Act, 2017/GGST Act, 2017 (without prejudice to the benefit of nil penalty under Section 73(8) on payment of tax and interest within thirty days of the issue of the notice).

8. The Noticee is further informed that:

- a written reply, with all documents relied upon, must be furnished within thirty (30) days of receipt of this notice, failing which the case will be decided ex parte on merits on the basis of the available records;
- an opportunity of personal hearing will be given before adjudication, on a date to be separately intimated; the Noticee may appear in person or through an authorised representative;
- attention is drawn to Section 73(8) of the CGST Act, 2017/GGST Act, 2017: if the tax at (ii) and the interest at (iii) are paid within thirty (30) days of the issue of this notice, no penalty shall be payable and all proceedings in respect of this notice shall be deemed to be concluded;
- this notice is without prejudice to any other action that may be taken against the Noticee under the CGST Act, 2017/GGST Act, 2017 or any other law for the time being in force.

List of Relied Upon Documents (RUDs):

RUD-1: GSTR-9 of the Noticee for FY 2023-24 (Tables 4 and 9) filed on 27.12.2024; **RUD-2:** ASMT-10 dated 24.02.2026; **RUD-3:** ASMT-11 reply dated 16.03.2026; **RUD-4:** POS summary of retail sales (June-2023 to February-2024);

RUD-5: GSTR-1 and GSTR-3B of the Noticee for FY 2023-24 and the reconciliation of the months concerned; **RUD-6:** DRC-03 dated 08.04.2026 and intimation letter; **RUD-7:** DRC-01A dated 14.08.2026 with reply in Part B dated 28.08.2026;

Annexure-A: Month-wise statement of supplies, tax, payment, balance and interest [as per the working in Part B].

(_____)
Deputy/Assistant Commissioner, CGST
Division - [•], Rajkot CGST Commissionerate

Copy to: The Additional/Joint Commissioner, CGST, Rajkot, for information.

Drafting note (not part of the notice):

- *The addressee, jurisdictional range/officer, F. No./DIN and dates shown in square brackets/blanks are illustrative placeholders and must be completed with the correct particulars before issue.*
- *The tax, interest and penalty figures are worked out on the reasoned basis explained in Part B and remain subject to reconciliation with the seized/recorded documents.*
- ***Route.** The teaching point is the choice of route. Section 75(12) read with Section 79 is limited, in its terms, to self-assessed tax in a Section 39 return (and, by the Explanation, to Section 37 details furnished). Tax shown only in the annual return under Section 44, and in no GSTR-1 or GSTR-3B, is outside it; the safe course is a Section 73 notice. UNCERTAIN: the text of Section 75(12) and its Explanation was verified from a secondary source, and Instruction No. 01/2022-GST (official) was read for its scope; no authority on GSTR-9 specifically was found. If the supplies had been in GSTR-1, the route would be as in Exercise-15.*
- ***Pre-notice payment.** Sections 73(5) to 73(7): tax paid before the notice (with interest, on own ascertainment, with written intimation) is shielded from notice and penalty; the shortfall - here the unpaid balance and the unpaid interest - must be the subject of a notice. The draft appropriates the DRC-03 payment first to the tax of the earliest months; the Noticee's own appropriation, if indicated in DRC-03, must be followed. UNCERTAIN: whether interest alone, when tax has been paid, is demanded within the Section 73(1) notice or recovered separately was not confirmed; the draft includes it.*
- ***Non-fraud.** The sales were in the POS data and books and were disclosed in the annual return, so Section 73 (and not Section 74) is proposed and no penalty under Section 122(1)(xv) is proposed. The 'instalment' request has no statutory basis in the notice; any instalment facility is a matter for a separate application under the Act after the order.*
- ***Rate.** The rate of 18% is that declared by the Noticee in its own annual return; the product is not classified in this draft. UNCERTAIN: confirm the rate against the rate notification for the period before issue.*
- ***Time limit.** The annual return due date for FY 2023-24 is taken as 31.12.2024. UNCERTAIN: no extension was seen in the sources reached; confirm before issue. Interest rate (18%) is as notified; the working is indicative.*
- *The draft should be settled by the jurisdictional Range/Division before issue (DRC-01), including verification of the monetary-limit-based issuing/adjudicating authority under Circular No. 31/05/2018-*

GST dated 09.02.2018 (Superintendent: central tax up to Rs.10 lakh; Deputy/Assistant Commissioner: above Rs.10 lakh up to Rs.1 crore; Additional/Joint Commissioner: above Rs.1 crore). Here the central tax in the notice is Rs.12,05,000/-, so the Deputy/Assistant Commissioner issues the notice.

- *Return of non-RUDs (Non-Relied Upon Documents): When the SCN is issued to the taxpayer in the form of DRC-01 (uploaded on the portal if registered, as well as delivered as per the provisions of law), non-RUDs must be returned to the noticee under due acknowledgement within seven days of issuance of the SCN.*

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Exercise 18

Short payment of tax by classifying sugar boiled confectionery and jelly candies under the concessional entry for traditional sweets (classification dispute, non-fraud)

Exercise 18: Short payment of tax by classifying sugar boiled confectionery and jelly candies under the concessional entry for traditional sweets (classification dispute, non-fraud)

Situation in Brief:

1. M/s XXX is a partnership firm (partners: Mr. Z, Managing Partner, and Mr. P) located at YYYY, Ludhiana, Punjab, registered under the CGST Act, 2017/PGST Act, 2017. It manufactures and sells traditional sweets and confectionery, all of which are sold to distributors, retailers and consumers within Punjab (all supplies are intra-State). It files FORM GSTR-1 and FORM GSTR-3B monthly and furnished its annual return for FY 2024-25 on 27.12.2025. All its invoices show the taxable value, Central tax at 2.5% and Punjab State tax at 2.5% separately, and the tax so shown was paid through the returns.

2. A notice dated 04.08.2026 under Section 65 of the CGST Act, 2017 was issued to the firm for audit of FY 2024-25. In the desk review the audit team noticed that the HSN-wise summary of outward supplies in FORM GSTR-1 for all twelve months showed the entire turnover of HSN 1704 at a combined rate of 5% (2.5% + 2.5%), whereas the product descriptions in the sales register included 'Hard Boiled Candy', 'Fruit Lollipop' and 'Jelly Candy'.

3. The audit team visited the factory on 12.08.2026. A panchnama was drawn up in the presence of Mr. Z and two independent witnesses. Three production lines were seen: Line-1 (til chikki, peanut chikki, gajak and mithai-type sweetmeats); Line-2 (cooking kettles and moulding/wrapping machines for hard-boiled candies and lollipops); and Line-3 (starch-mogul depositing line for jelly candies, commissioned in September 2024). The batch/recipe cards and wrapper labels of each product were taken on record. Hard-boiled candies and lollipops are made by cooking sugar (about 62%) and glucose syrup (about 36%) with citric acid, colour and flavour to about 145 degrees C, which on cooling sets into a hard, glassy mass; lollipops are the same mass moulded on a stick. Jelly candies are made from sugar (about 45%), glucose syrup (about 35%), pectin, citric acid, colour and flavour and set into a soft gel. The firm also makes a 'Choco Chikki Bar', i.e. peanut chikki bar with a thin coating of compound chocolate (about 15% of the weight of the bar).

4. Three samples (one each of hard-boiled candy, lollipop and jelly candy) were drawn under the panchnama and sent to an NABL-accredited laboratory. The Test Report dated 02.09.2026 records, for the candy and lollipop samples, moisture of about 2.5% and a glassy, non-crystalline mass of sucrose and glucose syrup solids; and, for the jelly candy sample, moisture of about 17% with pectin as the gelling agent.

5. The statement of Mr. Z was recorded on 20.08.2026 under Section 70 of the CGST Act, 2017, wherein he stated that the firm started selling candies and lollipops in 2019 and jelly candies in October 2024; that all products were invoiced under HSN 1704 at 5% because a former consultant had told him that 'all sugar sweets made in India are 5% items'; that no advance ruling, clarification or written opinion on classification was ever obtained; that the firm bears the cost of any differential tax as it has not collected anything beyond 2.5% + 2.5% from customers; and that he would like the matter decided on merits. He also confirmed the product-wise monthly sales figures tabulated below, which tally with the sales register.

6. Audit observations were communicated on 04.09.2026. In its reply dated 18.09.2026 the firm contended that (a) its candies and lollipops are 'elaichidana/mishri-type' traditional sugar sweets covered by the 5% entry for mishri, batasha, elaichidana, chikki and gajak; (b) jelly candies are also 'sweets'; and (c) there was no intention to evade tax since the HSN and the product names were disclosed in the returns. No document was produced with the reply.

7. The product-wise month-wise taxable value (value before tax) for FY 2024-25 is as follows:

Month	Hard-boiled candies (Rs.)	Lollipops (Rs.)	Jelly candies (Rs.)	Chocolate-coated chikki bar (Rs.)
Apr-2024	5,20,000	2,00,000	-	2,50,000
May-2024	5,60,000	2,20,000	-	2,50,000
Jun-2024	5,40,000	2,20,000	-	2,50,000
Jul-2024	5,80,000	2,40,000	-	2,80,000
Aug-2024	6,20,000	2,40,000	-	2,80,000
Sep-2024	6,60,000	2,60,000	-	3,00,000
Oct-2024	8,40,000	3,00,000	6,00,000	3,80,000
Nov-2024	8,80,000	3,20,000	8,00,000	4,00,000
Dec-2024	7,60,000	3,00,000	9,00,000	3,60,000
Jan-2025	6,40,000	2,40,000	7,50,000	3,00,000
Feb-2025	6,00,000	2,30,000	7,00,000	2,80,000
Mar-2025	6,00,000	2,30,000	7,50,000	2,70,000
FY 2024-25	**78,00,000**	**30,00,000**	**45,00,000**	**36,00,000**

8. Now in the light of the above, -

(i) Identify the provision(s) of GST law contravened by M/s XXX (under heading **Contravention**).

(ii) Identify the provision(s) of GST law under which action is to be taken against M/s XXX (under heading **Consequences of Contravention of legal Provisions**).

(iii) Draft the **Charging Paragraph** of the Show Cause Notice proposed to be issued to M/s XXX, calling upon M/s XXX (through its Managing Partner Mr. Z) to show cause as to why action should not be taken against them, while listing the proposed action to be taken against M/s XXX (through its Managing Partner Mr. Z).

(iv) Also prepare the **draft Show Cause Notice** for issuance to M/s XXX.

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SUGGESTED SOLUTION

(Audit, Classification of Goods and Determination of Tax Liability under Section 74A, and Draft Show Cause Notice - M/s XXX (Partnership Firm), Ludhiana CGST Commissionerate)

A. CONTRAVENTION

On the facts as recorded, the following provisions of law stand contravened (in each case read with the corresponding provisions of the Punjab Goods and Services Tax Act, 2017 [PGST Act] and the Rules made under the two Acts):

1. **Section 9(1) of the CGST Act, 2017 read with Notification No. 1/2017-Central Tax (Rate) dated 28.06.2017** - the firm has charged and paid central tax at 2.5% (Schedule I, S.No. 92, heading '1702 or 1704') on *sugar boiled confectionery* (hard-boiled candies and lollipops), which is separately chargeable at 6% (Schedule II, S.No. 32AA, heading 1704, 'Sugar boiled confectionery'), and on *jelly candies*, which fall in the residuary entry for sugar confectionery chargeable at 9% (Schedule III, S.No. 12, heading 1704, which expressly excludes the goods in S.No. 92 and sugar boiled confectionery). The corresponding State tax is similarly short-paid.
2. **Section 39(7) and Section 39(1) of the CGST Act, 2017** - the tax payable on the outward supplies was not paid in full by the due date of each monthly return; the self-assessment in the returns was made at a wrong rate.
3. **Section 31(1) read with Rule 46 of the CGST Rules, 2017** - the tax invoices issued for the above products show a rate of tax lower than the rate prescribed for the goods.

Note:* Section 74A(5)(ii) (fraud, wilful misstatement or suppression)** *has been considered and not invoked: the firm disclosed HSN 1704 and the product descriptions in its sales register and returns, it invoiced openly, and the dispute is one of classification between entries in the same heading.* ***Section 122(1)(i) (incorrect invoice) and Section 122(2) *have been considered and not invoked, since a penalty is already proposed under Section 74A(5)(i) for the same short payment and Section 75(13) bars a second penalty for the same act or omission; Section 126 also requires proportionality.* ***Section 76*** *is not attracted: the firm collected only the 2.5% + 2.5% shown in the invoices and that was paid to the Government; no amount was collected as tax and retained.* ***The Choco Chikki Bar*** *has been examined and is not made part of the demand (see Part B, item 3).*

B. CONSEQUENCES OF CONTRAVENTION OF LEGAL PROVISIONS

The contraventions at (A) above expose M/s XXX to the following action under the CGST Act, 2017 (read with the corresponding provisions of the PGST Act, 2017):

1. Determination and recovery of tax - under **Section 74A(1) of the CGST Act, 2017** (and the PGST Act). The demand pertains to FY 2024-25, i.e. a period 'FY 2024-25 onwards', for which Section 74A (and not Section 73 or 74) is the demand provision [Section 74A(12); Notification No. 17/2024-Central Tax dated 27.09.2024]. The notice may be issued within forty-two months from the due date of the annual return for the year [Section 74A(2)]; taking the due date as 31.12.2025 (the date under Section 44, subject to any extension) the last date is 30.06.2029; the notice is within time. The order must be passed within twelve months of the notice [Section 74A(7)], extendable by up to six months in the manner provided therein.
2. Classification - how the correct entry is found. The rate notification is applied product by product. First, the terms of the entries themselves (and the relevant Chapter Notes) decide the classification [General Rule 1 of the Interpretative Rules of the Customs Tariff, which are to be applied, so far as may be, to the rate notification]; HSN Explanatory Notes are the next aid. Second, where two entries seem to apply, the more specific entry prevails; here the matter is simpler because the entries are mutually exclusive by their own terms: Schedule III, S.No. 12 covers sugar confectionery 'other than' the items

listed in Schedule I S.No. 92 and 'sugar boiled confectionery', and Schedule II, S.No. 32AA covers 'sugar boiled confectionery'. Third, the product must be tested by what it is and how it is made, not by its trade name or label. Applying this:

(a) **Hard-boiled candies and lollipops** (taxable value Rs.1,08,00,000) - a sugar and glucose syrup mass cooked to a glassy hard state with about 2.5% moisture. This is 'sugar boiled confectionery' - 6% CGST + 6% PGST (12%). Schedule I S.No. 92 does not name boiled sweets; 'elaichidana' (sugar-coated cardamom seeds) and 'mishri' (rock sugar) are different goods, and a flavour name on the wrapper ('Elaichi') does not change what the product is.

(b) **Jelly candies** (taxable value Rs.45,00,000) - a pectin-set gel confection of about 17% moisture. It is not sugar boiled confectionery (no glassy boiled mass) and is not named in Schedule I S.No. 92. It falls in the residuary 'sugar confectionery' entry - 9% CGST + 9% PGST (18%). The firm's argument that all of them are 'sweets' mixes the trade expression 'sweetmeats' (2106 90, Schedule I S.No. 101, i.e. mithai) with the entries of heading 1704.

(c) **Choco Chikki Bar** (taxable value Rs.36,00,000) - considered and left out of the demand. The product is peanut chikki, which is named in S.No. 92, with a thin coating of compound chocolate (about 15% by weight). Chocolate-coated products may fall under heading 1806 if the coating gives the product its essential character [General Rule 3(b)], but here the peanut-and-jaggery/sugar chikki gives the bar its character and the coating is incidental. A demand on this item (if raised at 9% it would add Rs.4,68,000 of tax) would invite a contest in which the department's case is the weaker; the proper course is to leave it out of the notice and record the reasons in the file.

3. Quantification - the taxable value is the value shown in the invoices, which is exclusive of tax (tax was shown separately), so no 'cum-tax' deduction question arises. Tax payable at the correct rate is reduced by the tax already paid at 2.5% + 2.5% (Rs.3,82,500 each under CGST and PGST on all three product groups), leaving the differential in the table below.

4. Interest - under **Section 50(1) of the CGST Act, 2017** at the notified rate of 18% per annum [Notification No. 13/2017-Central Tax dated 28.06.2017], calculated from the day succeeding the due date of each monthly return up to the date of actual payment [Section 50(2)]. The interest in the table is illustrative up to 30.11.2026.

5. Penalty - under **Section 74A(5)(i) of the CGST Act, 2017**, i.e. ten per cent of the tax due or Rs.10,000/-, whichever is higher, under each Act. *Why not Section 74A(5)(ii)?* Penalty equal to tax requires fraud, wilful misstatement or suppression to evade tax. The firm's returns carried HSN 1704 and its sales register carried the true product names; the explanation in Explanation 2 to Section 74A (suppression = non-declaration of facts required to be declared, or failure to furnish information asked for in writing) is not met, because the facts were declared and were furnished when asked. A wrong view on the entry, even an unreasonable one, is an error of law and not suppression of fact. The concession under **Section 74A(8)** is available - no penalty if tax and interest are paid before the notice [clause (i)] or within sixty days of its issue [clause (ii)]. Section 74A(11) is not engaged on present facts, since no tax declared as payable in a return has remained unpaid.

6. Other penal provisions not proposed - Sections 122(1)(i) and 122(2) are not invoked (reasons at the Note under (A)). Recovery - under Sections 78 and 79 of the CGST Act, 2017, if the amount confirmed is not paid within the time allowed. Prosecution - Section 132 has been considered and is not proposed; the tax involved (Rs.13,41,000) is below the monetary limits of Section 132(1) and there is no evidence of intent to evade tax.

7. Issuing authority - the central tax demand is Rs.6,70,500, within the limit of the Superintendent (up to Rs.10 lakh) under Circular No. 31/05/2018-GST dated 09.02.2018.

Illustrative working of the differential tax and interest (boiled sweets at 12% and jelly candies at 18%, less tax paid at 5%):

Month	Boiled sweets: taxable value (Rs.)	Jelly candies: taxable value (Rs.)	Differential CGST (Rs.)	Differential PGST (Rs.)	GSTR-3B due date	Days to 30.11.2026	Interest on CGST + PGST (Rs.)
Apr-2024	7,20,000	-	25,200	25,200	20.05.2024	924	22,966
May-2024	7,80,000	-	27,300	27,300	20.06.2024	893	24,044
Jun-2024	7,60,000	-	26,600	26,600	20.07.2024	863	22,642
Jul-2024	8,20,000	-	28,700	28,700	20.08.2024	832	23,552
Aug-2024	8,60,000	-	30,100	30,100	20.09.2024	801	23,780
Sep-2024	9,20,000	-	32,200	32,200	20.10.2024	771	24,486
Oct-2024	11,40,000	6,00,000	78,900	78,900	20.11.2024	740	57,586
Nov-2024	12,00,000	8,00,000	94,000	94,000	20.12.2024	710	65,826
Dec-2024	10,60,000	9,00,000	95,600	95,600	20.01.2025	679	64,024
Jan-2025	8,80,000	7,50,000	79,550	79,550	20.02.2025	648	50,842
Feb-2025	8,30,000	7,00,000	74,550	74,550	20.03.2025	620	45,588
Mar-2025	8,30,000	7,50,000	77,800	77,800	20.04.2025	589	45,196
TOTAL	**1,08,00,000**	**45,00,000**	**6,70,500**	**6,70,500**			**4,70,532**

Basis: *Tax payable at the correct rate on boiled sweets: Rs.6,48,000 each (CGST/PGST, 6% of Rs.1,08,00,000) and on jelly candies Rs.4,05,000 each (9% of Rs.45,00,000); tax paid at 2.5% on both groups Rs.3,82,500 each; differential Rs.6,70,500 each, i.e. Rs.13,41,000 in all. Interest is computed month by month on each Act's differential: days from the due date to 30.11.2026 x 18% / 365.*

C. CHARGING PARAGRAPH OF THE SHOW CAUSE NOTICE

[The following is the operative charging paragraph proposed for incorporation in the Show Cause Notice at Part D below.]

Now, therefore, M/s XXX, a partnership firm, through its Managing Partner Mr. Z, situated at YYYY, Ludhiana, Punjab, are hereby called upon to show cause in writing to the Superintendent, CGST Range - [•], Ludhiana CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) *the hard-boiled candies and lollipops (taxable value Rs.1,08,00,000/-) manufactured and supplied by them during FY 2024-25 should not be held to be 'sugar boiled confectionery' of heading 1704 chargeable to central tax at 6% (Schedule II, S.No. 32AA) and State tax at 6% under Notification No. 1/2017-Central Tax (Rate) and the corresponding State notification, and the jelly candies (taxable value Rs.45,00,000/-) should not be held to be sugar confectionery of heading 1704 chargeable to central tax at 9% (Schedule III, S.No. 12) and State tax at 9%, and not goods eligible for the rate of 2.5% + 2.5% (Schedule I, S.No. 92) at which tax has been paid;*

(ii) *an amount of Rs.6,70,500/- (Central tax) and Rs.6,70,500/- (Punjab State tax), total Rs.13,41,000/- (Rupees Thirteen Lakh Forty-One Thousand only), being the tax short paid on the said goods during FY 2024-25 after giving credit for tax paid at 2.5% + 2.5%, as detailed in Annexure-A to this notice, should not be demanded and recovered from them under Section 74A(1) of the CGST Act, 2017 and the corresponding provisions of the PGST Act, 2017;*

(iii) *interest at the applicable rate under Section 50(1) of the CGST Act, 2017/PGST Act, 2017 should not be charged and recovered on the tax at (ii) above from the respective due dates till the date of payment;*

(iv) *a penalty of Rs.67,050/- (Central tax) and Rs.67,050/- (Punjab State tax), total Rs.1,34,100/-, being ten per cent of the tax due, should not be imposed on them under Section 74A(5)(i) of the CGST Act, 2017/PGST Act, 2017 (without prejudice to the benefit of nil penalty to which they may become entitled under Section 74A(8) on payment of tax and interest within the time therein specified).*

D. DRAFT SHOW CAUSE NOTICE

F. No. GEXCOM/ADJN/SCN/[•]/2026-LDH

DIN: [Document Identification Number to be auto-generated on issue]

Office of the Superintendent, CGST Range - [•], Division - [•], Ludhiana CGST Commissionerate, Punjab

Date: [•].11.2026

SHOW CAUSE NOTICE

(Issued under Section 74A of the Central Goods and Services Tax Act, 2017 read with Section 74A of the Punjab Goods and Services Tax Act, 2017)

To,
M/s XXX (Partnership Firm),
through its Managing Partner Mr. Z,
YYYY, Ludhiana, Punjab.

(hereinafter referred to as 'the Noticee', which expression shall include the partnership firm M/s XXX and its partners in respect of the liabilities of the firm)

WHEREAS M/s XXX, a partnership firm located at YYYY, Ludhiana, Punjab, registered under the CGST Act, 2017/PGST Act, 2017, is engaged in the manufacture and intra-State supply of traditional sweets and confectionery. During FY 2024-25 the Noticee charged and paid central tax at 2.5% and State tax at 2.5% on all its supplies falling under HSN 1704, as seen from its invoices, sales register and returns (RUD-6 and RUD-7);

2. AND WHEREAS a notice dated 04.08.2026 under Section 65 of the CGST Act, 2017 was issued for audit of FY 2024-25. The audit team noticed from the HSN-wise summary of outward supplies in FORM GSTR-1 that the entire turnover of HSN 1704 was reported at 5%, although the sales register carried the descriptions 'Hard Boiled Candy', 'Fruit Lollipop' and 'Jelly Candy' (RUD-1);

3. AND WHEREAS the audit team visited the factory on 12.08.2026 and drew up a panchnama in the presence of Mr. Z and two independent witnesses (RUD-2), recording the three production lines, the process of manufacture (sugar and glucose syrup cooked to about 145 degrees C and cooled into a hard glassy mass for candies and lollipops; pectin-set gel for jelly candies), the wrapper labels and the batch/recipe cards (RUD-4). Samples were drawn and tested by an NABL-accredited laboratory, whose Test Report dated 02.09.2026 (RUD-3) records moisture of about 2.5% and a glassy mass of sucrose and glucose syrup solids in the candy and lollipop samples, and moisture of about 17% with pectin as gelling agent in the jelly candy sample;

4. AND WHEREAS the statement of Mr. Z, Managing Partner, was recorded on 20.08.2026 under Section 70 of the CGST Act, 2017 (RUD-5), wherein he, inter alia, admitted and stated that:

- the firm sells hard-boiled candies and lollipops (since 2019) and jelly candies (since October 2024), and all were invoiced under HSN 1704 at 5% (2.5% + 2.5%);
- the classification was adopted on the oral advice of a former consultant that all sugar sweets are 5% items; no advance ruling, clarification or written opinion was ever obtained;
- the firm has not collected any tax from customers beyond the 2.5% + 2.5% shown in the invoices; and
- the month-wise product-wise sales figures are correct and tally with the sales register;

5. AND WHEREAS the Noticee, in its reply dated 18.09.2026 to the audit observations (RUD-8), contended that candies and lollipops are 'elaichidana/mishri-type' traditional sugar sweets covered by the 5% entry and that jelly candies are also 'sweets'. The contention is not acceptable. Schedule I, S.No. 92

(heading '1702 or 1704') covers a closed list of named traditional goods (palmyra sugar, mishri, batasha, bura, sakar, khadi sakar, harda, sakariya, gatta, kuliya, elaichidana, lukumdana, chikkis such as puffed rice, peanut, sesame and til chikki, til patti, til revdi, sugar makhana, groundnut sweets, gajak, khaja, khajuli and anarsa). Boiled sweets and jelly candies are not named in it. Schedule II, S.No. 32AA specifically names 'sugar boiled confectionery' of heading 1704 at 6% (12% with State tax), and the residuary entry for 'sugar confectionery' in Schedule III, S.No. 12 (9%, i.e. 18% with State tax) itself excludes the goods in S.No. 92 and sugar boiled confectionery. 'Elaichidana' is sugar-coated cardamom seed and 'mishri' is rock sugar; a flavour printed on a wrapper does not make a boiled sweet 'elaichidana'. The expression 'sweetmeats' in Schedule I, S.No. 101 relates to heading 2106 90 (mithai) and has no bearing on goods of heading 1704. The Noticee produced no document with its reply;

6. AND WHEREAS the taxable value of the goods supplied in FY 2024-25 and the differential tax payable after giving credit for the tax paid at 2.5% + 2.5% are as under (month-wise working in Annexure-A, which forms part of this notice):

Goods	Taxable value (Rs.)	Correct rate (CGST + PGST)	Differential CGST (Rs.)	Differential PGST (Rs.)
Hard-boiled candies and lollipops (Sch. II, S.No. 32AA)	1,08,00,000	6% + 6%	3,78,000	3,78,000
Jelly candies (Sch. III, S.No. 12)	45,00,000	9% + 9%	2,92,500	2,92,500
TOTAL	**1,53,00,000**		**6,70,500**	**6,70,500**

7. AND WHEREAS the Noticee disclosed the HSN, the product names, the rate and the tax in its invoices, sales register and returns, produced its records and the product samples on request, and no evidence has been found that the short payment was by reason of fraud, wilful misstatement or suppression of facts to evade tax. The non-payment is therefore appearing to be a case other than fraud, wilful misstatement or suppression of facts, attracting penalty under Section 74A(5)(i) of the CGST Act, 2017/PGST Act, 2017. The Choco Chikki Bar (peanut chikki with a thin chocolate coating) has been examined and is not included in the demand;

8. AND WHEREAS it thus appears that the Noticee has contravened the following provisions of the CGST Act, 2017 (and the corresponding provisions of the PGST Act, 2017):

- Section 9(1) read with Notification No. 1/2017-Central Tax (Rate) - short payment of tax by adopting the rate of 2.5% + 2.5% instead of 6% + 6% on sugar boiled confectionery and 9% + 9% on other sugar confectionery;
- Sections 39(7) and 39(1) - failure to pay the full tax due by the due date of each return and self-assessment at a wrong rate;
- Section 31(1) read with Rule 46 of the CGST Rules, 2017 - invoices showing a rate of tax lower than that prescribed;

9. AND WHEREAS the aforesaid acts and omissions of the Noticee render it liable to:

(a) demand and recovery of the differential tax under Section 74A(1) of the CGST Act, 2017/PGST Act, 2017;

(b) interest under Section 50(1) of the CGST Act, 2017/PGST Act, 2017; and

(c) penalty under Section 74A(5)(i) of the CGST Act, 2017/PGST Act, 2017;

NOW, THEREFORE

M/s XXX, a partnership firm, through its Managing Partner Mr. Z, situated at YYYY, Ludhiana, Punjab, are hereby called upon to show cause in writing to the Superintendent, CGST Range - [•], Ludhiana CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) the hard-boiled candies and lollipops (taxable value Rs.1,08,00,000/-) manufactured and supplied by them during FY 2024-25 should not be held to be 'sugar boiled confectionery' of heading 1704 chargeable to central tax at 6% (Schedule II, S.No. 32AA) and State tax at 6% under Notification No. 1/2017-Central Tax (Rate) and the corresponding State notification, and the jelly candies (taxable value Rs.45,00,000/-) should not be held to be sugar confectionery of heading 1704 chargeable to central tax at 9% (Schedule III, S.No. 12) and State tax at 9%, and not goods eligible for the rate of 2.5% + 2.5% (Schedule I, S.No. 92) at which tax has been paid;

(ii) an amount of Rs.6,70,500/- (Central tax) and Rs.6,70,500/- (Punjab State tax), total Rs.13,41,000/- (Rupees Thirteen Lakh Forty-One Thousand only), being the tax short paid on the said goods during FY 2024-25 after giving credit for tax paid at 2.5% + 2.5%, as detailed in Annexure-A to this notice, should not be demanded and recovered from them under Section 74A(1) of the CGST Act, 2017 and the corresponding provisions of the PGST Act, 2017;

(iii) interest at the applicable rate under Section 50(1) of the CGST Act, 2017/PGST Act, 2017 should not be charged and recovered on the tax at (ii) above from the respective due dates till the date of payment;

(iv) a penalty of Rs.67,050/- (Central tax) and Rs.67,050/- (Punjab State tax), total Rs.1,34,100/-, being ten per cent of the tax due, should not be imposed on them under Section 74A(5)(i) of the CGST Act, 2017/PGST Act, 2017 (without prejudice to the benefit of nil penalty to which they may become entitled under Section 74A(8) on payment of tax and interest within the time therein specified).

10. The Noticee is further informed that:

- a written reply to this notice, along with all documents relied upon, must be furnished within thirty (30) days of receipt of this notice, failing which the case will be decided ex parte on the basis of available records, on merits;
- an opportunity of personal hearing will be granted before adjudication, on a date to be separately intimated, and the Noticee (or an authorised representative) may appear in person or through counsel;
- attention is drawn to the benefit available under Section 74A(8) of the CGST Act, 2017/PGST Act, 2017, whereby, if the tax at (ii) above and the interest at (iii) above are paid before the issue of this notice, no notice shall be served in respect of the said tax; and if they are paid within sixty (60) days of the issue of this notice, no penalty shall be payable and all proceedings in respect of the said notice shall be deemed to be concluded;
- this notice is issued without prejudice to any other action that may be taken against the Noticee or any other person under the CGST Act, 2017/PGST Act, 2017, or any other law for the time being in force.

List of Relied Upon Documents (RUDs):

RUD-1: Audit notice dated 04.08.2026 under Section 65 and audit observations dated 04.09.2026;

RUD-2: Panchnama dated 12.08.2026 (factory visit and drawal of samples);

RUD-3: Test Report dated 02.09.2026 of the NABL-accredited laboratory;

RUD-4: Batch/recipe cards and wrapper labels of the products taken on record on 12.08.2026;

RUD-5: Statement of Mr. Z recorded under Section 70 of the CGST Act, 2017 on 20.08.2026;

RUD-6: FORM GSTR-1 (HSN-wise summary) and FORM GSTR-3B for April 2024 to March 2025, and the annual return for FY 2024-25 (portal data);

RUD-7: Product-wise sales register and a sample set of invoices for FY 2024-25;

RUD-8: Reply dated 18.09.2026 of the Noticee to the audit observations;

Annexure-A: Month-wise statement of differential tax and interest for FY 2024-25 [as per the working in Part B].

(_____)
Superintendent, CGST
Range - [•], Division - [•], Ludhiana CGST Commissionerate

Copy to: The Deputy/Assistant Commissioner, CGST Division, Ludhiana, for information.

Drafting note (not part of the notice):

- *The addressee, jurisdictional range/officer, F. No./DIN and dates shown in square brackets/blanks are illustrative placeholders and must be completed with the correct particulars before issue.*
- ***Teaching twist - classification, not suppression.*** *The firm declared HSN 1704 and the true product names; the quarrel is purely about which entry of the rate notification applies. That is a legal error, not suppression of facts (Explanation 2 to Section 74A is about non-declaration of facts), so the correct charge is Section 74A(5)(i) with the Section 74A(8) concession. A draftsman who writes 'suppression' merely because the rate was low will not sustain the penalty equal to tax; and Section 75(2A) would in any case re-fix the penalty at 10% if the fraud charge fails.*
- ***Method for rate/classification SCNs.*** *(1) Fix the product from evidence (process, composition, label, test report) before touching the tariff. (2) Read the competing entries in full - including their exclusion words - because the entries here are drafted to be mutually exclusive. (3) Quote the entries verbatim in the notice, and meet the noticee's likely defence in the body of the notice (as para 5 of the draft does) rather than leaving it to the adjudication. (4) Leave out items where the department's case is weaker (the Choco Chikki Bar) and record why in the file.*
- ***Rate-entry verification caution.*** *The entries and rates quoted (Schedule I S.No. 92 at 2.5%; Schedule II S.No. 32AA at 6%; Schedule III S.No. 12 at 9%; Schedule I S.No. 101 sweetmeats) were read from the consolidated CGST rate schedule as on 01.05.2022 published by the GST Council Secretariat. The serial numbers and the text must be re-checked against the notification as amended up to 21.09.2025 before issue, since the Council's own document says that only the notification has legal authority. The General Rules for Interpretation referred to in Part B item 2 apply to the rate notification by virtue of its explanatory paragraphs; their paragraph number could not be fetched and should be inserted by the Range after checking the Gazette text.*
- ***Tax paid at the lower rate is credited, not ignored.*** *The demand is the differential; the SCN says so in terms. If the invoices had not shown tax separately, the cum-tax question would arise (Section 15 has no express cum-tax rule) and should be flagged; here it does not arise.*
- ***Pre-SCN stage.*** *If the Range uses a pre-notice intimation in FORM GST DRC-01A (Rule 142(1A)), confirm that the text of Rule 142(1A) in force covers a case proposed under Section 74A. Voluntary payment before the notice (DRC-03) gives the Section 74A(8)(i) benefit only if the tax and interest are paid and the officer is informed in writing.*

- *The draft should be settled by the jurisdictional Range/Division before issue (DRC-01), including verification of the monetary-limit-based issuing/adjudicating authority under Circular No. 31/05/2018-GST dated 09.02.2018 (Superintendent: central tax up to Rs.10 lakh; Deputy/Assistant Commissioner: above Rs.10 lakh up to Rs.1 crore; Additional/Joint Commissioner: above Rs.1 crore). Here the central tax demand is Rs.6,70,500, within the Superintendent's limit.*
- *Return of non-RUDs (Non-Relied Upon Documents): When the SCN is issued to the taxpayer in the form of DRC-01 (uploaded on the portal if registered, as well as delivered as per the provisions of law), non-RUDs must be returned to the noticee under due acknowledgement within seven days of issuance of the SCN.*

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Exercise 19

Wrongful claim of exemption under the education entry (Sl. No. 66 of Notification No. 12/2017-CT(Rate)) for housekeeping services supplied to colleges, a university and a coaching academy

Exercise 19: Wrongful claim of exemption under the education entry (Sl. No. 66 of Notification No. 12/2017-CT(Rate)) for housekeeping services supplied to colleges, a university and a coaching academy

Situation in Brief:

1. M/s XXX Facility Management Pvt. Ltd. ('M/s XXX'), located at YYYY, Jaipur, Rajasthan, with Mr. Z as its Director, is registered under the CGST Act, 2017/RGST Act, 2017 and supplies housekeeping and campus-cleaning services (manpower and consumables) on contract. It files FORM GSTR-1 and FORM GSTR-3B monthly and furnished its annual return for FY 2024-25 on 30.12.2025. In FY 2024-25 it had four customers, all located in Rajasthan, each under a written service contract. Every contract states that the contract rates are 'exclusive of GST, if applicable'.

2. A risk-based analysis of the returns of M/s XXX by the jurisdictional Range showed that the entire outward turnover of Rs.3,06,00,000 for FY 2024-25 had been reported as exempt supplies, with nil tax in every month. Summons dated 10.07.2026 under Section 70 of the CGST Act, 2017 was issued to Mr. Z, who appeared on 24.07.2026 and produced the four service contracts, the invoices issued (all titled 'Bill of Supply' and carrying the narration 'Exempt - Sl. No. 66, Notification No. 12/2017-Central Tax (Rate)'), the deployment and payment registers and the returns.

3. The statement of Mr. Z was recorded on 24.07.2026 under Section 70 of the CGST Act, 2017, wherein he stated that the firm began with a CBSE-affiliated senior secondary school in 2021 and later took on the other three customers; that on the oral advice of the firm's accountant it treated all services to 'educational institutions' as exempt under the education entry of the exemption notification and did not charge GST; that he knew that Customer B and Customer C award degrees and that Customer D coaches students for entrance examinations; that he had never read the provisos to the entry, had not asked for any certificate or opinion, and had not sought a ruling or clarification; and that he would pay the tax if it was found due. He confirmed that all the supplies are of housekeeping and cleaning of campus buildings, hostels and classrooms, performed within the premises of the customers.

4. Letters under Section 70 were issued on 03.08.2026 to the four customers calling for documents showing their status. The replies received by 20.08.2026 show: Customer A - affiliation of the school by CBSE up to Class XII; Customer B - approval of AICTE and affiliation to a State technical university for B.Tech and M.Tech programmes; Customer C - a private university established under a State Act and recognised by the UGC for degree programmes; Customer D - a private limited company running coaching classes for JEE/NEET, not affiliated to any board or university and issuing no recognised qualification.

5. The month-wise value of services billed to each customer for FY 2024-25 (all amounts being the contract charges without any tax) is as follows:

Month	Cust. A: Senior Secondary School (Rs.)	Cust. B: Engineering Institute (Rs.)	Cust. C: University (Rs.)	Cust. D: Coaching Academy (Rs.)
Apr-2024	3,00,000	8,00,000	12,00,000	2,50,000
May-2024	3,00,000	8,00,000	12,00,000	2,50,000
Jun-2024	3,00,000	6,00,000	10,00,000	2,50,000
Jul-2024	3,00,000	6,00,000	10,00,000	2,50,000
Aug-2024	3,00,000	8,00,000	12,00,000	2,50,000
Sep-2024	3,00,000	8,00,000	12,00,000	2,50,000
Oct-2024	3,00,000	8,00,000	12,00,000	2,50,000
Nov-2024	3,00,000	8,00,000	12,00,000	2,50,000
Dec-2024	3,00,000	8,00,000	12,00,000	2,50,000

Jan-2025	3,00,000	8,00,000	12,00,000	2,50,000
Feb-2025	3,00,000	10,00,000	14,00,000	2,50,000
Mar-2025	3,00,000	10,00,000	14,00,000	2,50,000
FY 2024-25	**36,00,000**	**96,00,000**	**1,44,00,000**	**30,00,000**

6. Now in the light of the above, -

(i) Identify the provision(s) of GST law contravened by M/s XXX Facility Management Pvt. Ltd. (under heading **Contravention**).

(ii) Identify the provision(s) of GST law under which action is to be taken against M/s XXX Facility Management Pvt. Ltd. (under heading **Consequences of Contravention of legal Provisions**).

(iii) Draft the **Charging Paragraph** of the Show Cause Notice proposed to be issued to M/s XXX Facility Management Pvt. Ltd., calling upon M/s XXX Facility Management Pvt. Ltd. to show cause as to why action should not be taken against them, while listing the proposed action to be taken against M/s XXX Facility Management Pvt. Ltd..

(iv) Also prepare the **draft Show Cause Notice** for issuance to M/s XXX Facility Management Pvt. Ltd..

***

SUGGESTED SOLUTION

(Inquiry on summons, Examination of Exemption Claim, Determination of Tax Liability under Section 74A, and Draft Show Cause Notice - M/s XXX Facility Management Pvt. Ltd., Jaipur CGST Commissionerate)

A. CONTRAVENTION

On the facts as recorded, the following provisions of law stand contravened (in each case read with the corresponding provisions of the Rajasthan Goods and Services Tax Act, 2017 [RGST Act] and the Rules made under the two Acts):

1. **Section 9(1) of the CGST Act, 2017 read with Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017** - non-payment of central tax and State tax at 9% + 9% (18%) on housekeeping (cleaning) services of Heading 9985 (Support services), residuary item 'other support services' (Sl. No. 23(iii)), supplied to Customers B, C and D. The exemption claimed under Sl. No. 66 of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 is not available for these supplies.
2. **Section 31(2) read with Rule 46 of the CGST Rules, 2017** - bills of supply were issued instead of tax invoices showing tax for taxable services.
3. **Sections 37(1) and 39(1) and 39(7) of the CGST Act, 2017** - the taxable outward supplies were reported as exempt in FORM GSTR-1 and FORM GSTR-3B and the tax was not paid by the due dates.

Note: ***Section 74A(5)(ii) (fraud, wilful misstatement, suppression)*** *has been considered and not invoked: the firm openly named the exemption entry on every bill, reported the full turnover (as exempt) in its returns, and produced all records on summons; a wrong claim of exemption, openly made, is a legal error and not suppression of a fact.* ***Section 122(1)(xv) (suppression of turnover)*** *and* ***122(1)(x) (false information)*** *are not invoked for the same reason: the turnover was fully disclosed.* ***Section 122(1)(i) and 122(2)*** *are not invoked, since the penalty under Section 74A(5)(i) is proposed for the same default and Section 75(13) bars a second penalty.* ***Section 76*** *does not apply: no amount was collected as tax.* ***Customer A*** *(Rs.36,00,000) is excluded from the demand because the exemption does apply to it.*

B. CONSEQUENCES OF CONTRAVENTION OF LEGAL PROVISIONS

The contraventions at (A) above expose M/s XXX to the following action under the CGST Act, 2017 (read with the corresponding provisions of the RGST Act, 2017):

1. Determination and recovery of tax - under **Section 74A(1) of the CGST Act, 2017** (and the RGST Act). The demand pertains to FY 2024-25 - a period 'FY 2024-25 onwards' - for which Section 74A (and not Section 73 or 74) is the demand provision [Section 74A(12); Notification No. 17/2024-Central Tax dated 27.09.2024]. The notice may be issued within forty-two months from the due date of the annual return for the year [Section 74A(2)]; taking that date as 31.12.2025 (the date under Section 44, subject to any extension) the last date is 30.06.2029, so the notice is within time. The order must be passed within twelve months of the notice [Section 74A(7)], extendable by up to six months in the manner provided therein.
2. The exemption claim - burden and construction. The claim is under Sl. No. 66, Heading 9992 or 9963, of Notification No. 12/2017-Central Tax (Rate), item (b)(iii), which exempts services provided *to* an educational institution by way of 'security or cleaning or house-keeping services performed in such educational institution'. Three points decide the matter. *First*, a person who claims exemption must bring his supply squarely within the words of the entry and the conditions attached to it; an exemption is not to be widened by sympathy for its object. *Second*, 'educational institution' is defined in the notification (para 2(y)) as an institution providing pre-school and education up to higher secondary school or equivalent, or education as part of a curriculum leading to a qualification recognised by law, or education as part of an approved vocational education course. *Third*, and decisively, the proviso to

the entry says that sub-items (i), (ii) and (iii) of item (b) - transportation, catering and security/cleaning/house-keeping - do not apply to an educational institution other than one providing pre-school education and education up to higher secondary school or equivalent. The proviso narrows the benefit of these three sub-items to schools; it is not needed for item (a), which covers services by the institution to its own students, faculty and staff. Applying this to the four customers:

Customer	What the documents show	Educational institution (para 2(y))?	Pre-school / up to higher secondary?	Exempt under 66(b)(iii)?
A - Senior Secondary School	CBSE affiliation up to Class XII	Yes	Yes	Yes - exempt (Rs.36,00,000)
B - Engineering Institute	AICTE-approved B.Tech/M.Tech college affiliated to a State technical university	Yes (recognised qualification)	No	No - taxable (Rs.96,00,000)
C - Private University	Established under a State Act, UGC-recognised degree programmes	Yes (recognised qualification)	No	No - taxable (Rs.1,44,00,000)
D - Coaching Academy	Private company coaching for JEE/NEET; no board/university affiliation	No	No	No - taxable (Rs.30,00,000)

3. Quantification - the taxable value is the contract charge billed (Rs.2,70,00,000 for Customers B, C and D). The contracts quote rates 'exclusive of GST, if applicable', and no tax was collected, so the billed amount is the taxable value and no 'cum-tax' back-calculation is made. Central tax and State tax are each 9% of that value, month by month as in the table below. The tax is recoverable from the firm; whether the firm can recover it from its customers is a contractual matter that does not affect the demand.

4. Interest - under **Section 50(1) of the CGST Act, 2017** at the notified rate of 18% per annum [Notification No. 13/2017-Central Tax dated 28.06.2017], from the day succeeding the due date of each monthly return till payment [Section 50(2)]. The interest in the table is illustrative up to 30.11.2026.

5. Penalty - under **Section 74A(5)(i) of the CGST Act, 2017**, i.e. ten per cent of the tax due or Rs.10,000/-, whichever is higher, under each Act. *Why not Section 74A(5)(ii)?* A penalty equal to the tax needs fraud, wilful misstatement or suppression of facts to evade tax. The firm declared its turnover, named the exemption entry it relied on, and produced its records and its Director when summoned. The claim was wrong in law - the proviso was not read - but nothing was hidden (Explanation 2 to Section 74A defines suppression as non-declaration of facts required to be declared or failure to furnish information asked for in writing). The concession under **Section 74A(8)** is available: no penalty if tax and interest are paid before the notice [clause (i)] or within sixty days of its issue [clause (ii)].

6. Other penal provisions not proposed; recovery; prosecution - see the Note under (A). Recovery of any amount confirmed and not paid will be under Sections 78 and 79 of the CGST Act, 2017. Section 132 has been considered and is not proposed, as the tax is below the monetary limits of Section 132(1) and there is no intent to evade tax.

7. Issuing authority - the central tax demand is Rs.24,30,000, which is above Rs.10 lakh and below Rs.1 crore; the notice is therefore to be issued by the Deputy/Assistant Commissioner under Circular No. 31/05/2018-GST dated 09.02.2018.

Illustrative working of tax and interest (Customers B, C and D; Customer A excluded):

Month	Taxable value: Cust. B+C+D (Rs.)	CGST @9% (Rs.)	RGST @9% (Rs.)	GSTR-3B due date	Days to 30.11.2026	Interest on CGST + RGST (Rs.)
Apr-2024	22,50,000	2,02,500	2,02,500	20.05.2024	924	1,84,546
May-2024	22,50,000	2,02,500	2,02,500	20.06.2024	893	1,78,356
Jun-2024	18,50,000	1,66,500	1,66,500	20.07.2024	863	1,41,722

Jul-2024	18,50,000	1,66,500	1,66,500	20.08.2024	832	1,36,630
Aug-2024	22,50,000	2,02,500	2,02,500	20.09.2024	801	1,59,980
Sep-2024	22,50,000	2,02,500	2,02,500	20.10.2024	771	1,53,988
Oct-2024	22,50,000	2,02,500	2,02,500	20.11.2024	740	1,47,798
Nov-2024	22,50,000	2,02,500	2,02,500	20.12.2024	710	1,41,806
Dec-2024	22,50,000	2,02,500	2,02,500	20.01.2025	679	1,35,614
Jan-2025	22,50,000	2,02,500	2,02,500	20.02.2025	648	1,29,422
Feb-2025	26,50,000	2,38,500	2,38,500	20.03.2025	620	1,45,844
Mar-2025	26,50,000	2,38,500	2,38,500	20.04.2025	589	1,38,552
TOTAL	**2,70,00,000**	**24,30,000**	**24,30,000**			**17,94,258**

Basis: *Tax FY 2024-25: Customer B Rs.8,64,000 each, Customer C Rs.12,96,000 each, Customer D Rs.2,70,000 each (CGST/RGST) - Rs.24,30,000 each in all and Rs.48,60,000 together. Interest is computed month by month on each Act's tax for the days from the due date to 30.11.2026 at 18% per annum.*

C. CHARGING PARAGRAPH OF THE SHOW CAUSE NOTICE

[The following is the operative charging paragraph proposed for incorporation in the Show Cause Notice at Part D below.]

Now, therefore, M/s XXX Facility Management Pvt. Ltd., situated at YYYY, Jaipur, Rajasthan, are hereby called upon to show cause in writing to the Deputy/Assistant Commissioner, CGST Division - [•], Jaipur CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) *the housekeeping and cleaning services of aggregate value Rs.2,70,00,000/- supplied by them during FY 2024-25 to Customer B (Rs.96,00,000/-), Customer C (Rs.1,44,00,000/-) and Customer D (Rs.30,00,000/-) should not be held to be taxable supplies of services under Heading 9985 chargeable to central tax at 9% and State tax at 9% under Notification No. 11/2017-Central Tax (Rate), and not services exempt under Sl. No. 66 of Notification No. 12/2017-Central Tax (Rate);*

(ii) *an amount of Rs.24,30,000/- (Central tax) and Rs.24,30,000/- (Rajasthan State tax), total Rs.48,60,000/- (Rupees Forty-Eight Lakh Sixty Thousand only), being tax not paid on the said services as detailed in Annexure-A to this notice, should not be demanded and recovered from them under Section 74A(1) of the CGST Act, 2017 and the corresponding provisions of the RGST Act, 2017;*

(iii) *interest at the applicable rate under Section 50(1) of the CGST Act, 2017/RGST Act, 2017 should not be charged and recovered on the tax at (ii) above from the respective due dates till the date of payment;*

(iv) *a penalty of Rs.2,43,000/- (Central tax) and Rs.2,43,000/- (Rajasthan State tax), total Rs.4,86,000/-, being ten per cent of the tax due, should not be imposed on them under Section 74A(5)(i) of the CGST Act, 2017/RGST Act, 2017 (without prejudice to the benefit of nil penalty to which they may become entitled under Section 74A(8) on payment of tax and interest within the time therein specified).*

D. DRAFT SHOW CAUSE NOTICE

F. No. GEXCOM/ADJN/SCN/[•]/2026-JPR

DIN: [Document Identification Number to be auto-generated on issue]

Office of the Deputy/Assistant Commissioner, CGST Division - [•], Jaipur CGST Commissionerate, Rajasthan

Date: [•].11.2026

SHOW CAUSE NOTICE

(Issued under Section 74A of the Central Goods and Services Tax Act, 2017 read with Section 74A of the Rajasthan Goods and Services Tax Act, 2017)

To,
M/s XXX Facility Management Pvt. Ltd.,
(Director: Mr. Z),
YYYY, Jaipur, Rajasthan.

(hereinafter referred to as 'the Noticee')

WHEREAS M/s XXX Facility Management Pvt. Ltd., located at YYYY, Jaipur, Rajasthan, registered under the CGST Act, 2017/RGST Act, 2017, supplies housekeeping and campus-cleaning services under written contracts. In FY 2024-25 it billed Rs.3,06,00,000/- to four customers, namely a senior secondary school (Customer A), an engineering institute (Customer B), a private university (Customer C) and a coaching academy (Customer D), and reported the whole turnover as exempt in its returns, with nil tax in every month (RUD-1 and RUD-4);

2. AND WHEREAS a summons dated 10.07.2026 under Section 70 of the CGST Act, 2017 was issued to Mr. Z, Director (RUD-2), who appeared on 24.07.2026 and produced the four service contracts, the invoices issued, the deployment and payment registers and the returns (RUD-3 and RUD-4). The invoices are titled 'Bill of Supply' and carry the narration 'Exempt - Sl. No. 66, Notification No. 12/2017-Central Tax (Rate)'. Every contract provides that its rates are exclusive of GST, if applicable;

3. AND WHEREAS the statement of Mr. Z was recorded on 24.07.2026 under Section 70 of the CGST Act, 2017 (RUD-5), wherein he, inter alia, admitted and stated that:

- the Noticee supplies only housekeeping and cleaning of campus buildings, hostels and classrooms, performed within the premises of the customers;
- on the oral advice of the firm's accountant all services to 'educational institutions' were treated as exempt under the education entry, and no GST was charged;
- he knew that Customers B and C award degrees and that Customer D coaches students for entrance examinations, but never read the provisos to the entry and never sought a certificate, opinion or ruling; and
- he is willing to pay the tax if it is found to be due;

4. AND WHEREAS the replies received from the customers to letters dated 03.08.2026 (RUD-6) show that Customer A is a school affiliated by CBSE up to Class XII; Customer B is an AICTE-approved college affiliated to a State technical university for B.Tech and M.Tech programmes; Customer C is a private university established under a State Act and recognised by the UGC for degree programmes; and Customer D is a private limited company running coaching classes for JEE/NEET, not affiliated to any board or university;

5. AND WHEREAS Sl. No. 66 of Notification No. 12/2017-Central Tax (Rate), item (b)(iii), exempts services provided to an educational institution by way of security, cleaning or house-keeping services performed in such educational institution. The proviso to the entry provides that sub-items (i) to (iii)

of item (b) do not apply to an educational institution other than one providing pre-school education and education up to higher secondary school or equivalent. The exemption is therefore available to Customer A (Rs.36,00,000/-), which the Department has accepted and excluded, but not to Customer B and Customer C, which are educational institutions only in the sense of providing education leading to recognised qualifications and are outside the proviso. Customer D does not meet even the definition of an educational institution in para 2(y) of the notification. It lay on the Noticee to establish that its supplies fall within the entry and its proviso, and it has not done so;

6. AND WHEREAS the housekeeping and cleaning services supplied to Customers B, C and D, being support services of Heading 9985 other than those specifically listed, are chargeable to central tax at 9% and State tax at 9% under Sl. No. 23(iii) of Notification No. 11/2017-Central Tax (Rate). The tax so payable on the contract charges (no tax having been collected, and the contracts quoting rates exclusive of GST), is as under (month-wise working in Annexure-A, which forms part of this notice):

Customer	Taxable value (Rs.)	CGST @9% (Rs.)	RGST @9% (Rs.)
Customer B - Engineering Institute	96,00,000	8,64,000	8,64,000
Customer C - Private University	1,44,00,000	12,96,000	12,96,000
Customer D - Coaching Academy	30,00,000	2,70,000	2,70,000
TOTAL	**2,70,00,000**	**24,30,000**	**24,30,000**

7. AND WHEREAS the Noticee named the exemption entry on every bill of supply, reported its entire turnover in its returns, produced all its records and its Director on summons, and no evidence has been found that the non-payment was by reason of fraud, wilful misstatement or suppression of facts to evade tax. The non-payment is therefore appearing to be a case other than fraud, wilful misstatement or suppression of facts, attracting penalty under Section 74A(5)(i) of the CGST Act, 2017/RGST Act, 2017;

8. AND WHEREAS it thus appears that the Noticee has contravened the following provisions of the CGST Act, 2017 (and the corresponding provisions of the RGST Act, 2017):

- Section 9(1) read with Notification No. 11/2017-Central Tax (Rate) - non-payment of tax on taxable services by wrongly claiming exemption under Sl. No. 66 of Notification No. 12/2017-Central Tax (Rate);
- Section 31(2) read with Rule 46 of the CGST Rules, 2017 - issue of bills of supply instead of tax invoices;
- Sections 37(1), 39(1) and 39(7) - reporting taxable outward supplies as exempt and non-payment of tax by the due dates;

9. AND WHEREAS the aforesaid acts and omissions of the Noticee render it liable to:

(a) demand and recovery of tax under Section 74A(1) of the CGST Act, 2017/RGST Act, 2017;

(b) interest under Section 50(1) of the CGST Act, 2017/RGST Act, 2017; and

(c) penalty under Section 74A(5)(i) of the CGST Act, 2017/RGST Act, 2017;

NOW, THEREFORE

M/s XXX Facility Management Pvt. Ltd., situated at YYYY, Jaipur, Rajasthan, are hereby called upon to show cause in writing to the Deputy/Assistant Commissioner, CGST Division - [•], Jaipur CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) the housekeeping and cleaning services of aggregate value Rs.2,70,00,000/- supplied by them during FY 2024-25 to Customer B (Rs.96,00,000/-), Customer C (Rs.1,44,00,000/-) and Customer

D (Rs.30,00,000/-) should not be held to be taxable supplies of services under Heading 9985 chargeable to central tax at 9% and State tax at 9% under Notification No. 11/2017-Central Tax (Rate), and not services exempt under Sl. No. 66 of Notification No. 12/2017-Central Tax (Rate);

(ii) an amount of Rs.24,30,000/- (Central tax) and Rs.24,30,000/- (Rajasthan State tax), total Rs.48,60,000/- (Rupees Forty-Eight Lakh Sixty Thousand only), being tax not paid on the said services as detailed in Annexure-A to this notice, should not be demanded and recovered from them under Section 74A(1) of the CGST Act, 2017 and the corresponding provisions of the RGST Act, 2017;

(iii) interest at the applicable rate under Section 50(1) of the CGST Act, 2017/RGST Act, 2017 should not be charged and recovered on the tax at (ii) above from the respective due dates till the date of payment;

(iv) a penalty of Rs.2,43,000/- (Central tax) and Rs.2,43,000/- (Rajasthan State tax), total Rs.4,86,000/-, being ten per cent of the tax due, should not be imposed on them under Section 74A(5)(i) of the CGST Act, 2017/RGST Act, 2017 (without prejudice to the benefit of nil penalty to which they may become entitled under Section 74A(8) on payment of tax and interest within the time therein specified).

10. The Noticee is further informed that:

- a written reply to this notice, along with all documents relied upon, must be furnished within thirty (30) days of receipt of this notice, failing which the case will be decided ex parte on the basis of available records, on merits;
- an opportunity of personal hearing will be granted before adjudication, on a date to be separately intimated, and the Noticee (or an authorised representative) may appear in person or through counsel;
- attention is drawn to the benefit available under Section 74A(8) of the CGST Act, 2017/RGST Act, 2017, whereby, if the tax at (ii) above and the interest at (iii) above are paid before the issue of this notice, no notice shall be served in respect of the said tax; and if they are paid within sixty (60) days of the issue of this notice, no penalty shall be payable and all proceedings in respect of the said notice shall be deemed to be concluded;
- this notice is issued without prejudice to any other action that may be taken against the Noticee or any other person under the CGST Act, 2017/RGST Act, 2017, or any other law for the time being in force.

List of Relied Upon Documents (RUDs):

RUD-1: FORM GSTR-1 and FORM GSTR-3B for April 2024 to March 2025 and the annual return for FY 2024-25 (portal data);

RUD-2: Summons dated 10.07.2026 under Section 70 of the CGST Act, 2017, with proof of service;

RUD-3: Four service contracts produced on 24.07.2026;

RUD-4: Bills of supply, deployment and payment registers and sales ledger for FY 2024-25;

RUD-5: Statement of Mr. Z recorded under Section 70 of the CGST Act, 2017 on 24.07.2026;

RUD-6: Letters dated 03.08.2026 to the four customers and their replies with affiliation/approval/recognition documents;

Annexure-A: Month-wise statement of tax and interest for FY 2024-25 [as per the working in Part B].

(_____)
Deputy/Assistant Commissioner, CGST

CGST Division - [•], Jaipur CGST Commissionerate

Copy to: The Additional/Joint Commissioner, CGST Jaipur Commissionerate, for information.

Drafting note (not part of the notice):

- *The addressee, jurisdictional range/officer, F. No./DIN and dates shown in square brackets/blanks are illustrative placeholders and must be completed with the correct particulars before issue.*
- ***Teaching twist - exemption, onus and strict reading.*** *The trap is the phrase 'educational institution': Customers B and C are educational institutions under para 2(y), yet the proviso to item (b) strips sub-items (i)-(iii) of their benefit. Always read the entry, its provisos and the definitions together, and test each customer separately. The onus of bringing the supply within the exemption is on the claimant; the draft states that principle in the body of the notice but cites no judgment, because none has been verified for this exercise. Officers may add authority after verifying it themselves.*
- ***Fraud or non-fraud?*** *An openly stated, wrong exemption claim is not suppression. Compare a case in which the supplier obtained a false 'recognition' certificate from a customer or split bills to hide the nature of the customer - that would support Section 74A(5)(ii) and the concessions of Section 74A(9). Here the Director admits he never read the provisos; that shows carelessness, not an intent to evade.*
- ***Entry text verification caution.*** *The text of Sl. No. 66 (including the proviso and the definition in para 2(y)) and of Sl. No. 23(iii) of Notification 11/2017 was read from the consolidated notifications as amended up to 01.04.2019 published by the GST Council Secretariat, and Notification No. 08/2024-Central Tax (Rate) dated 08.10.2024 was checked and does not amend Sl. No. 66 (it only inserts Sl. No. 66A). Other amendments between 2019 and 2025 were not individually checked. The Range must confirm the entry as in force during FY 2024-25 from the Gazette before issue.*
- ***ITC side.*** *Check whether the Noticee reversed input tax credit under Section 17(2) and Rule 42 on the footing that these supplies were exempt. If so, the adjudicating authority must consider restoration of the credit attributable to the supplies now held taxable; the draft does not quantify any such restoration or deduct it from the demand. The point is better raised and decided at adjudication on the Noticee's working.*
- ***Cum-tax.*** *Section 15 has no express cum-tax rule. Here the contracts quote rates 'exclusive of GST, if applicable' and no tax was collected, so the contract price is the taxable value. If the contracts had been 'all inclusive', the Noticee could be expected to claim back-calculation and the draft would need to meet that.*
- *The draft should be settled by the jurisdictional Range/Division before issue (DRC-01), including verification of the monetary-limit-based issuing/adjudicating authority under Circular No. 31/05/2018-GST dated 09.02.2018 (Superintendent: central tax up to Rs.10 lakh; Deputy/Assistant Commissioner: above Rs.10 lakh up to Rs.1 crore; Additional/Joint Commissioner: above Rs.1 crore). Here the central tax demand is Rs.24,30,000, above Rs.10 lakh and within Rs.1 crore, so the Deputy/Assistant Commissioner is the proper issuing authority.*
- *Return of non-RUDs (Non-Relied Upon Documents): When the SCN is issued to the taxpayer in the form of DRC-01 (uploaded on the portal if registered, as well as delivered as per the provisions of law), non-RUDs must be returned to the noticee under due acknowledgement within seven days of issuance of the SCN.*

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Exercise 20

Non-payment of tax on reverse charge basis on services of Goods Transport Agencies (freight paid by a steel manufacturer; part-payment before notice)

Exercise 20: Non-payment of tax on reverse charge basis on services of Goods Transport Agencies (freight paid by a steel manufacturer; part-payment before notice)

Situation in Brief:

1. M/s XXX Steel & Power Pvt. Ltd. ('M/s XXX'), a company with Mr. Z as Senior Manager (Accounts and Taxation), operates a steel melting and rolling plant at YYYY, Raipur, Chhattisgarh, which is a factory registered under the Factories Act, 1948, and is registered under the CGST Act, 2017/CGGST Act, 2017. It files FORM GSTR-1 and FORM GSTR-3B monthly. Its raw materials (coal, iron ore, dolomite) come from mines in Chhattisgarh and Odisha, and its finished goods are delivered to customers in several States. Wherever the freight is on the Noticee's account, it pays the transporter and books the expense in its freight ledger. Freight borne directly by customers on ex-works sales is not in the Noticee's books and is not in question.

2. Data analysis by the Anti-Evasion Section of Raipur CGST Commissionerate compared the e-way bill data for consignments in which the Noticee is consignor or consignee in FY 2024-25 (which carry the transporter's name/ID and the vehicle number), with the Noticee's FORM GSTR-3B returns. The returns showed no tax paid on reverse charge for any month, although the e-way bills identified 38 transporters. Summons dated 02.09.2026 under Section 70 of the CGST Act, 2017 was issued to the Noticee, and Mr. Z appeared on 15.09.2026 and produced the freight ledger for FY 2024-25, the lorry receipts and freight bills of the transporters, the TDS records on freight payments and the returns.

3. The statement of Mr. Z was recorded on 15.09.2026 under Section 70 of the CGST Act, 2017, wherein he stated that the freight is paid by the Noticee in all the cases in the freight ledger; that the transporters issue lorry receipts and freight bills and that most of the small local transporters are not registered; that the Noticee's ERP was configured to calculate GST on freight only when a transporter's bill showed GST; that the ERP also tagged as 'exempt' every lorry receipt of Rs.1,500 or less, on the belief that the limit for small consignments still applied; that no reverse charge liability on freight was ever self-assessed or shown in the returns; that no self-invoice or payment voucher was issued for any unregistered transporter; that all freight payments were made within 30 days of the lorry receipt; and that the Noticee would pay the tax with interest.

4. Scrutiny of the lorry receipts and the portal status of the 38 transporters showed the following: four registered GTAs charged GST in their tax invoices with the declaration for forward charge; 13 registered GTAs billed on lorry receipts without tax and had filed no option for forward charge; and 21 transporters were unregistered. Nine of the 34 transporters in the last two groups are located in Odisha and the rest in Chhattisgarh. Lorry receipts of Rs.1,500 or less each, tagged exempt by the ERP, total Rs.3,60,000 in FY 2024-25 (included in the intra-State freight shown below), of which Rs.2,70,000 falls in July 2024 to March 2025. None of the goods transported was agricultural produce, milk, salt, food grain, organic manure, newspapers, relief material or defence equipment.

5. On 22.09.2026 the Noticee voluntarily paid, by FORM GST DRC-03, central tax Rs.70,000, Chhattisgarh State tax Rs.70,000 and integrated tax Rs.62,500 on reverse charge for April, May and June 2024, together with interest of Rs.82,283 calculated from the respective due dates to 22.09.2026, and informed the Range in writing the same day. It has not paid the tax for July 2024 to March 2025. It has not taken credit of the tax so paid.

6. The month-wise freight paid to GTAs in FY 2024-25 (value of the freight charged by the transporters, tax not being charged where not stated) is as follows:

Month	Freight to RCM-liable GTAs located in Chhattisgarh (Rs.)	Freight to RCM-liable GTAs located in Odisha (Rs.)	Freight to forward-charge GTAs (GST charged in invoice) (Rs.)	RCM tax shown in GSTR-3B (Rs.)
Apr-2024	9,00,000	4,00,000	3,00,000	Nil

May-2024	9,50,000	4,50,000	3,00,000	Nil
Jun-2024	9,50,000	4,00,000	3,00,000	Nil
Jul-2024	10,00,000	4,50,000	3,00,000	Nil
Aug-2024	10,50,000	4,50,000	3,00,000	Nil
Sep-2024	9,50,000	4,00,000	3,00,000	Nil
Oct-2024	10,50,000	5,00,000	3,00,000	Nil
Nov-2024	11,00,000	5,00,000	3,00,000	Nil
Dec-2024	11,50,000	5,50,000	3,00,000	Nil
Jan-2025	11,00,000	5,00,000	3,00,000	Nil
Feb-2025	10,50,000	4,50,000	3,00,000	Nil
Mar-2025	12,00,000	5,50,000	3,00,000	Nil
FY 2024-25	**1,24,50,000**	**56,00,000**	**36,00,000**	**Nil**

7. Now in the light of the above, -

(i) Identify the provision(s) of GST law contravened by M/s XXX Steel & Power Pvt. Ltd. (under heading **Contravention**).

(ii) Identify the provision(s) of GST law under which action is to be taken against M/s XXX Steel & Power Pvt. Ltd. (under heading **Consequences of Contravention of legal Provisions**).

(iii) Draft the **Charging Paragraph** of the Show Cause Notice proposed to be issued to M/s XXX Steel & Power Pvt. Ltd., calling upon M/s XXX Steel & Power Pvt. Ltd. to show cause as to why action should not be taken against them, while listing the proposed action to be taken against M/s XXX Steel & Power Pvt. Ltd..

(iv) Also prepare the **draft Show Cause Notice** for issuance to M/s XXX Steel & Power Pvt. Ltd..

***

SUGGESTED SOLUTION

(Data Analysis, Inquiry on summons, Determination of Reverse Charge Liability under Section 74A, and Draft Show Cause Notice - M/s XXX Steel & Power Pvt. Ltd., Raipur CGST Commissionerate)

A. CONTRAVENTION

On the facts as recorded, the following provisions of law stand contravened (in each case read with the corresponding provisions of the Chhattisgarh Goods and Services Tax Act, 2017 [CGGST Act], the Integrated Goods and Services Tax Act, 2017 [IGST Act] and the Rules made under them):

1. **Section 9(3) of the CGST Act, 2017 read with entry 1 of Notification No. 13/2017-Central Tax (Rate) dated 28.06.2017** (and, for services from GTAs located in another State, **Section 5(3) of the IGST Act, 2017 read with entry 2 of Notification No. 10/2017-Integrated Tax (Rate) dated 28.06.2017**) - failure to pay on reverse charge basis the tax on the services of transportation of goods by road supplied by GTAs to the Noticee, a factory registered under the Factories Act, 1948, a registered person and a body corporate. Under the Explanation to the entry the Noticee, as the person who pays the freight, is the recipient.
2. **Sections 39(1) and 39(7) of the CGST Act, 2017** - the liability on reverse charge was neither declared in nor paid with the monthly return in FORM GSTR-3B for July 2024 to March 2025.
3. **Section 31(3)(f) and (g) of the CGST Act, 2017** - in respect of the freight from the 21 unregistered transporters, no invoice was issued on receipt of the services and no payment voucher was issued on payment.

Note: ***Section 74A(5)(ii) (fraud, wilful misstatement, suppression)*** *has been considered and not invoked: every freight payment is in the books, the transporters are identifiable from the ledger, TDS was deducted, e-way bills were generated in the Noticee's name, and records were produced when summoned; the default is a failure of the ERP set-up and of understanding.* ***Section 122(1)(iii)/(iv)*** *(tax collected but not paid) does not arise: the Noticee collected nothing as tax.* ***Section 122(2)*** *and* ***Section 122(1)(i)*** *are not invoked, as penalty under Section 74A(5)(i) is proposed (Section 75(13)).* ***Section 24(iii)*** *(compulsory registration of persons liable under reverse charge) is not relevant, the Noticee being already registered. The freight to the four forward-charge GTAs is outside the notice. The period April-June 2024 is outside the notice because the tax and interest were paid before the notice (Section 74A(8)(i)).*

B. CONSEQUENCES OF CONTRAVENTION OF LEGAL PROVISIONS

The contraventions at (A) above expose M/s XXX to the following action under the CGST Act, 2017 (read with the corresponding provisions of the CGGST Act, 2017 and the IGST Act, 2017):

1. Determination and recovery of tax - under **Section 74A(1) of the CGST Act, 2017** (the CGGST Act) and, for the integrated tax, under Section 74A(1) of the CGST Act, 2017 as applied by **Section 20 of the IGST Act, 2017**, which extends the CGST Act provisions on demands and recovery and on interest and penalty to integrated tax. The demand pertains to FY 2024-25 and so falls under Section 74A and not Section 73 or 74 [Section 74A(12); Notification No. 17/2024-Central Tax dated 27.09.2024]. The notice may be issued within forty-two months from the due date of the annual return [Section 74A(2)]; taking that date as 31.12.2025 (the date under Section 44, subject to any extension) the last date is 30.06.2029. The order is due within twelve months of the notice [Section 74A(7)], extendable by six months in the manner provided.
2. Effect of the voluntary payment for April-June 2024 - the Noticee paid the tax and interest for these months before any notice and informed the officer in writing. Under **Section 74A(8)(i)** no notice is to be served for that tax and no penalty is leviable. The interest paid has been checked against the Department's own computation (the same 18% from the due date to 22.09.2026) and there is no

shortfall; had there been a shortfall, a notice would lie for the balance under Section 74A(10). The notice is therefore limited to July 2024 to March 2025.

3. When does reverse charge on GTA apply? - the four-question test. (i) Is the supplier a goods transport agency, i.e. a person who provides road transport of goods and issues a consignment note (lorry receipt), by whatever name called? A truck owner who issues no consignment note raises a different question and is not considered here. (ii) Is the recipient one of the classes named in entry 1 (a factory registered under the Factories Act, a registered person, a body corporate, a partnership firm, a society and so on) and located in the taxable territory? The Noticee is a factory, a registered person and a body corporate. (iii) Is the case taken out of reverse charge by the proviso introduced by Notification No. 05/2022-Central Tax (Rate) with effect from 18.07.2022, i.e. the supplier is registered, has opted to pay tax under forward charge, issues a tax invoice charging central tax and puts the declaration in Annexure III on that invoice? Only the four GTAs in the first row below satisfy it. (iv) Is the service exempt under entry 21 of Notification No. 12/2017-Central Tax (Rate)? The two limbs which exempted a single consignment of Rs.1,500 or less and a single consignee's freight of Rs.750 or less were omitted with effect from 18.07.2022 by Notification No. 04/2022-Central Tax (Rate), so the ERP tag on small lorry receipts rested on a repealed concession; the remaining exemptions (agricultural produce, milk, salt, food grain, organic manure, newspapers, relief materials, defence equipment) are not attracted by the goods in question.

Category of transporter (verified on the portal and from documents)	Number	Position
Registered GTAs that opted to pay GST themselves, issued tax invoices and gave the declaration in Annexure III on the invoice	4	No reverse charge (proviso to entry 1 of Notification 13/2017); freight excluded from demand
Registered GTAs that did not opt (no forward-charge option on record; Annexure V/VI declaration, as applicable to the year), billed only on lorry receipts without tax	13	Reverse charge applies; tax payable by the Noticee
Unregistered GTAs/transporters issuing lorry receipts (consignment notes)	21	Reverse charge applies; tax payable by the Noticee

4. Rate and place of supply - GTA services where the GTA does not opt for forward charge are taxed at 2.5% central tax + 2.5% State tax (5%) under Sl. No. 9, item (iii)(a) of Notification No. 11/2017-Central Tax (Rate) as substituted w.e.f. 18.07.2022 by Notification No. 03/2022-Central Tax (Rate), the condition being on the GTA (no credit of input tax on the inputs used for the service); the same service is taxed at 5% integrated tax under Notification No. 8/2017-Integrated Tax (Rate). The place of supply of transport of goods to a registered person is the location of that person [Section 12(8)(a) of the IGST Act]; for the Noticee it is Chhattisgarh. Where the GTA is located in Chhattisgarh the supply is intra-State [Section 8(2) of the IGST Act] and central tax and State tax are payable; where the GTA is located in Odisha it is inter-State [Section 7(3) of the IGST Act] and integrated tax is payable.

5. Time of supply - for reverse charge supplies of services it is the earlier of the date of payment (entered in the recipient's books or debited in his bank account) and the date immediately following sixty days from the date of the invoice or document in lieu [Section 13(3) of the CGST Act]. All freight was paid within 30 days of the lorry receipt, so the time of supply is the date of payment, and the liability falls in the month of payment, payable with the return due on the 20th of the next month.

6. Interest - under **Section 50(1) of the CGST Act, 2017** (and, for integrated tax, as applied by Section 20 of the IGST Act) at the notified rate of 18% per annum [Notification No. 13/2017-Central Tax dated 28.06.2017], from the day succeeding the due date of the return [Section 50(2)] till payment. The interest in the table is illustrative up to 30.11.2026.

7. Penalty - under **Section 74A(5)(i)**, i.e. ten per cent of the tax due or Rs.10,000/-, whichever is higher, under each head (central tax, State tax and integrated tax). *Why not Section 74A(5)(ii)?* The payments were recorded in the books, TDS was deducted, e-way bills named the Noticee, and the Noticee produced its records, volunteered the tax for the first quarter when the gap was explained, and now offers to pay the rest. The cause of the default is a mistaken ERP set-up and a mistaken belief about an old exemption; that is not fraud or suppression. The concession of **Section 74A(8)(ii)** (no penalty if tax and interest are paid within sixty days of the notice) is available. Section 74A(11) is not engaged because the reverse charge liability was never self-assessed in a return.

8. Input tax credit and the 'revenue neutral' plea - the Noticee, a manufacturer making taxable supplies only, will say that whatever it pays on reverse charge it can take back as credit. The answer in the notice should be measured: (a) tax payable on reverse charge is not 'output tax' [Section 2(82)] and therefore cannot be paid out of the electronic credit ledger, which is used for 'output tax' [Section 49(4)]; it must be paid in cash first; (b) the tax so paid is 'input tax' for the recipient [Section 2(62)] and credit is a matter for Section 16 and Rule 36 at the time of availment, subject to the time limit in Section 16(4) (30th November following the end of the financial year to which the invoice relates, i.e. 30.11.2025 for FY 2024-25 documents); (c) interest and penalty are not creditable and are not affected by revenue neutrality. The notice neither allows nor denies credit; that is for the Noticee to claim and the proper officer to examine.

9. Other penal provisions not proposed; recovery; prosecution - see the Note under (A). Recovery of any amount confirmed and not paid will be under Sections 78 and 79 of the CGST Act, 2017. Section 132 has been considered and is not proposed; the tax is far below the monetary limits of Section 132(1) and there is no intent to evade tax.

10. Issuing authority - the central tax demand is Rs.2,41,250 and the integrated tax demand is Rs.2,17,500; both are within the limits of the Superintendent (up to Rs.10 lakh for central tax; up to Rs.20 lakh for integrated tax) under Circular No. 31/05/2018-GST dated 09.02.2018.

Illustrative working of reverse charge tax, voluntary payment and interest:

Month	Intra-State freight (Rs.)	Inter-State freight (Rs.)	CGST 2.5% (Rs.)	CGGST 2.5% (Rs.)	IGST 5% (Rs.)	Due date	Interest on all three heads (Rs.)	Status
Apr-2024	9,00,000	4,00,000	22,500	22,500	20,000	20.05.2024	27,407	Paid (DRC-03)
May-2024	9,50,000	4,50,000	23,750	23,750	22,500	20.06.2024	28,445	Paid (DRC-03)
Jun-2024	9,50,000	4,00,000	23,750	23,750	20,000	20.07.2024	26,431	Paid (DRC-03)
Jul-2024	10,00,000	4,50,000	25,000	25,000	22,500	20.08.2024	29,748	Demanded
Aug-2024	10,50,000	4,50,000	26,250	26,250	22,500	20.09.2024	29,626	Demanded
Sep-2024	9,50,000	4,00,000	23,750	23,750	20,000	20.10.2024	25,664	Demanded
Oct-2024	10,50,000	5,00,000	26,250	26,250	25,000	20.11.2024	28,281	Demanded
Nov-2024	11,00,000	5,00,000	27,500	27,500	25,000	20.12.2024	28,011	Demanded
Dec-2024	11,50,000	5,50,000	28,750	28,750	27,500	20.01.2025	28,462	Demanded
Jan-2025	11,00,000	5,00,000	27,500	27,500	25,000	20.02.2025	25,565	Demanded
Feb-2025	10,50,000	4,50,000	26,250	26,250	22,500	20.03.2025	22,931	Demanded
Mar-2025	12,00,000	5,50,000	30,000	30,000	27,500	20.04.2025	25,416	Demanded
DEMAND (Jul-24 to Mar-25)	**96,50,000**	**43,50,000**	**2,41,250**	**2,41,250**	**2,17,500**		**2,43,704**	

Basis: *Tax on intra-State freight is 2.5% CGST + 2.5% CGGST and on inter-State freight 5% IGST. For April-June 2024 the tax paid on 22.09.2026 was Rs.70,000 (CGST), Rs.70,000 (CGGST) and Rs.62,500 (IGST), with interest of*

Rs.82,283, matching the working. Demanded: CGST Rs.2,41,250, CGGST Rs.2,41,250, IGST Rs.2,17,500, total Rs.7,00,000; illustrative interest to 30.11.2026 Rs.2,43,704 (CGST Rs.84,020, CGGST Rs.84,020, IGST Rs.75,664).

C. CHARGING PARAGRAPH OF THE SHOW CAUSE NOTICE

[The following is the operative charging paragraph proposed for incorporation in the Show Cause Notice at Part D below.]

Now, therefore, M/s XXX Steel & Power Pvt. Ltd., situated at YYYY, Raipur, Chhattisgarh, are hereby called upon to show cause in writing to the Superintendent, CGST Range - [•], Raipur CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) *the services of transportation of goods by road supplied to them by goods transport agencies, of aggregate value Rs.1,40,00,000/- (intra-State Rs.96,50,000/- and inter-State Rs.43,50,000/-) paid during July 2024 to March 2025, should not be held to be services on which they are liable to pay central tax, Chhattisgarh State tax and integrated tax on reverse charge basis under Section 9(3) of the CGST Act, 2017/CGGST Act, 2017 and Section 5(3) of the IGST Act, 2017, read with Notification No. 13/2017-Central Tax (Rate) and Notification No. 10/2017-Integrated Tax (Rate);*

(ii) *an amount of Rs.2,41,250/- (Central tax), Rs.2,41,250/- (Chhattisgarh State tax) and Rs.2,17,500/- (Integrated tax), total Rs.7,00,000/- (Rupees Seven Lakh only), being tax not paid on the said services as detailed in Annexure-A to this notice, should not be demanded and recovered from them under Section 74A(1) of the CGST Act, 2017 and the corresponding provisions of the CGGST Act, 2017, and, for the integrated tax, under Section 74A(1) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017;*

(iii) *interest at the applicable rate under Section 50(1) of the CGST Act, 2017/CGGST Act, 2017 (and, for integrated tax, read with Section 20 of the IGST Act, 2017) should not be charged and recovered on the tax at (ii) above from the respective due dates till the date of payment;*

(iv) *a penalty of Rs.24,125/- (Central tax), Rs.24,125/- (Chhattisgarh State tax) and Rs.21,750/- (Integrated tax), total Rs.70,000/-, being ten per cent of the tax due under each head, should not be imposed on them under Section 74A(5)(i) of the CGST Act, 2017/CGGST Act, 2017 (and, for integrated tax, read with Section 20 of the IGST Act, 2017), without prejudice to the benefit of nil penalty to which they may become entitled under Section 74A(8) on payment of tax and interest within the time therein specified.*

D. DRAFT SHOW CAUSE NOTICE

F. No. GEXCOM/ADJN/SCN/[•]/2026-RPR

DIN: [Document Identification Number to be auto-generated on issue]

Office of the Superintendent, CGST Range - [•], Division - [•], Raipur CGST Commissionerate, Chhattisgarh

Date: [•].11.2026

SHOW CAUSE NOTICE

(Issued under Section 74A of the Central Goods and Services Tax Act, 2017 read with Section 74A of the Chhattisgarh Goods and Services Tax Act, 2017 and Section 20 of the Integrated Goods and Services Tax Act, 2017)

To,
M/s XXX Steel & Power Pvt. Ltd.,
(Senior Manager - Accounts and Taxation: Mr. Z),
YYYY, Raipur, Chhattisgarh.

(hereinafter referred to as 'the Noticee')

WHEREAS M/s XXX Steel & Power Pvt. Ltd., a factory registered under the Factories Act, 1948 and registered under the CGST Act, 2017/CGGST Act, 2017, located at YYYY, Raipur, Chhattisgarh, pays freight for the road transport of its raw materials and finished goods and books the expense in its freight ledger (RUD-4). Data analysis by the Anti-Evasion Section of Raipur CGST Commissionerate of the e-way bill data for FY 2024-25 identified 38 transporters of consignments in the Noticee's name, while the FORM GSTR-3B returns of the Noticee showed no tax paid on reverse charge in any month (RUD-1 and RUD-6);

2. AND WHEREAS a summons dated 02.09.2026 under Section 70 of the CGST Act, 2017 was issued to the Noticee (RUD-2), in response to which Mr. Z, Senior Manager (Accounts and Taxation), appeared on 15.09.2026 and produced the freight ledger for FY 2024-25, the lorry receipts and freight bills, the TDS records on freight and the returns (RUD-4);

3. AND WHEREAS the statement of Mr. Z was recorded on 15.09.2026 under Section 70 of the CGST Act, 2017 (RUD-3), wherein he, inter alia, admitted and stated that:

- the freight shown in the ledger is paid by the Noticee, on lorry receipts and freight bills of the transporters, most small local transporters being unregistered;
- the Noticee's ERP calculated GST on freight only where the transporter's bill showed GST, and tagged every lorry receipt of Rs.1,500 or less as exempt on the belief that the small-consignment limit still applied;
- no reverse charge liability on freight was self-assessed or shown in any return, and no invoice or payment voucher was issued for any unregistered transporter;
- all freight was paid within 30 days of the lorry receipt; and
- the Noticee is willing to pay the tax with interest;

4. AND WHEREAS scrutiny of the lorry receipts and verification of the transporters on the common portal (RUD-5) showed that, of the 38 transporters, four are registered GTAs that charged GST in their tax invoices with the declaration for forward charge, and the freight to them is not in question; 13 are registered GTAs that billed on lorry receipts without tax and had filed no option for forward charge; and 21 are unregistered. Each of these 34 transporters issues a consignment note and is a goods transport agency; the Noticee, which pays the freight, is the recipient. Nine of them are located in Odisha and the rest in Chhattisgarh;

5. AND WHEREAS services supplied by a goods transport agency by way of transportation of goods by road to a factory registered under the Factories Act, 1948, a registered person or a body corporate are notified under Section 9(3) of the CGST Act, 2017 (entry 1 of Notification No. 13/2017-Central Tax (Rate)) and, for integrated tax, under Section 5(3) of the IGST Act, 2017 (entry 2 of Notification No. 10/2017-Integrated Tax (Rate)) for payment of tax on reverse charge basis by the recipient, except where the supplier is registered, has opted to pay tax under forward charge, charges tax in a tax invoice and gives the prescribed declaration on that invoice. The exemption in entry 21 of Notification No. 12/2017-Central Tax (Rate) for small consignments (Rs.1,500 or less per consignment and Rs.750 or less per consignee) stands omitted from 18.07.2022 and is not available; and none of the goods carried falls within the surviving limbs of that entry;

6. AND WHEREAS the tax payable at 2.5% central tax + 2.5% Chhattisgarh State tax on freight to the transporters located in Chhattisgarh, and at 5% integrated tax on freight to the transporters located in Odisha (the supply being inter-State, with the place of supply at the Noticee's location), for the months July 2024 to March 2025, the freight having been paid within sixty days and the time of supply being the date of payment under Section 13(3), is as under (month-wise working in Annexure-A, which forms part of this notice):

Head	Freight (Rs.)	Rate	Tax (Rs.)
Central tax (CGST)	96,50,000	2.5%	2,41,250
Chhattisgarh State tax (CGGST)	96,50,000	2.5%	2,41,250
Integrated tax (IGST)	43,50,000	5%	2,17,500
TOTAL			**7,00,000**

7. AND WHEREAS for April, May and June 2024 the Noticee paid on 22.09.2026, by FORM GST DRC-03, central tax Rs.70,000/-, State tax Rs.70,000/- and integrated tax Rs.62,500/- with interest of Rs.82,283/- and informed the Range in writing (RUD-7). The payment is in conformity with Section 74A(8)(i) of the CGST Act, 2017/CGGST Act, 2017, the interest paid has been verified as correct, and no notice is issued for those months;

8. AND WHEREAS the Noticee recorded every payment in its books, deducted tax at source on the freight, generated e-way bills in its name and produced all records on summons, and no evidence has been found that the non-payment was by reason of fraud, wilful misstatement or suppression of facts to evade tax. The non-payment is therefore appearing to be a case other than fraud, wilful misstatement or suppression of facts, attracting penalty under Section 74A(5)(i) of the CGST Act, 2017/CGGST Act, 2017 and, for integrated tax, read with Section 20 of the IGST Act, 2017;

9. AND WHEREAS it thus appears that the Noticee has contravened the following provisions of the CGST Act, 2017 (and the corresponding provisions of the CGGST Act, 2017 and the IGST Act, 2017):

- Section 9(3) of the CGST Act, 2017 and Section 5(3) of the IGST Act, 2017, read with Notification Nos. 13/2017-Central Tax (Rate) and 10/2017-Integrated Tax (Rate) - non-payment of tax on reverse charge on the services of goods transport agencies;
- Sections 39(1) and 39(7) - non-declaration and non-payment of the reverse charge liability in FORM GSTR-3B for July 2024 to March 2025;
- Section 31(3)(f) and (g) - non-issue of invoice and payment voucher for services received from unregistered transporters;

10. AND WHEREAS the aforesaid acts and omissions of the Noticee render it liable to:

(a) demand and recovery of tax under Section 74A(1) of the CGST Act, 2017/CGGST Act, 2017 and, for integrated tax, read with Section 20 of the IGST Act, 2017;

(b) interest under Section 50(1) of the CGST Act, 2017/CGGST Act, 2017 (read with Section 20 of the IGST Act, 2017); and

(c) penalty under Section 74A(5)(i) of the CGST Act, 2017/CGGST Act, 2017 (read with Section 20 of the IGST Act, 2017);

NOW, THEREFORE

M/s XXX Steel & Power Pvt. Ltd., situated at YYYY, Raipur, Chhattisgarh, are hereby called upon to show cause in writing to the Superintendent, CGST Range - [•], Raipur CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) the services of transportation of goods by road supplied to them by goods transport agencies, of aggregate value Rs.1,40,00,000/- (intra-State Rs.96,50,000/- and inter-State Rs.43,50,000/-) paid during July 2024 to March 2025, should not be held to be services on which they are liable to pay central tax, Chhattisgarh State tax and integrated tax on reverse charge basis under Section 9(3) of the CGST Act, 2017/CGGST Act, 2017 and Section 5(3) of the IGST Act, 2017, read with Notification No. 13/2017-Central Tax (Rate) and Notification No. 10/2017-Integrated Tax (Rate);

(ii) an amount of Rs.2,41,250/- (Central tax), Rs.2,41,250/- (Chhattisgarh State tax) and Rs.2,17,500/- (Integrated tax), total Rs.7,00,000/- (Rupees Seven Lakh only), being tax not paid on the said services as detailed in Annexure-A to this notice, should not be demanded and recovered from them under Section 74A(1) of the CGST Act, 2017 and the corresponding provisions of the CGGST Act, 2017, and, for the integrated tax, under Section 74A(1) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017;

(iii) interest at the applicable rate under Section 50(1) of the CGST Act, 2017/CGGST Act, 2017 (and, for integrated tax, read with Section 20 of the IGST Act, 2017) should not be charged and recovered on the tax at (ii) above from the respective due dates till the date of payment;

(iv) a penalty of Rs.24,125/- (Central tax), Rs.24,125/- (Chhattisgarh State tax) and Rs.21,750/- (Integrated tax), total Rs.70,000/-, being ten per cent of the tax due under each head, should not be imposed on them under Section 74A(5)(i) of the CGST Act, 2017/CGGST Act, 2017 (and, for integrated tax, read with Section 20 of the IGST Act, 2017), without prejudice to the benefit of nil penalty to which they may become entitled under Section 74A(8) on payment of tax and interest within the time therein specified.

11. The Noticee is further informed that:

- a written reply to this notice, along with all documents relied upon, must be furnished within thirty (30) days of receipt of this notice, failing which the case will be decided ex parte on the basis of available records, on merits;
- an opportunity of personal hearing will be granted before adjudication, on a date to be separately intimated, and the Noticee (or an authorised representative) may appear in person or through counsel;
- attention is drawn to the benefit available under Section 74A(8) of the CGST Act, 2017/CGGST Act, 2017, whereby, if the tax at (ii) above and the interest at (iii) above are paid before the issue of this notice, no notice shall be served in respect of the said tax; and if they are paid within sixty (60) days of the issue of this notice, no penalty shall be payable and all proceedings in respect of the said notice shall be deemed to be concluded;
- this notice is issued without prejudice to any other action that may be taken against the Noticee or any other person under the CGST Act, 2017/CGGST Act, 2017 or the IGST Act, 2017, or any other law for the time being in force.

List of Relied Upon Documents (RUDs):

RUD-1: E-way bill data analysis report for FY 2024-25 (consignments in the Noticee's name, with transporter IDs);

RUD-2: Summons dated 02.09.2026 under Section 70 of the CGST Act, 2017, with proof of service;

RUD-3: Statement of Mr. Z recorded under Section 70 of the CGST Act, 2017 on 15.09.2026;

RUD-4: Freight ledger for FY 2024-25, lorry receipts, freight bills and TDS records on freight produced on 15.09.2026;

RUD-5: Portal verification report on the registration status and forward-charge option of the 38 transporters, with the four tax invoices carrying the declaration;

RUD-6: FORM GSTR-3B for April 2024 to March 2025 (portal data);

RUD-7: FORM GST DRC-03 dated 22.09.2026 and the Noticee's letter of the same date;

Annexure-A: Month-wise statement of reverse charge tax and interest for FY 2024-25 [as per the working in Part B].

(_____)
Superintendent, CGST
Range - [•], Division - [•], Raipur CGST Commissionerate

Copy to: The Deputy/Assistant Commissioner, CGST Division, Raipur, for information.

Drafting note (not part of the notice):

- *The addressee, jurisdictional range/officer, F. No./DIN and dates shown in square brackets/blanks are illustrative placeholders and must be completed with the correct particulars before issue.*
- ***Teaching twist - RCM paid later, ITC and interest.*** *The tax is demanded in cash terms even though the Noticee is a fully taxable manufacturer who would normally get the credit back. The notice should not pretend the case is revenue neutral for interest and penalty, and should not promise credit. The Section 16(4) time limit for FY 2024-25 documents (30.11.2025) has already passed; whether and how that limit applies to credit on reverse charge tax paid after it has been raised in practice but is not settled in the sources checked for this exercise (UNCERTAIN). The draft therefore leaves the credit question open for the Noticee to claim and the adjudicating authority to decide.*
- ***The amended GTA scheme from 18.07.2022.*** *The old Rs.750/Rs.1,500 exemption limbs of entry 21 were omitted by Notification 04/2022-CT(Rate) from 18.07.2022; reverse charge now yields to forward charge only where the registered GTA has opted, charges tax and puts the Annexure III declaration on the invoice (Notification 05/2022-CT(Rate)). Check each transporter for these three things before including it in the demand; the draft shows how by classifying the 38 transporters.*
- ***Rate verification caution.*** *The 5% reverse charge rate (2.5% + 2.5%; 5% IGST) and the option mechanism were read from Notification 03/2022-CT(Rate), the consolidated notifications to 01.04.2019, and a secondary article; the GST Council copy of Notification 03/2022 could not be read cleanly for the rate in the forward-charge limb (b), which is not used in this exercise. Notification 13/2017 entry 1 and Notification 10/2017-IT entry 2 were read from consolidated versions as amended to 01.04.2019 and the 2022 amending notifications; confirm there is no later amendment before issue. The annual return due date for FY 2024-25 (assumed 31.12.2025) was not confirmed against any extension notification.*
- ***Partial payment before notice.*** *Where a noticee pays part of the tax and interest before the notice (DRC-03) and informs the officer in writing, Section 74A(8)(i) removes that part from the notice; the draft*

therefore demands only July 2024 to March 2025. Always verify the interest paid. If the pre-SCN intimation in FORM GST DRC-01A (Rule 142(1A)) is used, confirm that its text in force covers Section 74A cases.

- ***Self-invoice point.*** *Section 31(3)(f) and (g) apply to supplies received from unregistered suppliers; they are cited only for the 21 unregistered transporters and not for the 13 registered GTAs who simply did not charge tax.*
- *The draft should be settled by the jurisdictional Range/Division before issue (DRC-01), including verification of the monetary-limit-based issuing/adjudicating authority under Circular No. 31/05/2018-GST dated 09.02.2018 (Superintendent: central tax up to Rs.10 lakh; Deputy/Assistant Commissioner: above Rs.10 lakh up to Rs.1 crore; Additional/Joint Commissioner: above Rs.1 crore). Here the central tax demand is Rs.2,41,250 and the integrated tax demand Rs.2,17,500, both within the Superintendent's limits (central tax up to Rs.10 lakh; integrated tax up to Rs.20 lakh).*
- *Return of non-RUDs (Non-Relied Upon Documents): When the SCN is issued to the taxpayer in the form of DRC-01 (uploaded on the portal if registered, as well as delivered as per the provisions of law), non-RUDs must be returned to the noticee under due acknowledgement within seven days of issuance of the SCN.*

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Exercise 21

Non-payment of tax on reverse charge basis on services of advocates, sponsorship services and services of directors (employee and non-employee directors)

Exercise 21: Non-payment of tax on reverse charge basis on services of advocates, sponsorship services and services of directors (employee and non-employee directors)

Situation in Brief:

1. M/s XXX Industries Ltd. ('M/s XXX'), a public limited company located at YYYY, Kolkata, West Bengal, manufactures engineering goods and is registered under the CGST Act, 2017/WBGST Act, 2017. Its aggregate turnover in the preceding financial year was far above Rs.20 lakh. Mr. Z is its Chief Financial Officer. It files FORM GSTR-1 and FORM GSTR-3B monthly. The Board has three independent or non-executive directors (Mr. D1, Ms. D2, Mr. D3), a Managing Director (Mr. S, a salaried employee) and an Executive Director (Mr. R).

2. Analysis of the Noticee's TDS statements (Form 26Q) for FY 2024-25, available to the Department through the Income Tax Department's data-sharing arrangement, showed deduction of tax at source on payments to advocates, a law firm, event companies and directors under the heads for professional fees and sponsorship, whereas the FORM GSTR-3B returns for FY 2024-25 showed nil tax paid on reverse charge in every month. Summons dated 04.09.2026 under Section 70 of the CGST Act, 2017 was issued to the Noticee. Mr. Z appeared on 17.09.2026 and produced the ledgers of 'Legal and professional charges', 'Sponsorship and brand promotion' and 'Directors' sitting fees and commission', the invoices and agreements of the payees, the Board minutes approving the sponsorships and the directors' remuneration, and the TDS certificates.

3. The statement of Mr. Z was recorded on 17.09.2026 under Section 70 of the CGST Act, 2017, wherein he stated that the Delhi law firm and Mr. P, Advocate, did not charge any GST in their bills and the Noticee did not pay any; that the event company and the Puja Committee billed sponsorship without GST and the Noticee did not pay GST on them; that all payments to directors, other than the Managing Director's salary, were treated as 'payments to directors in the course of their employment', not as services; that the Noticee had not examined the CBIC circular on directors' remuneration; that independent directors and Mr. R receive their payments in the form of sitting fees, commission and a separate professional fee on which TDS is deducted as professional fees; that the Managing Director is paid a salary on which TDS is deducted under the salary head; that no reverse charge was paid on any of these in FY 2024-25; and that the Noticee would pay the tax if found due.

4. The lawyers' bills show that Mr. P is an individual advocate practising in Kolkata and that M/s AAA & Associates is a firm of advocates in Delhi (registered under GST, but the bills carry no tax). The sponsorship payments were made to M/s BBB Events Pvt. Ltd., Kolkata (title sponsorship of a music festival), to CCC Sarbojanin Durga Puja Committee (an unregistered society, for display of the Noticee's brand at the Puja), and, in addition, Rs.10,00,000 to the West Bengal State Athletics Association (affiliated to the national athletics federation) for an inter-district athletics championship in which the participants represent districts. The Managing Director's salary of Rs.96,00,000/- for the year was paid as salary with tax deducted under the salary head. The payments in FY 2024-25 other than the Managing Director's salary, which the Department has examined, are as follows:

Date of payment	Payee	Nature of payment / TDS head	Amount (Rs.)	Payee's State
18.05.2024	Mr. P, Advocate (Kolkata)	Fees for representation before the High Court	4,00,000	West Bengal
12.06.2024	Independent directors (Mr. D1, Ms. D2, Mr. D3)	Sitting fees (Q1)	3,00,000	West Bengal
29.06.2024	M/s AAA & Associates, Advocates (Delhi)	Legal advice and litigation fees	18,00,000	Delhi
30.06.2024	Mr. R, Executive Director	Professional fee - separate from salary, TDS under s.194J (Q1)	3,00,000	West Bengal
08.08.2024	M/s BBB Events Pvt. Ltd.	Title sponsorship of a music festival (1st instalment)	24,00,000	West Bengal

05.09.2024	CCC Sarbojanin Durga Puja Committee (unregistered society)	Sponsorship (brand display) at Durga Puja 2024	24,00,000	West Bengal
10.09.2024	Mr. P, Advocate (Kolkata)	Fees for representation before the High Court	6,00,000	West Bengal
12.09.2024	Independent directors (Mr. D1, Ms. D2, Mr. D3)	Sitting fees (Q2)	3,00,000	West Bengal
25.09.2024	Independent/non-executive directors (Mr. D1, Ms. D2, Mr. D3)	Commission on profits of FY 2023-24	24,00,000	West Bengal
30.09.2024	Mr. R, Executive Director	Professional fee - separate from salary, TDS under s.194J (Q2)	3,00,000	West Bengal
14.11.2024	M/s AAA & Associates, Advocates (Delhi)	Legal advice and litigation fees	15,00,000	Delhi
12.12.2024	M/s BBB Events Pvt. Ltd.	Title sponsorship of a music festival (2nd instalment)	24,00,000	West Bengal
12.12.2024	Independent directors (Mr. D1, Ms. D2, Mr. D3)	Sitting fees (Q3)	3,00,000	West Bengal
31.12.2024	Mr. R, Executive Director	Professional fee - separate from salary, TDS under s.194J (Q3)	3,00,000	West Bengal
20.01.2025	West Bengal State Athletics Association (affiliated to the national federation)	Sponsorship of an inter-district athletics championship	10,00,000	West Bengal
22.01.2025	Mr. P, Advocate (Kolkata)	Fees for representation before the High Court	8,00,000	West Bengal
27.02.2025	M/s AAA & Associates, Advocates (Delhi)	Legal advice and litigation fees	15,00,000	Delhi
12.03.2025	Independent directors (Mr. D1, Ms. D2, Mr. D3)	Sitting fees (Q4)	3,00,000	West Bengal
31.03.2025	Mr. R, Executive Director	Professional fee - separate from salary, TDS under s.194J (Q4)	3,00,000	West Bengal
	Total of payments listed		**1,96,00,000**	

5. Now in the light of the above, -

(i) Identify the provision(s) of GST law contravened by M/s XXX Industries Ltd. (under heading **Contravention**).

(ii) Identify the provision(s) of GST law under which action is to be taken against M/s XXX Industries Ltd. (under heading **Consequences of Contravention of legal Provisions**).

(iii) Draft the **Charging Paragraph** of the Show Cause Notice proposed to be issued to M/s XXX Industries Ltd., calling upon M/s XXX Industries Ltd. to show cause as to why action should not be taken against them, while listing the proposed action to be taken against M/s XXX Industries Ltd..

(iv) Also prepare the **draft Show Cause Notice** for issuance to M/s XXX Industries Ltd..

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SUGGESTED SOLUTION

(Data Analysis, Inquiry on summons, Determination of Reverse Charge Liability under Section 74A, and Draft Show Cause Notice - M/s XXX Industries Ltd., Kolkata North CGST Commissionerate)

A. CONTRAVENTION

On the facts as recorded, the following provisions of law stand contravened (in each case read with the corresponding provisions of the West Bengal Goods and Services Tax Act, 2017 [WBGST Act], the Integrated Goods and Services Tax Act, 2017 [IGST Act] and the Rules made under them):

1. **Section 9(3) of the CGST Act, 2017 read with entries 2 (legal services), 4 (sponsorship services) and 6 (services by a director) of Notification No. 13/2017-Central Tax (Rate) dated 28.06.2017**, and, for the legal services of the Delhi firm, **Section 5(3) of the IGST Act, 2017 read with entry 3 of Notification No. 10/2017-Integrated Tax (Rate) dated 28.06.2017** - failure to pay tax on reverse charge basis on the services of advocates, sponsorship services and services of directors received by the Noticee.

2. **Sections 39(1) and 39(7) of the CGST Act, 2017** - the reverse charge liability was neither shown in nor paid with the monthly return in FORM GSTR-3B.

Note:* Section 74A(5)(ii)** *is not invoked: the payments were fully recorded, TDS was deducted under the professional fee and sponsorship heads, and records were produced; the Noticee's error was on the law (the circular on directors' remuneration was not examined and the reverse charge entries were overlooked).* ***Section 122(1)(iii)/(iv) *does not arise since no tax was collected from anyone;* ***Section 122(2)*** *and* ***122(1)(i)*** *are not invoked in view of Section 74A(5)(i) and Section 75(13).* ***Section 24(iii)*** *is not relevant, the Noticee being registered.* ***Excluded from the demand*** *- (a) the Managing Director's salary (employer-employee, outside the scope of supply: Schedule III, and Circular No. 140/10/2020-GST, para 5.3); (b) sponsorship of the athletics championship, Rs.10,00,000, which is exempt under the entry for sponsorship of specified sporting events (Sl. No. 53 of Notification No. 12/2017-Central Tax (Rate)), the organiser being a body affiliated to a national sports federation and the participants representing districts.*

B. CONSEQUENCES OF CONTRAVENTION OF LEGAL PROVISIONS

The contraventions at (A) above expose M/s XXX to the following action under the CGST Act, 2017 (read with the corresponding provisions of the WBGST Act, 2017 and the IGST Act, 2017):

1. Determination and recovery of tax - under **Section 74A(1) of the CGST Act, 2017** (the WBGST Act) and, for the integrated tax, under Section 74A(1) as applied by **Section 20 of the IGST Act, 2017**. The demand pertains to FY 2024-25 and so falls under Section 74A and not Section 73 or 74 [Section 74A(12); Notification No. 17/2024-Central Tax dated 27.09.2024]. The notice may be issued within forty-two months from the due date of the annual return [Section 74A(2)]; taking that date as 31.12.2025 (the date under Section 44, subject to any extension) the last date is 30.06.2029. The order is due within twelve months of the notice [Section 74A(7)], extendable by six months in the manner provided.

2. Legal services (entry 2 of Notification 13/2017; entry 3 of Notification 10/2017-IT) - services by an individual advocate (including a senior advocate) or a firm of advocates, in the form of representation before a court, tribunal or authority or any legal advice or assistance, to a business entity in the taxable territory attract reverse charge in the hands of the business entity. It does not matter that the Delhi firm is registered under GST or that its bill is silent on tax. The exemption for legal services to a business entity (Sl. No. 45 of Notification No. 12/2017-Central Tax (Rate)) is restricted to business entities whose aggregate turnover in the preceding financial year does not exceed Rs.20 lakh, and the Noticee's turnover is far above that limit. The place of supply of legal services to a registered person is the location of that person, i.e. West Bengal [Section 12(2)(a) of the IGST Act]. Mr. P's services (supplier located in West Bengal) are intra-State, attracting central and State tax [Section 8(2) of the IGST Act]; the Delhi firm's services are inter-State, attracting integrated tax [Section 7(3) of the IGST Act].

3. Sponsorship services (entry 4 of Notification 13/2017; entry 5 of Notification 10/2017-IT; SAC 998397 'Sponsorship services and brand promotion services') - sponsorship services provided by *any person* to a body corporate or partnership firm in the taxable territory attract reverse charge. The supplier's status is irrelevant, so the Puja Committee (an unregistered society) is as much a supplier as the event company. The only carve-out considered is the exemption for sponsorship of the specified sporting events, which was correctly applied to the athletics championship and has been excluded from the demand; a music festival and a Puja are not sporting events.

4. Services of directors (entry 6 of Notification 13/2017; entry 7 of Notification 10/2017-IT) and Circular No. 140/10/2020-GST dated 10.06.2020 - services supplied by a director of a company to the company attract reverse charge in the hands of the company. The circular, issued by the CBIC under Section 168(1), explains that (i) a director who is not an employee, including an independent director (para 4), supplies services outside Schedule III, and the remuneration so paid, by whatever name called, is taxable in the hands of the company on reverse charge [paras 4.2 and 4.3]; (ii) in the case of a director who is also an employee, the portion declared as salary and subjected to TDS under Section 192 of the Income-tax Act is consideration for employment and not taxable [para 5.3], while the portion declared separately from salary and subjected to TDS under Section 194J as fees for professional or technical services is taxable on reverse charge [para 5.4]. Applying this: the sitting fees and commission to the independent/non-executive directors, and Mr. R's professional fee (TDS under Section 194J), are taxable; the Managing Director's salary is not. The test is the nature of the relationship and how the payment has been treated in the books and for TDS, not how the Noticee later describes it.

5. Rate and time of supply - legal services (Heading 9982, Sl. No. 20 of Notification 11/2017) and sponsorship and directors' services (residuary 'other professional, technical and business services', Heading 9983, Sl. No. 21(ii)) attract 9% central tax + 9% State tax (18%), or 18% integrated tax [Notification No. 8/2017-Integrated Tax (Rate)]. The time of supply for reverse charge services is the earlier of the date of payment and the date immediately following sixty days from the date of invoice [Section 13(3)]; each of the payments below was made within sixty days of the bill or the Board approval, so the date of payment is taken, and the liability falls in the month of payment and is payable with the return due on the 20th of the next month.

6. Interest - under **Section 50(1) of the CGST Act, 2017** (and, for integrated tax, as applied by Section 20 of the IGST Act) at the notified rate of 18% per annum [Notification No. 13/2017-Central Tax dated 28.06.2017], from the day succeeding the due date till payment [Section 50(2)]. The interest in the table is illustrative up to 30.11.2026.

7. Penalty - under **Section 74A(5)(i)**, i.e. ten per cent of the tax due or Rs.10,000/-, whichever is higher, under each head (central, State and integrated tax). *Why not Section 74A(5)(ii)?* Every payment is in the books with TDS, the Board minutes are available, the question of directors' remuneration is one on which the Noticee's treatment had an arguable basis until the CBIC circular, and the Noticee did not hide anything. The concession of **Section 74A(8)** is available: no penalty if tax and interest are paid before the notice or within sixty days of it. Section 74A(11) is not engaged, the reverse charge tax never having been self-assessed in a return.

8. Input tax credit - revenue neutrality - tax payable on reverse charge is not 'output tax' [Section 2(82)] and must be paid in cash [Section 49(4) permits the credit ledger to be used only for output tax]; tax so paid is 'input tax' [Section 2(62)] and credit is subject to Section 16, including Section 16(4) (30.11.2025 for FY 2024-25 documents; the effect of this limit on credit of reverse charge tax paid after it is flagged as unsettled in the Notes). Interest and penalty are not creditable. The notice neither allows nor denies credit. Other provisions - Section 132 is considered and not proposed; Section 137 is not applicable as no offence is alleged; recovery under Sections 78 and 79.

9. Issuing authority - the central tax demand is Rs.12,42,000 and the integrated tax demand Rs.8,64,000 (together above Rs.20 lakh), above the Superintendent's limits; the notice is therefore to be issued by the Deputy/Assistant Commissioner under Circular No. 31/05/2018-GST dated 09.02.2018.

Illustrative working of tax and interest, month-wise:

Month of payment	Intra-State value (Rs.)	Inter-State value (Rs.)	CGST 9% (Rs.)	WBGST 9% (Rs.)	IGST 18% (Rs.)	Due date	Interest to 30.11.2026 (Rs.)
May-2024	4,00,000	-	36,000	36,000	-	20.06.2024	31,708
Jun-2024	6,00,000	18,00,000	54,000	54,000	3,24,000	20.07.2024	1,83,855
Aug-2024	24,00,000	-	2,16,000	2,16,000	-	20.09.2024	1,70,646
Sep-2024	60,00,000	-	5,40,000	5,40,000	-	20.10.2024	4,10,636
Nov-2024	0	15,00,000	0	0	2,70,000	20.12.2024	94,537
Dec-2024	30,00,000	-	2,70,000	2,70,000	-	20.01.2025	1,80,818
Jan-2025	8,00,000	-	72,000	72,000	-	20.02.2025	46,016
Feb-2025	0	15,00,000	0	0	2,70,000	20.03.2025	82,553
Mar-2025	6,00,000	-	54,000	54,000	-	20.04.2025	31,370
TOTAL	**1,38,00,000**	**48,00,000**	**12,42,000**	**12,42,000**	**8,64,000**		**12,32,139**

Basis: *Taxable value Rs.1,86,00,000 (intra-State Rs.1,38,00,000; inter-State Rs.48,00,000). CGST Rs.12,42,000, WBGST Rs.12,42,000, IGST Rs.8,64,000; total Rs.33,48,000. Illustrative interest up to 30.11.2026: Rs.12,32,139 (CGST Rs.4,58,579, WBGST Rs.4,58,579, IGST Rs.3,14,981).*

C. CHARGING PARAGRAPH OF THE SHOW CAUSE NOTICE

[The following is the operative charging paragraph proposed for incorporation in the Show Cause Notice at Part D below.]

Now, therefore, M/s XXX Industries Ltd., situated at YYYY, Kolkata, West Bengal, are hereby called upon to show cause in writing to the Deputy/Assistant Commissioner, CGST Division - [•], Kolkata North CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) *the services of advocates (Rs.66,00,000/-), sponsorship services (Rs.72,00,000/-) and services of directors (Rs.48,00,000/-), aggregating Rs.1,86,00,000/-, received by them during FY 2024-25, should not be held to be services on which they are liable to pay central tax, West Bengal State tax and integrated tax on reverse charge basis under Section 9(3) of the CGST Act, 2017/WBGST Act, 2017 and Section 5(3) of the IGST Act, 2017, read with entries 2, 4 and 6 of Notification No. 13/2017-Central Tax (Rate) and entries 3, 5 and 7 of Notification No. 10/2017-Integrated Tax (Rate);*

(ii) *an amount of Rs.12,42,000/- (Central tax), Rs.12,42,000/- (West Bengal State tax) and Rs.8,64,000/- (Integrated tax), total Rs.33,48,000/- (Rupees Thirty-Three Lakh Forty-Eight Thousand only), being tax not paid on the said services as detailed in Annexure-A to this notice, should not be demanded and recovered from them under Section 74A(1) of the CGST Act, 2017 and the corresponding provisions of the WBGST Act, 2017, and, for the integrated tax, under Section 74A(1) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017;*

(iii) *interest at the applicable rate under Section 50(1) of the CGST Act, 2017/WBGST Act, 2017 (and, for integrated tax, read with Section 20 of the IGST Act, 2017) should not be charged and recovered on the tax at (ii) above from the respective due dates till the date of payment;*

(iv) *a penalty of Rs.1,24,200/- (Central tax), Rs.1,24,200/- (West Bengal State tax) and Rs.86,400/- (Integrated tax), total Rs.3,34,800/-, being ten per cent of the tax due under each head, should not be imposed on them under Section 74A(5)(i) of the CGST Act, 2017/WBGST Act, 2017 (and,*

for integrated tax, read with Section 20 of the IGST Act, 2017), without prejudice to the benefit of nil penalty to which they may become entitled under Section 74A(8) on payment of tax and interest within the time therein specified.

D. DRAFT SHOW CAUSE NOTICE

F. No. GEXCOM/ADJN/SCN/[•]/2026-KOL-N

DIN: [Document Identification Number to be auto-generated on issue]

Office of the Deputy/Assistant Commissioner, CGST Division - [•], Kolkata North CGST Commissionerate, West Bengal

Date: [•].11.2026

SHOW CAUSE NOTICE

(Issued under Section 74A of the Central Goods and Services Tax Act, 2017 read with Section 74A of the West Bengal Goods and Services Tax Act, 2017 and Section 20 of the Integrated Goods and Services Tax Act, 2017)

To,
M/s XXX Industries Ltd.,
(Chief Financial Officer: Mr. Z),
YYYY, Kolkata, West Bengal.

(hereinafter referred to as 'the Noticee')

WHEREAS M/s XXX Industries Ltd., a public limited company located at YYYY, Kolkata, West Bengal, registered under the CGST Act, 2017/WBGST Act, 2017, received during FY 2024-25 legal services from an individual advocate and a firm of advocates, sponsorship services from an event company and a Puja committee, and services from independent/non-executive directors and an executive director. Analysis of the TDS statements of the Noticee for FY 2024-25 showed tax deducted at source on these payments, whereas its FORM GSTR-3B returns showed no tax paid on reverse charge in any month (RUD-1 and RUD-5);

2. AND WHEREAS a summons dated 04.09.2026 under Section 70 of the CGST Act, 2017 was issued to the Noticee (RUD-2), in response to which Mr. Z, Chief Financial Officer, appeared on 17.09.2026 and produced the ledgers, invoices and agreements of the payees, the Board minutes and the TDS certificates (RUD-4);

3. AND WHEREAS the statement of Mr. Z was recorded on 17.09.2026 under Section 70 of the CGST Act, 2017 (RUD-3), wherein he, inter alia, admitted and stated that:

- neither the advocates, nor the event company, nor the Puja Committee charged GST in their bills and the Noticee paid none on reverse charge;
- all payments to directors other than the Managing Director's salary were treated as made to directors in the course of their employment and were not examined for reverse charge, and the CBIC circular on directors' remuneration was not examined;
- independent directors and Mr. R receive sitting fees, commission and a separate professional fee on which tax is deducted as professional fees, and the Managing Director is paid a salary on which tax is deducted as salary; and
- no reverse charge was paid on any of these in FY 2024-25 and the Noticee will pay the tax if found due;

4. AND WHEREAS the payments examined are of Rs.66,00,000/- to Mr. P, Advocate (Kolkata) and M/s AAA & Associates, a firm of advocates (Delhi) (legal services); Rs.72,00,000/- to M/s BBB Events Pvt. Ltd. and CCC Sarbojanin Durga Puja Committee, an unregistered society (sponsorship services); and Rs.48,00,000/- to the independent/non-executive directors (sitting fees and commission) and to Mr. R, Executive Director (professional fee on which tax was deducted under the head for professional fees). The Managing Director's salary and the sponsorship of an inter-district athletics championship

organised by a body affiliated to the national athletics federation (Rs.10,00,000/-) are not part of the demand;

5. AND WHEREAS (a) legal services by an individual advocate or a firm of advocates to a business entity in the taxable territory, (b) sponsorship services by any person to a body corporate or partnership firm in the taxable territory, and (c) services by a director of a company to the company are notified under Section 9(3) of the CGST Act, 2017 (entries 2, 4 and 6 of Notification No. 13/2017-Central Tax (Rate)) and, for integrated tax, under Section 5(3) of the IGST Act, 2017 (entries 3, 5 and 7 of Notification No. 10/2017-Integrated Tax (Rate)) for payment of tax on reverse charge basis by the recipient. In terms of Circular No. 140/10/2020-GST dated 10.06.2020, remuneration of a director who is not an employee, by whatever name called, and the portion of an employee-director's remuneration declared separately from salary and subjected to tax deduction as fees for professional or technical services, are subject to reverse charge, while the portion declared as salary and subjected to tax deduction as salary is not;

6. AND WHEREAS the tax payable at 9% central tax + 9% State tax on the intra-State services, and at 18% integrated tax on the services of the Delhi firm of advocates (inter-State, the place of supply being the Noticee's location in West Bengal), the time of supply being the date of payment under Section 13(3), is as under (month-wise working in Annexure-A, which forms part of this notice):

Head of service	Taxable value (Rs.)	CGST 9% (Rs.)	WBGST 9% (Rs.)	IGST 18% (Rs.)
Legal services (Mr. P, Kolkata - intra-State; M/s AAA & Associates, Delhi - inter-State)	66,00,000	1,62,000	1,62,000	8,64,000
Sponsorship services (M/s BBB Events Pvt. Ltd.; CCC Puja Committee)	72,00,000	6,48,000	6,48,000	-
Services of directors (independent/non-executive directors; Mr. R's professional fee)	48,00,000	4,32,000	4,32,000	-
TOTAL	**1,86,00,000**	**12,42,000**	**12,42,000**	**8,64,000**

7. AND WHEREAS the Noticee recorded every payment in its books with tax deducted at source, produced all records on summons, and no evidence has been found that the non-payment was by reason of fraud, wilful misstatement or suppression of facts to evade tax. The non-payment is therefore appearing to be a case other than fraud, wilful misstatement or suppression of facts, attracting penalty under Section 74A(5)(i) of the CGST Act, 2017/WBGST Act, 2017 and, for integrated tax, read with Section 20 of the IGST Act, 2017;

8. AND WHEREAS it thus appears that the Noticee has contravened the following provisions of the CGST Act, 2017 (and the corresponding provisions of the WBGST Act, 2017 and the IGST Act, 2017):

- Section 9(3) of the CGST Act, 2017 and Section 5(3) of the IGST Act, 2017, read with Notification Nos. 13/2017-Central Tax (Rate) and 10/2017-Integrated Tax (Rate) - non-payment of tax on reverse charge on services of advocates, sponsorship services and services of directors;
- Sections 39(1) and 39(7) - non-declaration and non-payment of the reverse charge liability in FORM GSTR-3B;

9. AND WHEREAS the aforesaid acts and omissions of the Noticee render it liable to:

(a) demand and recovery of tax under Section 74A(1) of the CGST Act, 2017/WBGST Act, 2017 and, for integrated tax, read with Section 20 of the IGST Act, 2017;

(b) interest under Section 50(1) of the CGST Act, 2017/WBGST Act, 2017 (read with Section 20 of the IGST Act, 2017); and

(c) penalty under Section 74A(5)(i) of the CGST Act, 2017/WBGST Act, 2017 (read with Section 20 of the IGST Act, 2017);

NOW, THEREFORE

M/s XXX Industries Ltd., situated at YYYY, Kolkata, West Bengal, are hereby called upon to show cause in writing to the Deputy/Assistant Commissioner, CGST Division - [•], Kolkata North CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) the services of advocates (Rs.66,00,000/-), sponsorship services (Rs.72,00,000/-) and services of directors (Rs.48,00,000/-), aggregating Rs.1,86,00,000/-, received by them during FY 2024-25, should not be held to be services on which they are liable to pay central tax, West Bengal State tax and integrated tax on reverse charge basis under Section 9(3) of the CGST Act, 2017/WBGST Act, 2017 and Section 5(3) of the IGST Act, 2017, read with entries 2, 4 and 6 of Notification No. 13/2017-Central Tax (Rate) and entries 3, 5 and 7 of Notification No. 10/2017-Integrated Tax (Rate);

(ii) an amount of Rs.12,42,000/- (Central tax), Rs.12,42,000/- (West Bengal State tax) and Rs.8,64,000/- (Integrated tax), total Rs.33,48,000/- (Rupees Thirty-Three Lakh Forty-Eight Thousand only), being tax not paid on the said services as detailed in Annexure-A to this notice, should not be demanded and recovered from them under Section 74A(1) of the CGST Act, 2017 and the corresponding provisions of the WBGST Act, 2017, and, for the integrated tax, under Section 74A(1) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017;

(iii) interest at the applicable rate under Section 50(1) of the CGST Act, 2017/WBGST Act, 2017 (and, for integrated tax, read with Section 20 of the IGST Act, 2017) should not be charged and recovered on the tax at (ii) above from the respective due dates till the date of payment;

(iv) a penalty of Rs.1,24,200/- (Central tax), Rs.1,24,200/- (West Bengal State tax) and Rs.86,400/- (Integrated tax), total Rs.3,34,800/-, being ten per cent of the tax due under each head, should not be imposed on them under Section 74A(5)(i) of the CGST Act, 2017/WBGST Act, 2017 (and, for integrated tax, read with Section 20 of the IGST Act, 2017), without prejudice to the benefit of nil penalty to which they may become entitled under Section 74A(8) on payment of tax and interest within the time therein specified.

10. The Noticee is further informed that:

- a written reply to this notice, along with all documents relied upon, must be furnished within thirty (30) days of receipt of this notice, failing which the case will be decided ex parte on the basis of available records, on merits;
- an opportunity of personal hearing will be granted before adjudication, on a date to be separately intimated, and the Noticee (or an authorised representative) may appear in person or through counsel;
- attention is drawn to the benefit available under Section 74A(8) of the CGST Act, 2017/WBGST Act, 2017, whereby, if the tax at (ii) above and the interest at (iii) above are paid before the issue of this notice, no notice shall be served in respect of the said tax; and if they are paid within sixty (60) days of the issue of this notice, no penalty shall be payable and all proceedings in respect of the said notice shall be deemed to be concluded;
- this notice is issued without prejudice to any other action that may be taken against the Noticee or any other person under the CGST Act, 2017/WBGST Act, 2017 or the IGST Act, 2017, or any other law for the time being in force.

List of Relied Upon Documents (RUDs):

RUD-1: Analysis report of TDS statements (Form 26Q) of the Noticee for FY 2024-25, with FORM GSTR-3B returns for April 2024 to March 2025;

RUD-2: Summons dated 04.09.2026 under Section 70 of the CGST Act, 2017, with proof of service;

RUD-3: Statement of Mr. Z recorded under Section 70 of the CGST Act, 2017 on 17.09.2026;

RUD-4: Ledgers (legal and professional charges; sponsorship and brand promotion; directors' sitting fees and commission), invoices and agreements of the payees, Board minutes and TDS certificates produced on 17.09.2026;

RUD-5: Registration and status verification of the payees (including the Delhi firm's GSTIN) from the common portal;

Annexure-A: Month-wise statement of reverse charge tax and interest for FY 2024-25 [as per the working in Part B].

(_____)
Deputy/Assistant Commissioner, CGST
CGST Division - [•], Kolkata North CGST Commissionerate

Copy to: The Additional/Joint Commissioner, Kolkata North CGST Commissionerate, for information.

Drafting note (not part of the notice):

- *The addressee, jurisdictional range/officer, F. No./DIN and dates shown in square brackets/blanks are illustrative placeholders and must be completed with the correct particulars before issue.*
- ***Teaching twist - directors' remuneration.*** *The only reliable way to separate taxable from non-taxable payments to directors is the Circular No. 140/10/2020-GST test: non-employee (including independent) directors - taxable on reverse charge whatever the payment is called; employee-directors - salary (TDS under Section 192) is outside GST, but a separately declared professional fee (TDS under Section 194J) is taxable. Do not demand tax on the whole payout to the Board; split it, as the draft does, and exclude the Managing Director's salary. The circular is cited as binding on departmental officers; its paragraph numbers (4.2, 4.3, 5.3, 5.4) were read from the circular on the GST Council site.*
- ***Classification caution - directors' services.*** *The services classification scheme has no separate code for directors' services (searched); the draft applies the residuary entry for other professional, technical and business services (18%). No entry in the rate notification gives any lower rate for these services, and the result is not affected, but the SAC should be confirmed from the Range's sources.*
- ***Exempt and non-taxable items to carve out.*** *Check each payee: entry 45 of Notification 12/2017 (legal services to a business entity with turnover up to Rs.20 lakh) does not help a large company; entry 53 (sponsorship of specified sporting events organised by a national sports federation or its affiliates where participants represent a district, State, zone or country) did apply to one payment and was excluded. The text of entries 45 and 53 was read from the consolidated notification as amended to 01.04.2019 and has not been checked for later amendments; the Range must confirm it before issue.*
- ***Section 16(4) and credit on reverse charge tax (UNCERTAIN).*** *By the time tax is paid in response to this notice the 30.11.2025 limit for FY 2024-25 documents has passed. Whether credit of reverse charge tax paid after that date is denied by Section 16(4) is not settled in the sources checked for this exercise. The draft leaves the point to the Noticee and the adjudicating authority. Do not tell the Noticee that the tax is revenue neutral.*

- ***Fraud or non-fraud?*** *On these facts non-fraud. If the evidence showed that the Noticee reclassified director commission as 'salary' after being asked about it, or backdated agreements to show employment, the charge would move to Section 74A(5)(ii) with the concessions of Section 74A(9).*
- ***Rate/notification verification caution.*** *Entries 2, 4 and 6 of Notification 13/2017 and the corresponding entries of Notification 10/2017-IT(Rate) were read from consolidated versions as amended to 01.04.2019; the entry numbers must be re-confirmed in the Gazette text as amended up to 31.03.2025 before the notice is issued. The annual return due date for FY 2024-25 (assumed 31.12.2025) was not checked against any extension.*
- *The draft should be settled by the jurisdictional Range/Division before issue (DRC-01), including verification of the monetary-limit-based issuing/adjudicating authority under Circular No. 31/05/2018-GST dated 09.02.2018 (Superintendent: central tax up to Rs.10 lakh; Deputy/Assistant Commissioner: above Rs.10 lakh up to Rs.1 crore; Additional/Joint Commissioner: above Rs.1 crore). Here the central tax demand is Rs.12,42,000 and the integrated tax demand Rs.8,64,000, together above Rs.20 lakh, so the notice goes out under the Deputy/Assistant Commissioner.*
- *Return of non-RUDs (Non-Relied Upon Documents): When the SCN is issued to the taxpayer in the form of DRC-01 (uploaded on the portal if registered, as well as delivered as per the provisions of law), non-RUDs must be returned to the noticee under due acknowledgement within seven days of issuance of the SCN.*

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Exercise 22

Non-payment of integrated tax on reverse charge basis on import of software licence and IT support services from a related overseas group company

Exercise 22: Non-payment of integrated tax on reverse charge basis on import of software licence and IT support services from a related overseas group company

Situation in Brief:

1. M/s XXX Auto Systems India Pvt. Ltd. ('M/s XXX'), located at YYYY, Bengaluru, Karnataka, registered under the CGST Act, 2017/KGST Act, 2017, manufactures automotive electronic control units. It is a wholly owned subsidiary of AAA GmbH, a company incorporated and located in Germany ('AAA'), which holds the entire share capital. AAA is not registered under GST in India. The Noticee makes only taxable supplies - domestic supplies of goods and exports of goods under bond/LUT, which are zero-rated - and has no exempt supplies. Mr. Z is its Chief Financial Officer. It files FORM GSTR-1 and FORM GSTR-3B monthly.

2. Under a Master Services Agreement dated 01.04.2019 with AAA, the Noticee receives (a) a non-exclusive, non-transferable licence to use AAA's ERP, product-lifecycle and engineering software at the Noticee's Bengaluru plant, for an annual licence fee of USD 12,00,000 billed in four equal quarterly instalments; and (b) IT infrastructure support and technical consultancy services from AAA's group IT centre in Germany, charged at cost plus 8% (USD 6,00,000 for the year, billed quarterly). No part of the software is delivered as goods; it is accessed from AAA's servers and a copy installed at the plant. AAA invoices the Noticee in USD without charging any Indian tax.

3. A comparison of the data received from the Income Tax Department (FORM 15CA/15CB certificates filed for the remittances to AAA, the transfer pricing report in FORM 3CEB, and the withholding tax statements) with the Noticee's GST returns for FY 2024-25 showed remittances to AAA of Rs.10,14,90,000 for software licence and Rs.5,07,45,000 for support and consultancy, while the FORM GSTR-3B returns for all twelve months showed no integrated tax paid on reverse charge for import of services. The Noticee's annual report for the year discloses these amounts in the note on related party transactions. Summons dated 07.09.2026 under Section 70 of the CGST Act, 2017 was issued to the Noticee, and Mr. Z appeared on 21.09.2026 and produced the Master Services Agreement, the quarterly invoices of AAA, the remittance records, the FORM 15CA/15CB certificates, the transfer pricing study and the ledgers.

4. The statement of Mr. Z was recorded on 21.09.2026 under Section 70 of the CGST Act, 2017, wherein he stated that the payments to AAA were treated as 'royalty and fees for technical services', on which tax was withheld under the Income-tax Act at the treaty rate, and the Noticee believed that no GST was payable on a payment on which Indian income tax had been withheld; that AAA is not registered in India and charged no tax; that the invoices were booked in the Noticee's books on the dates shown below, the payments following later; that the prices were fixed on the basis of the transfer pricing study and are at arm's length; that the Noticee has full credit entitlement and the tax is therefore 'revenue neutral'; that no advance ruling or opinion was sought; that no reverse charge or self-invoice or payment voucher was issued or shown in any return; and that the Noticee is willing to pay the tax if found due, but wants the Department to accept the invoice values.

5. The quarterly invoices, the rate at which each was converted in the Noticee's books (to be cross-checked with the RBI reference rate for the relevant date) and the dates of booking and payment are as follows:

Quarter	Date booked in books	Licence fee (USD)	Support & consultancy (USD)	INR per USD in books	Value in INR: licence + support (Rs.)	Date of payment
Q1 (Apr-Jun 2024)	28.06.2024	3,00,000	1,50,000	83.40	2,50,20,000 + 1,25,10,000	14.08.2024
Q2 (Jul-Sep 2024)	30.09.2024	3,00,000	1,50,000	83.80	2,51,40,000 + 1,25,70,000	18.11.2024
Q3 (Oct-Dec 2024)	31.12.2024	3,00,000	1,50,000	85.60	2,56,80,000 + 1,28,40,000	14.02.2025

Q4 (Jan-Mar 2025)	31.03.2025	3,00,000	1,50,000	85.50	2,56,50,000 + 1,28,25,000	16.05.2025
FY 2024-25		**12,00,000**	**6,00,000**		**10,14,90,000 + 5,07,45,000**	

6. Now in the light of the above, -

(i) Identify the provision(s) of GST law contravened by M/s XXX Auto Systems India Pvt. Ltd. (under heading **Contravention**).

(ii) Identify the provision(s) of GST law under which action is to be taken against M/s XXX Auto Systems India Pvt. Ltd. (under heading **Consequences of Contravention of legal Provisions**).

(iii) Draft the **Charging Paragraph** of the Show Cause Notice proposed to be issued to M/s XXX Auto Systems India Pvt. Ltd., calling upon M/s XXX Auto Systems India Pvt. Ltd. to show cause as to why action should not be taken against them, while listing the proposed action to be taken against M/s XXX Auto Systems India Pvt. Ltd..

(iv) Also prepare the **draft Show Cause Notice** for issuance to M/s XXX Auto Systems India Pvt. Ltd..

***

SUGGESTED SOLUTION

(Data Analysis, Inquiry on summons, Determination of Integrated Tax Liability under Section 74A read with Section 20 of the IGST Act, and Draft Show Cause Notice - M/s XXX Auto Systems India Pvt. Ltd., Bengaluru East CGST Commissionerate)

A. CONTRAVENTION

On the facts as recorded, the following provisions of law stand contravened (in each case read with the corresponding provisions of the Karnataka Goods and Services Tax Act, 2017 [KGST Act] so far as they apply, and the Rules made under the Acts):

1. **Sections 5(1) and 5(3) of the IGST Act, 2017 read with entry 1 of Notification No. 10/2017-Integrated Tax (Rate) dated 28.06.2017** - failure to pay integrated tax, on reverse charge basis, on the services of licensing of software and of IT infrastructure support and technical consultancy imported from AAA, a supplier located in a non-taxable territory, by the Noticee, a person located in the taxable territory. The supplies are 'import of services' [Section 2(11)] and are inter-State supplies [Section 7(4)].
2. **Sections 39(1) and 39(7) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017** - the liability on import of services was neither declared in nor paid with the monthly return in FORM GSTR-3B.
3. **Section 31(3)(f) and (g) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017** - no invoice was issued on receipt of the services from the unregistered supplier and no payment voucher was issued on payment.

Note: ***Section 74A(5)(ii)*** *is not invoked: the transactions were disclosed to the Income Tax Department and in the annual report, the invoices are in the books, and the Noticee produced all records; there is nothing to show an intent to evade GST.* ***Section 122(1)(iii)/(iv) and Section 122(2)*** *are not invoked (nothing was collected as tax; penalty under Section 74A(5)(i) is proposed; Section 75(13)).* ***Section 24(iii)*** *is not relevant since the Noticee is registered, and AAA, a supplier on whom no liability falls, is not required to register.* ***Re-valuation*** *of the transactions under Rule 28 of the CGST Rules, 2017 is considered and not proposed, because the Noticee is eligible for full input tax credit (see Part B, item 5).* ***CGST and State tax*** *are not demanded: an import of services is an inter-State supply.*

B. CONSEQUENCES OF CONTRAVENTION OF LEGAL PROVISIONS

The contraventions at (A) above expose M/s XXX to the following action under the IGST Act, 2017 (read with the CGST Act, 2017 as applied by Section 20 of the IGST Act):

1. Determination and recovery of tax - under **Section 74A(1) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017**, which applies, mutatis mutandis, the provisions of the CGST Act relating to demands and recovery, offences and penalties and interest to integrated tax. The demand pertains to FY 2024-25 and so falls under Section 74A and not Section 73 or 74 [Section 74A(12); Notification No. 17/2024-Central Tax dated 27.09.2024]. The notice may be issued within forty-two months from the due date of the annual return [Section 74A(2)]; taking that date as 31.12.2025 (the date under Section 44, subject to any extension) the last date is 30.06.2029. The order is due within twelve months of the notice [Section 74A(7)], extendable by six months in the manner provided.
2. Why the supply is taxable in India and who pays - four steps. (a) *Import of services*: the supplier is located outside India (Germany), the recipient is located in India (Bengaluru), and the place of supply of the services is in India, being the location of the recipient [Section 13(2) of the IGST Act; 'location of the recipient' in Section 2(14)]; all three limbs of Section 2(11) are met. (b) *Inter-State*: a supply of services imported into India is treated as a supply in the course of inter-State trade or commerce [Section 7(4)], so integrated tax and not central or State tax is payable. (c) *Levy*: integrated tax is levied on the value determined under Section 15 of the CGST Act [Section 5(1)]. (d) *Reverse charge*: the Government has notified, under Section 5(3), any service supplied by a person located in a non-taxable

territory to any person located in the taxable territory other than a non-taxable online recipient (entry 1 of Notification No. 10/2017-Integrated Tax (Rate)); the recipient is liable as if he were the supplier. The foreign supplier need not register. The payment of income tax withholding on the same remittance does not discharge GST - they are separate levies under separate laws.

3. Rate - integrated tax at 18% under Notification No. 8/2017-Integrated Tax (Rate): (i) the licence to use IT software (SAC 997331, 'licensing services for the right to use computer software and databases') under Sl. No. 17, item (ii), the entry for the temporary transfer or permitting the use or enjoyment of IP in respect of IT software; and (ii) IT infrastructure support and technical consultancy (SAC 998313, 'information technology consulting and support services') under Sl. No. 21, item (ii), the residuary entry for other professional, technical and business services.

4. Time of supply - the second proviso to Section 13(3) of the CGST Act (applied by Section 20 of the IGST Act): where the supplier is located outside India and the supplier and recipient are associated enterprises, the time of supply is the earlier of the date of entry in the recipient's books and the date of payment. 'Associated enterprises' have the meaning in Section 92A of the Income-tax Act, 1961 [Section 2(12) of the CGST Act]; a parent and its wholly owned subsidiary are such enterprises. The ordinary 'sixty days from invoice' rule does not apply. Here each invoice was booked on the invoice date and paid later; the booking date is the time of supply, and the liability is payable with the return due on the 20th of the following month.

5. Value - related party; Rule 28 - parent and subsidiary are 'related persons' (a person holding 25% or more of the voting stock of the other, or directly or indirectly controlling it - Explanation to Section 15). The 'transaction value' rule of Section 15(1) is available only where the parties are not related, so the value is to be determined under Rule 28: open market value, or the value of like kind and quality, or the Rule 30/31 methods. However, the second proviso to Rule 28(1) deems the value declared in the invoice to be the open market value where the recipient is eligible for full input tax credit. The Noticee makes only taxable and zero-rated supplies and these services are not blocked, so the invoice value is accepted. The Department therefore does not use the transfer pricing report to enhance the value; the demand is on the INR value of the invoices as converted in the Noticee's books. The proviso does not make the supply non-taxable; it only prevents a re-valuation fight.

6. Interest - under **Section 50(1) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017** at the notified rate of 18% per annum [Notification No. 13/2017-Central Tax dated 28.06.2017], from the day succeeding the due date [Section 50(2)] till payment. The interest in the table is illustrative up to 30.11.2026.

7. Penalty - under **Section 74A(5)(i)**, i.e. ten per cent of the tax due or Rs.10,000/-, whichever is higher. *Why not Section 74A(5)(ii)?* It may be argued that every item not shown in the return is 'suppression' because Explanation 2 to Section 74A speaks of non-declaration of facts required to be declared in a return. That cannot be the test; if it were, every non-payment of tax would be a case of fraud and clause (i) of Section 74A(5) would have no work to do. Clause (ii) requires that the suppression be 'to evade tax'. Here the Noticee had itself disclosed the transactions and the parent relationship to the Income Tax Department and in its annual report, paid and recorded the sums openly, and acted on a mistaken belief about the interplay of income tax and GST. The concession of **Section 74A(8)** is available. Section 74A(11) is not engaged since the tax was never self-assessed in a return.

8. Input tax credit - 'revenue neutrality' - integrated tax paid on reverse charge is 'input tax' for the recipient [Section 2(62)] and is creditable subject to Section 16 and Rule 36(1)(b) (an invoice issued under Section 31(3)(f) subject to payment of tax); the Noticee has to issue the self-invoice and payment voucher for that purpose. The tax must first be paid in cash [reverse charge tax is not 'output tax' - Section 2(82); the credit ledger is used for output tax - Section 49(4)]. The Section 16(4) time limit for FY 2024-25 documents (30.11.2025) has passed, and its effect on credit of reverse charge tax paid now

is flagged as unsettled in the Notes. Neutrality (if any) is a matter of credit and does not affect the demand, interest or penalty. The notice neither allows nor denies credit.

9. Other provisions - Section 132 is considered and not proposed; recovery under Sections 78 and 79 of the CGST Act, 2017 if the confirmed amount is not paid. Issuing authority - the integrated tax demand is Rs.2,74,02,300, above Rs.2 crore; the notice is therefore to be issued by the Additional/Joint Commissioner under Circular No. 31/05/2018-GST dated 09.02.2018.

Illustrative working of integrated tax and interest (by quarter of booking):

Quarter	Taxable value (Rs.)	IGST on licence @18% (Rs.)	IGST on support @18% (Rs.)	Due date (GSTR-3B)	Days to 30.11.2026	Interest (Rs.)
Q1 (Apr-Jun 2024)	3,75,30,000	45,03,600	22,51,800	20.07.2024	863	28,75,024
Q2 (Jul-Sep 2024)	3,77,10,000	45,25,200	22,62,600	20.10.2024	771	25,80,852
Q3 (Oct-Dec 2024)	3,85,20,000	46,22,400	23,11,200	20.01.2025	679	23,21,711
Q4 (Jan-Mar 2025)	3,84,75,000	46,17,000	23,08,500	20.04.2025	589	20,11,621
TOTAL	**15,22,35,000**	**1,82,68,200**	**91,34,100**			**97,89,208**

Basis: *Taxable value Rs.15,22,35,000 (licence Rs.10,14,90,000; support and consultancy Rs.5,07,45,000), each converted at the rate adopted in the Noticee's books; IGST 18% = Rs.2,74,02,300 (licence Rs.1,82,68,200; support Rs.91,34,100). Interest is illustrative up to 30.11.2026 at 18% per annum.*

C. CHARGING PARAGRAPH OF THE SHOW CAUSE NOTICE

[The following is the operative charging paragraph proposed for incorporation in the Show Cause Notice at Part D below.]

Now, therefore, M/s XXX Auto Systems India Pvt. Ltd., situated at YYYY, Bengaluru, Karnataka, are hereby called upon to show cause in writing to the Additional/Joint Commissioner, Bengaluru East CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) *the services of licence to use software (value Rs.10,14,90,000/-) and of IT infrastructure support and technical consultancy (value Rs.5,07,45,000/-), aggregating Rs.15,22,35,000/-, imported by them from AAA GmbH, Germany, during FY 2024-25 should not be held to be imports of services, being inter-State supplies on which they are liable to pay integrated tax at 18% on reverse charge basis under Sections 5(1) and 5(3) of the IGST Act, 2017 read with entry 1 of Notification No. 10/2017-Integrated Tax (Rate) and Notification No. 8/2017-Integrated Tax (Rate);*

(ii) *an amount of Rs.2,74,02,300/- (Integrated tax), Rs.2,74,02,300/- (Rupees Two Crore Seventy-Four Lakh Two Thousand Three Hundred only), being the integrated tax not paid on the said services as detailed in Annexure-A to this notice, should not be demanded and recovered from them under Section 74A(1) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017;*

(iii) *interest at the applicable rate under Section 50(1) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017 should not be charged and recovered on the tax at (ii) above from the respective due dates till the date of payment;*

(iv) *a penalty of Rs.27,40,230/- (Rupees Twenty-Seven Lakh Forty Thousand Two Hundred Thirty only), being ten per cent of the tax due, should not be imposed on them under Section 74A(5)(i) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017 (without prejudice to the benefit of nil penalty to which they may become entitled under Section 74A(8) on payment of tax and interest within the time therein specified).*

D. DRAFT SHOW CAUSE NOTICE

F. No. GEXCOM/ADJN/SCN/[•]/2026-BLR-E

DIN: [Document Identification Number to be auto-generated on issue]

Office of the Additional/Joint Commissioner, Bengaluru East CGST Commissionerate, Karnataka

Date: [•].11.2026

SHOW CAUSE NOTICE

(Issued under Section 74A of the Central Goods and Services Tax Act, 2017 read with Section 20 of the Integrated Goods and Services Tax Act, 2017 and the corresponding provisions of the Karnataka Goods and Services Tax Act, 2017)

To,
M/s XXX Auto Systems India Pvt. Ltd.,
(Chief Financial Officer: Mr. Z),
YYYY, Bengaluru, Karnataka.

(hereinafter referred to as 'the Noticee')

WHEREAS M/s XXX Auto Systems India Pvt. Ltd., located at YYYY, Bengaluru, Karnataka, registered under the CGST Act, 2017/KGST Act, 2017 and a wholly owned subsidiary of AAA GmbH, Germany, receives from AAA, under a Master Services Agreement dated 01.04.2019, a licence to use ERP, product-lifecycle and engineering software, and IT infrastructure support and technical consultancy services, for which AAA invoices the Noticee in USD quarterly without charging any Indian tax (RUD-4). A comparison of the data received from the Income Tax Department (FORM 15CA/15CB, FORM 3CEB and withholding tax statements) with the GST returns of the Noticee for FY 2024-25 showed remittances to AAA of Rs.10,14,90,000/- for the licence and Rs.5,07,45,000/- for the support and consultancy services, while the FORM GSTR-3B returns showed no integrated tax paid on reverse charge in any month (RUD-1 and RUD-6);

2. AND WHEREAS a summons dated 07.09.2026 under Section 70 of the CGST Act, 2017 was issued to the Noticee (RUD-2), in response to which Mr. Z, Chief Financial Officer, appeared on 21.09.2026 and produced the Master Services Agreement, the quarterly invoices of AAA, the remittance records, the FORM 15CA/15CB certificates, the transfer pricing study and the ledgers (RUD-4 and RUD-5);

3. AND WHEREAS the statement of Mr. Z was recorded on 21.09.2026 under Section 70 of the CGST Act, 2017 (RUD-3), wherein he, inter alia, admitted and stated that:

- the payments to AAA were treated as royalty and fees for technical services on which tax was withheld under the Income-tax Act, and the Noticee believed no GST was payable on a payment so treated;
- AAA is not registered in India and charged no tax; the invoices were booked on the dates of the invoices and paid later;
- no reverse charge, self-invoice or payment voucher was issued or shown in any return, and no ruling or opinion was sought; and
- the Noticee has full credit entitlement and is willing to pay the tax if found due;

4. AND WHEREAS the quarterly invoices of AAA for FY 2024-25, booked on 28.06.2024, 30.09.2024, 31.12.2024 and 31.03.2025, convert at the rates adopted in the Noticee's books to Rs.10,14,90,000/- for the licence and Rs.5,07,45,000/- for the support and consultancy services, aggregating Rs.15,22,35,000/- (month-wise working in Annexure-A, which forms part of this notice);

5. AND WHEREAS the supplies are imports of services within Section 2(11) of the IGST Act, 2017 (supplier located outside India, recipient located in India, place of supply in India under Section 13(2)); they are

inter-State supplies under Section 7(4); and they are subject to integrated tax on reverse charge basis payable by the Noticee under Section 5(3) of the IGST Act, 2017 read with entry 1 of Notification No. 10/2017-Integrated Tax (Rate). The tax is chargeable at 18% under Sl. No. 17, item (ii) (licence to use IT software) and Sl. No. 21, item (ii) (other professional, technical and business services) of Notification No. 8/2017-Integrated Tax (Rate). AAA being an associated enterprise of the Noticee located outside India, the time of supply is, under the second proviso to Section 13(3) of the CGST Act, 2017 as applied by Section 20 of the IGST Act, the earlier of the date of entry in the Noticee's books and the date of payment, i.e. the date of booking in each case;

6. AND WHEREAS the Noticee, being eligible for full input tax credit, is entitled by the second proviso to Rule 28(1) of the CGST Rules, 2017 to have the value declared in the invoices accepted as the open market value, and the Department does not seek to re-value the transactions despite AAA and the Noticee being related persons. The integrated tax payable at 18% is as under:

Head	Value (Rs.)	IGST @18% (Rs.)
Software licence (SAC 997331)	10,14,90,000	1,82,68,200
IT infrastructure support and technical consultancy (SAC 998313)	5,07,45,000	91,34,100
TOTAL	**15,22,35,000**	**2,74,02,300**

7. AND WHEREAS the Noticee disclosed the transactions and the parent relationship to the Income Tax Department and in its annual report, recorded and paid the sums openly, and produced all records on summons; no evidence has been found that the non-payment was by reason of fraud, wilful misstatement or suppression of facts to evade tax. The non-payment is therefore appearing to be a case other than fraud, wilful misstatement or suppression of facts, attracting penalty under Section 74A(5)(i) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017. No central tax or State tax is demanded;

8. AND WHEREAS it thus appears that the Noticee has contravened the following provisions:

- Sections 5(1) and 5(3) of the IGST Act, 2017 read with Notification Nos. 10/2017-Integrated Tax (Rate) and 8/2017-Integrated Tax (Rate) - non-payment of integrated tax on import of services;
- Sections 39(1) and 39(7) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017 - non-declaration and non-payment in FORM GSTR-3B;
- Section 31(3)(f) and (g) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017 - non-issue of invoice and payment voucher for services from an unregistered supplier;

9. AND WHEREAS the aforesaid acts and omissions of the Noticee render it liable to:

(a) demand and recovery of integrated tax under Section 74A(1) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017;

(b) interest under Section 50(1) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017; and

(c) penalty under Section 74A(5)(i) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017;

NOW, THEREFORE

M/s XXX Auto Systems India Pvt. Ltd., situated at YYYY, Bengaluru, Karnataka, are hereby called upon to show cause in writing to the Additional/Joint Commissioner, Bengaluru East CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) the services of licence to use software (value Rs.10,14,90,000/-) and of IT infrastructure support and technical consultancy (value Rs.5,07,45,000/-), aggregating Rs.15,22,35,000/-, imported by

them from AAA GmbH, Germany, during FY 2024-25 should not be held to be imports of services, being inter-State supplies on which they are liable to pay integrated tax at 18% on reverse charge basis under Sections 5(1) and 5(3) of the IGST Act, 2017 read with entry 1 of Notification No. 10/2017-Integrated Tax (Rate) and Notification No. 8/2017-Integrated Tax (Rate);

(ii) an amount of Rs.2,74,02,300/- (Integrated tax), Rs.2,74,02,300/- (Rupees Two Crore Seventy-Four Lakh Two Thousand Three Hundred only), being the integrated tax not paid on the said services as detailed in Annexure-A to this notice, should not be demanded and recovered from them under Section 74A(1) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017;

(iii) interest at the applicable rate under Section 50(1) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017 should not be charged and recovered on the tax at (ii) above from the respective due dates till the date of payment;

(iv) a penalty of Rs.27,40,230/- (Rupees Twenty-Seven Lakh Forty Thousand Two Hundred Thirty only), being ten per cent of the tax due, should not be imposed on them under Section 74A(5)(i) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017 (without prejudice to the benefit of nil penalty to which they may become entitled under Section 74A(8) on payment of tax and interest within the time therein specified).

10. The Noticee is further informed that:

- a written reply to this notice, along with all documents relied upon, must be furnished within thirty (30) days of receipt of this notice, failing which the case will be decided ex parte on the basis of available records, on merits;
- an opportunity of personal hearing will be granted before adjudication, on a date to be separately intimated, and the Noticee (or an authorised representative) may appear in person or through counsel;
- attention is drawn to the benefit available under Section 74A(8) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017, whereby, if the tax at (ii) above and the interest at (iii) above are paid before the issue of this notice, no notice shall be served in respect of the said tax; and if they are paid within sixty (60) days of the issue of this notice, no penalty shall be payable and all proceedings in respect of the said notice shall be deemed to be concluded;
- this notice is issued without prejudice to any other action that may be taken against the Noticee or any other person under the CGST Act, 2017/KGST Act, 2017 or the IGST Act, 2017, or any other law for the time being in force.

List of Relied Upon Documents (RUDs):

RUD-1: Data received from the Income Tax Department (FORM 15CA/15CB, FORM 3CEB and withholding tax statements) for the remittances to AAA GmbH in FY 2024-25;

RUD-2: Summons dated 07.09.2026 under Section 70 of the CGST Act, 2017, with proof of service;

RUD-3: Statement of Mr. Z recorded under Section 70 of the CGST Act, 2017 on 21.09.2026;

RUD-4: Master Services Agreement dated 01.04.2019 and the four quarterly invoices of AAA GmbH for FY 2024-25;

RUD-5: Remittance records, transfer pricing study, ledgers and the note on related party transactions in the annual report produced on 21.09.2026;

RUD-6: FORM GSTR-3B for April 2024 to March 2025 (portal data);

Annexure-A: Quarter-wise statement of integrated tax and interest for FY 2024-25 [as per the working in Part B].

(_____)
Additional/Joint Commissioner, CGST
Bengaluru East CGST Commissionerate

Copy to: The Principal Commissioner/Commissioner, Bengaluru East CGST Commissionerate, for information.

Drafting note (not part of the notice):

- *The addressee, jurisdictional range/officer, F. No./DIN and dates shown in square brackets/blanks are illustrative placeholders and must be completed with the correct particulars before issue.*
- ***Teaching twist - related party, Rule 28 and ITC.*** *Three separate points must not be run together. (1) The supply is taxable whether or not the parties are related. (2) Valuation of a related-party supply goes to Rule 28, but where the recipient is eligible for full input tax credit the invoice value is deemed to be the open market value (second proviso to Rule 28(1), read in the verified text of the rule). So a transfer pricing argument is of no use to either side in this case, and the draft says the Department will not re-value. The position would change if the Noticee had made exempt supplies (credit not full): the open market value would then have to be established, and Rule 30/31 or comparable-price evidence collected. (3) Revenue neutrality through ITC is not a defence to interest or penalty; it concerns only credit.*
- ***Fraud or non-fraud?*** *Non-fraud. Compare the case where the group had deliberately re-labelled the licence as 'cost reimbursement' or routed the payment through a third country to avoid the Indian levies; then Section 74A(5)(ii) and the concessions of Section 74A(9) would be considered, and the CFO may be a co-noticee under Section 122(3) if he aided it. Mr. Z is not charged here: there is no evidence of aiding or abetting, and Section 137 (offences by companies) is not relevant to a civil demand.*
- ***Section 16(4) and credit on reverse charge tax (UNCERTAIN).*** *By the time tax is paid on this notice, the 30.11.2025 limit for FY 2024-25 documents has passed. Whether credit of integrated tax paid on import of services after that date is barred is not settled in the sources checked for this exercise. Do not tell the Noticee that the tax is revenue neutral.*
- ***Verification cautions.*** *The rate entries (Sl. No. 17(ii) and 21(ii) of Notification 8/2017-IT(Rate)) and entry 1 of Notification 10/2017-IT(Rate) were read from consolidated notifications as amended to 01.04.2019; they must be confirmed in the Gazette text in force during FY 2024-25. The exchange rates are those adopted in the Noticee's books; the Range should re-compute the INR value at the RBI reference rate applicable on the date of the time of supply, as provided in Rule 34 of the CGST Rules, 2017 (the rule number and wording to be confirmed from the Rules before issue; not separately verified for this exercise), and revise Annexure-A if the rates differ. The facts about FORM 15CA/15CB, FORM 3CEB and withholding tax are used only as evidence documents; the Income-tax provisions are not cited. The annual return due date for FY 2024-25 (assumed 31.12.2025) was not checked against any extension.*
- ***Authority.*** *The draft should be settled by the jurisdictional Range/Division before issue (DRC-01), including verification of the monetary-limit-based issuing/adjudicating authority under Circular No. 31/05/2018-GST dated 09.02.2018 (Superintendent: central tax up to Rs.10 lakh (integrated tax up to Rs.20 lakh); Deputy/Assistant Commissioner: above Rs.10 lakh up to Rs.1 crore; Additional/Joint Commissioner: above Rs.1 crore). Here the integrated tax demand is Rs.2,74,02,300, above Rs.2 crore, so the Additional/Joint Commissioner is the proper issuing authority.*
- *Return of non-RUDs (Non-Relied Upon Documents): When the SCN is issued to the taxpayer in the form of DRC-01 (uploaded on the portal if registered, as well as delivered as per the provisions of law), non-RUDs must be returned to the noticee under due acknowledgement within seven days of issuance of the SCN.*

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Exercise 23

Goods transported without an e-way bill - Detention, Notice under Section 129(3) (MOV-07) and the question who is to be charged

Exercise 23: Goods transported without an e-way bill - Detention, Notice under Section 129(3) (MOV-07) and the question who is to be charged

Situation in Brief:

1. On 12.10.2026 at about 22:40 hours, a mobile squad of the Faridabad CGST Commissionerate, acting on routine road-check duty on NH-19 near Palwal, Haryana, intercepted a goods carriage bearing registration no. HR-XX-YYYY (a 16-wheeler truck registered in the name of M/s TTT, a goods transport agency of Faridabad) carrying Portland cement in 50 kg bags. The vehicle was being driven by Mr. P. The statement of the person in charge of the conveyance was recorded in FORM GST MOV-01.

2. Mr. P produced (a) tax invoice no. AAA/26-27/1184 dated 12.10.2026 issued by M/s AAA, a cement dealer of Gurugram, Haryana (GSTIN available), to M/s XXX, Palwal, Haryana, for 700 bags of Portland cement (HSN 2523) at Rs.380/- per bag, with CGST and HGST charged at 9% each, and (b) lorry receipt no. 5521 dated 12.10.2026 of M/s TTT showing M/s XXX as consignee and the freight as 'to pay'. He could not produce any e-way bill, in physical or electronic form, nor give the e-way bill number. Mr. P stated that the consignor's clerk had told him the e-way bill would be 'sent by the transporter's office on WhatsApp', that nothing was received and that he had left the loading point at about 18:30 hours in the belief that the papers were in order.

3. A check on the e-way bill portal by the officer on the same night, and again on 13.10.2026, showed that no e-way bill had been generated against invoice no. AAA/26-27/1184, either by M/s AAA (consignor), by M/s XXX (consignee) or by M/s TTT as transporter. The goods were physically verified on 13.10.2026 in the presence of Mr. P (FORM GST MOV-04): 700 bags of Portland cement, each bearing the manufacturer's label and 50 kg net weight, were counted and found to tally with the invoice. The quantity, description and value of the goods thus agree with the invoice. The conveyance and the goods were detained by order in FORM GST MOV-06 dated 13.10.2026 under Section 129(1) of the CGST Act, 2017 and the order was served on Mr. P the same day.

4. On 14.10.2026, Mr. Z, Proprietor of M/s XXX (a registered building-material dealer of Palwal, Haryana), appeared at the office of the Superintendent and stated that he is the owner of the goods and wishes to have them released. In his statement recorded the same day he stated that: he had telephonically ordered the cement from M/s AAA on 10.10.2026 and paid Rs.3,13,880/- by RTGS on 11.10.2026 (the bank advice was produced); the sale was on 'ex-godown' basis, under which the property in the goods passed to him at the dealer's godown on loading, and the freight was to be paid by him to M/s TTT; he assumed that the dealer would generate the e-way bill as in the previous deliveries; and that five earlier consignments from the same dealer (September-October 2026) had travelled under e-way bills generated by the dealer. He added that no instruction to avoid an e-way bill was given by him to anybody. The earlier e-way bills were verified on the portal and found to have been generated by M/s AAA.

5. Verification of the records of M/s AAA showed that invoice no. AAA/26-27/1184 is entered in its sales register of 12.10.2026 and in its outward supply statement for October 2026, with tax of Rs.47,880/- (CGST Rs.23,940/- and HGST Rs.23,940/-) shown against it. Mr. Z produced the purchase order, bank advice and ledger account of M/s AAA in his books. The proprietor of M/s TTT, in reply to a letter dated 14.10.2026, stated that the dispatch clerk had been waiting for the consignor to share the invoice details for generating Part A and had failed to follow it up. No other discrepancy in the transaction was noticed.

6. The goods, being Portland cement, were taxable at 9% CGST and 9% HGST on the date of supply (supply on or after 22.09.2025).

7. Now in the light of the above, -

(i) Identify the provision(s) of GST law contravened by M/s XXX (under heading **Contravention**).

(ii) Identify the provision(s) of GST law under which action is to be taken against M/s XXX (under heading **Consequences of Contravention of legal Provisions**).

(iii) Draft the **Charging Paragraph** of the Show Cause Notice proposed to be issued to M/s XXX, calling upon M/s XXX (through its Proprietor Mr. Z, the owner of the goods) to show cause as to why action should not be taken against them, while listing the proposed action to be taken against M/s XXX (through its Proprietor Mr. Z, the owner of the goods).

(iv) Also prepare the **draft Show Cause Notice** for issuance to M/s XXX.

***

SUGGESTED SOLUTION

(Interception, Detention and Draft Notice under Section 129(3) - M/s XXX, Prop. Mr. Z, Faridabad CGST Commissionerate)

A. CONTRAVENTION

On the facts as recorded, the following provisions stand contravened (in each case read with the corresponding provisions of the Haryana Goods and Services Tax Act, 2017 [HGST Act] and the Rules made under the two Acts):

1. **Section 68(1) of the CGST Act, 2017 read with Rule 138A(1)(b) of the CGST Rules, 2017** - the person in charge of a conveyance carrying goods of consignment value exceeding Rs.50,000/- must carry, along with the invoice, a valid e-way bill (physical copy, e-way bill number in electronic form, or mapped to an RFID device). The consignment value here is Rs.3,13,880/- (taxable value Rs.2,66,000/-); no e-way bill was carried because none existed.

2. **Rule 138(1) of the CGST Rules, 2017** (read with Rule 138(2) and 138(3)) - a registered person causing movement of goods of consignment value exceeding Rs.50,000/- in a conveyance is required to furnish Part A of FORM GST EWB-01 and (for movement by road) generate the e-way bill after furnishing Part B before the movement commences, either himself or through the transporter on his authorisation. Neither the consignor, the consignee nor the transporter generated the e-way bill before the movement commenced.

3. **Section 129(1) of the CGST Act, 2017** - the goods, being transported in contravention of the Act and the Rules (items 1 and 2 above), are liable to detention and release on payment of penalty, as provided in clause (a) of that sub-section where the owner of the goods comes forward. The goods were validly detained, since the order of detention was served on the person transporting the goods [first proviso to Section 129(1)].

Note:* Provisions considered and consciously NOT invoked.** *(1)* ***Section 130 *- confiscation requires the specified contraventions and, in particular, the intent to evade tax in Section 130(1)(i) and (iv) (or non-accounting of goods, which is not the case here). The invoice is genuine, is entered in the supplier's sales register and returns, the quantity tallies, payment was by RTGS and earlier consignments moved with e-way bills; nothing shows an intention to evade tax. (2)* ***Section 122(1)(xiv)/122(3)(a) against the transporter or the consignor*** *- penalty under Section 129 is the specific consequence of movement in contravention of the transit-document provisions, and no second penalty on the same default is proposed on these facts. The conduct of M/s TTT and M/s AAA is taken into account in deciding on whom the Section 129 liability falls (see Part B). (3)* ***Demand of tax*** *(Section 74A) - the invoice discloses the tax, the supplier has accounted for it, and no tax is found to be unpaid; there is nothing to demand over and above the Section 129 penalty. (4)* ***Circular No. 64/38/2018-GST, para 5-6 (Rs.500 under Section 125)*** *- this relief is for errors in a document where both an invoice and an e-way bill accompany the goods; it cannot apply where there is no e-way bill at all. (5)* ***Section 126*** *- its protections do not apply where the Act fixes the penalty as a fixed sum or a fixed percentage [Section 126(6)], as Section 129(1)(a) does.*

B. CONSEQUENCES OF CONTRAVENTION OF LEGAL PROVISIONS

The contraventions at (A) above expose the person liable to the following action under the CGST Act, 2017 (read with the corresponding provisions of the HGST Act, 2017):

1. Detention and release - the goods and the conveyance stand detained under **Section 129(1)**. They can be released on (a) payment of penalty equal to 200% of the tax payable on the goods, where the owner comes forward; (b) where the owner does not come forward, penalty equal to the higher of 50% of the value of the goods and 200% of the tax payable; or (c) on furnishing security of the amount in (a) or (b). Sub-section (2) of Section 129 was omitted w.e.f. 01.01.2022 and the pre-2022 percentages no longer apply.

2. Who is to be charged - owner or transporter? Section 129(1) applies to 'any person' who transports goods in contravention, but the quantum of penalty depends on the position of 'the owner of the goods'. Here: (i) the goods were sold on ex-godown basis and were paid for in full; the property in them had passed to M/s XXX before the movement began, so M/s XXX is the *owner*; (ii) the owner came forward on 14.10.2026, i.e. within one day of the detention, and claimed the goods; clause (a) of Section 129(1) therefore applies and the penalty is 200% of the tax, not the higher penalty in clause (b); (iii) M/s TTT (the transporter) and Mr. P (the driver, who is the 'person in charge' on whom MOV-06/MOV-07 are served for the purposes of Rule 138A and the Circular) are not owners; the notice is addressed to the owner and copied to the person in charge so that the conveyance is also covered. The conveyance is released along with the goods once the penalty is paid [Section 129(1)]; no separate penalty on M/s TTT is proposed in this notice. Where the owner does not come forward, the notice can be issued to the person transporting the goods, who may then recover the penalty from the owner.

3. Time limits - the notice must issue within **seven days of the detention** [Section 129(3)] (detention on 13.10.2026; last day 20.10.2026); the order must be passed within seven days of service of the notice, after hearing the person concerned [Sections 129(3) and 129(4)]. Payment of the amount under Section 129(1) concludes all proceedings in respect of the notice [Section 129(5)]. If the amount is not paid within fifteen days of the receipt of the order, the goods can be sold or disposed of under Section 129(6), and the conveyance released on payment of penalty or Rs.1,00,000/-, whichever is less.

4. Quantum - computed in the table below, tax on the goods being Rs.47,880/- (CGST Rs.23,940/- and HGST Rs.23,940/-). Penalty under each Act is 200% of the tax payable under that Act.

Item	CGST (Rs.)	HGST (Rs.)	Total (Rs.)
Taxable value of 700 bags @ Rs.380	2,66,000	2,66,000	2,66,000
Tax payable on the goods @ 9% + 9%	23,940	23,940	47,880
Section 129(1)(a): 200% of tax payable (owner comes forward)	47,880	47,880	95,760
Amount payable for release (penalty only)	**47,880**	**47,880**	**95,760**

Why not Section 129(1)(b)? For contrast, had the owner not come forward the penalty would have been the higher of the following:

Basis	Rs.
(a) owner comes forward: 200% of tax payable	95,760
(b) owner does not come forward: 50% of value of goods (Rs.2,66,000/-)	1,33,000
(b) ... or 200% of tax payable, whichever is higher - penalty is the higher of the two	1,33,000

5. Interest and tax - neither is proposed. The tax on the goods was charged in the invoice and has been accounted for in the consignor's statement. Section 129 is not a demand section; the penalty is the entire monetary consequence.

6. Prosecution - Section 132 is not attracted: no intent to evade tax is established and the tax involved (Rs.47,880/-) is far below the monetary limits in Section 132(1).

7. Forms and authority - detention in FORM GST MOV-06, notice in FORM GST MOV-07 under Section 129(3), order in FORM GST MOV-09 and a summary of the order in FORM GST DRC-07 [Rule 142(5)]; the proper officer is the officer designated by the jurisdictional Commissioner to exercise powers of interception and inspection (Circular No. 41/15/2018-GST dated 13.04.2018). The monetary limits of Circular 31/05/2018-GST apply only to proceedings under Sections 73/74/74A and not to Section 129.

Basis: *Cement of heading 2523 is taxable at 9% CGST (+ 9% State tax) under Schedule II, S.No. 9 of Notification No. 9/2025-Central Tax (Rate) dated 17.09.2025 (effective 22.09.2025). The tax payable on the goods is computed on the taxable value in the invoice; if the proper officer considers that the invoice value is lower than the transaction value, the value is to be redetermined under Section 15 and Rule 27 before computing the penalty.*

C. CHARGING PARAGRAPH OF THE SHOW CAUSE NOTICE

[The following is the operative charging paragraph proposed for incorporation in the Notice at Part D below.]

Now, therefore, M/s XXX, a registered person of Palwal, Haryana, through its Proprietor Mr. Z (the owner of the goods), is hereby called upon to show cause in writing to the Superintendent, CGST Range - [•], Faridabad CGST Commissionerate, within three (3) days of the receipt of this notice, and to appear for a personal hearing on the date mentioned, as to why:

(i) *the 700 bags of Portland cement (HSN 2523), of taxable value Rs.2,66,000/-, covered by tax invoice no. AAA/26-27/1184 dated 12.10.2026 and transported in the conveyance bearing registration no. HR-XX-YYYY on 12.10.2026 without a valid e-way bill, in contravention of Section 68(1) of the CGST Act, 2017/HGST Act, 2017 read with Rule 138(1) and Rule 138A(1)(b) of the CGST Rules, 2017, should not be held liable to detention under Section 129(1) of the CGST Act, 2017/HGST Act, 2017;*

(ii) *a penalty of Rs.47,880/- under the CGST Act, 2017 and Rs.47,880/- under the HGST Act, 2017, i.e. a total of Rs.95,760/- (Rupees Ninety-Five Thousand Seven Hundred Sixty only), being 200% of the tax payable on the said goods (Rs.23,940/- under each Act), should not be imposed on them under Section 129(1)(a) read with Section 129(3) of the CGST Act, 2017/HGST Act, 2017 for the release of the goods and conveyance;*

(iii) *on non-payment of the amount at (ii) above within fifteen days of the receipt of the order, the goods and conveyance should not be sold or disposed of as provided in Section 129(6) of the CGST Act, 2017/HGST Act, 2017.*

D. DRAFT SHOW CAUSE NOTICE

F. No. GEXCOM/MOV/129/[•]/2026-FBD

DIN: [Document Identification Number to be auto-generated on issue]

Office of the Superintendent, CGST Range - [•], Division - [•], Faridabad CGST Commissionerate, Haryana

Date: 16.10.2026

SHOW CAUSE NOTICE

(Notice under Section 129(3) of the Central Goods and Services Tax Act, 2017 read with Section 129(3) of the Haryana Goods and Services Tax Act, 2017 [FORM GST MOV-07], issued within seven days of the detention order in FORM GST MOV-06 dated 13.10.2026)

To,
Mr. Z,
Proprietor, M/s XXX (owner of the goods),
YYYY, Palwal, Haryana.
(Copy to: Mr. P, person in charge of the conveyance bearing registration no. HR-XX-YYYY, and M/s TTT, Faridabad, owner of the conveyance)

(hereinafter referred to as 'the Noticee', which expression shall include M/s XXX and Mr. Z, being one and the same 'person' within the meaning of Section 2(84) of the CGST Act, 2017)

WHEREAS on 12.10.2026 at about 22:40 hours the conveyance bearing registration no. HR-XX-YYYY, driven by Mr. P, was intercepted by the mobile squad of this Commissionerate on NH-19 near Palwal, Haryana, while carrying 700 bags of Portland cement (HSN 2523) of 50 kg each. The statement of Mr. P was recorded in FORM GST MOV-01 (RUD-1);

2. AND WHEREAS Mr. P produced tax invoice no. AAA/26-27/1184 dated 12.10.2026 of M/s AAA, Gurugram, for the sale of 700 bags at Rs.380/- per bag, taxable value Rs.2,66,000/-, CGST Rs.23,940/- and HGST Rs.23,940/- (invoice value Rs.3,13,880/-), and lorry receipt no. 5521 dated 12.10.2026 of M/s TTT (RUD-2 and RUD-3), but no e-way bill, though the consignment value is more than Rs.50,000/-. Mr. P stated that he was told that the e-way bill would be sent by the transporter's office but nothing was received (RUD-1);

3. AND WHEREAS the e-way bill portal was checked on 12/13.10.2026 and showed that no e-way bill had been generated against the said invoice by the consignor, the consignee or the transporter (RUD-4). The goods were physically verified in FORM GST MOV-04 on 13.10.2026 and the quantity and description were found to tally with the invoice (RUD-5), and the goods and the conveyance were detained by order in FORM GST MOV-06 dated 13.10.2026, which was served on Mr. P on the same day (RUD-6);

4. AND WHEREAS Mr. Z, Proprietor of M/s XXX, appeared on 14.10.2026 and in his statement of that date (RUD-7) accepted that he was the owner of the goods under an ex-godown sale, that he had paid the full invoice value by RTGS on 11.10.2026 (RUD-8), that the dealer had generated e-way bills for five earlier consignments, and that he had not ensured that an e-way bill was generated for this consignment before the movement began;

5. AND WHEREAS it appears that the said goods were being transported in contravention of Section 68(1) of the CGST Act, 2017 read with Rule 138(1) and Rule 138A(1)(b) of the CGST Rules, 2017 (and the corresponding provisions of the HGST Act, 2017 and Rules) in that a consignment of value exceeding Rs.50,000/- moved without a valid e-way bill; and that they are therefore liable to detention under Section 129(1);

6. AND WHEREAS it appears that the goods are taxable at 9% CGST + 9% HGST (Schedule II, S.No. 9 of Notification No. 9/2025-Central Tax (Rate) dated 17.09.2025), and that the tax payable on them is Rs.47,880/- (CGST Rs.23,940/- and HGST Rs.23,940/-); and since Mr. Z, the owner of the goods, has come forward, the amount payable for release of the goods and the conveyance under Section 129(1)(a) is a penalty equal to two hundred per cent of the tax payable, as under:

Particulars	CGST (Rs.)	HGST (Rs.)	Total (Rs.)
Tax payable on the goods	23,940	23,940	47,880
Penalty at 200% [Section 129(1)(a)]	**47,880**	**47,880**	**95,760**

7. AND WHEREAS no evidence has been found to show that the transportation was undertaken with intent to evade payment of tax, as the invoice is genuine and entered in the supplier's records and returns, the quantity tallies, and payment was made through banking channels; proceedings under Section 130 are therefore not proposed, and the matter is dealt with only under Section 129;

NOW, THEREFORE

M/s XXX, Palwal, Haryana, through Mr. Z, its Proprietor and the owner of the goods, is hereby called upon to show cause in writing to the Superintendent, CGST Range - [•], Faridabad CGST Commissionerate, within three (3) days of the receipt of this notice, and to appear for personal hearing on 19.10.2026 at 11:00 hours, as to why:

(i) the 700 bags of Portland cement (HSN 2523), of taxable value Rs.2,66,000/-, covered by tax invoice no. AAA/26-27/1184 dated 12.10.2026 and transported in the conveyance bearing registration no. HR-XX-YYYY on 12.10.2026 without a valid e-way bill, in contravention of Section 68(1) of the CGST Act, 2017/HGST Act, 2017 read with Rule 138(1) and Rule 138A(1)(b) of the CGST Rules, 2017, should not be held liable to detention under Section 129(1) of the CGST Act, 2017/HGST Act, 2017;

(ii) a penalty of Rs.47,880/- under the CGST Act, 2017 and Rs.47,880/- under the HGST Act, 2017, i.e. a total of Rs.95,760/- (Rupees Ninety-Five Thousand Seven Hundred Sixty only), being 200% of the tax payable on the said goods (Rs.23,940/- under each Act), should not be imposed on them under Section 129(1)(a) read with Section 129(3) of the CGST Act, 2017/HGST Act, 2017 for the release of the goods and conveyance;

(iii) on non-payment of the amount at (ii) above within fifteen days of the receipt of the order, the goods and conveyance should not be sold or disposed of as provided in Section 129(6) of the CGST Act, 2017/HGST Act, 2017.

8. The Noticee is further informed that:

- the order under Section 129(3) will be passed within seven days of the service of this notice, after considering the reply and giving an opportunity of being heard [Section 129(4)]; a reply not received by the date of hearing will not prevent the order from being passed on merits;
- on payment of the amount specified at (ii) above (or on furnishing security equal to that amount under Section 129(1)(c)), the goods and conveyance will be released and all proceedings in respect of this notice will be deemed to be concluded [Section 129(5)];
- the benefit of the nil-penalty provisions of Section 74A(8) is not applicable to this notice, which is a notice under Section 129 and not a notice for demand of tax;
- this notice is issued without prejudice to any other action that may be taken against the Noticee or any other person under the CGST Act, 2017/HGST Act, 2017 or any other law for the time being in force.

List of Relied Upon Documents (RUDs):

RUD-1: Statement of Mr. P in FORM GST MOV-01 dated 12.10.2026;

RUD-2: Tax invoice no. AAA/26-27/1184 dated 12.10.2026;

RUD-3: Lorry receipt no. 5521 dated 12.10.2026 of M/s TTT;

RUD-4: Print-outs of e-way bill portal checks dated 12.10.2026 and 13.10.2026;

RUD-5: Physical verification report in FORM GST MOV-04 dated 13.10.2026;

RUD-6: Order of detention in FORM GST MOV-06 dated 13.10.2026 with proof of service;

RUD-7: Statement of Mr. Z dated 14.10.2026;

RUD-8: RTGS advice dated 11.10.2026 and ledger of M/s AAA in the books of M/s XXX;

Annexure-A: Computation of tax payable on the goods and penalty under Section 129(1)(a) [as per the working in Part B].

(_____)
Superintendent, CGST
Range - [•], Division - [•], Faridabad CGST Commissionerate

Copy to: The Deputy/Assistant Commissioner, CGST Division, Faridabad; Mr. P (person in charge of the conveyance); M/s TTT, Faridabad.

Drafting note (not part of the notice):

- *The addressee, jurisdictional range/officer, F. No./DIN and dates shown in square brackets/blanks are illustrative placeholders and must be completed with the correct particulars before issue.*
- ***Not a Section 73/74/74A SCN.*** *The notice is in FORM GST MOV-07 and is issued by the proper officer who detained the goods. The 30-day reply period of an ordinary SCN does not apply: the statute requires the notice within seven days of detention and the order within seven days of the service of the notice [Section 129(3)]. The three-day reply period in the draft is a drafting choice made so that hearing and order fit inside that statutory outer limit; the model form in Circular 41/15/2018-GST allows seven days to show cause, and the period should be aligned to the officer's own timetable and the portal form in use.*
- ***Owner or transporter?*** *The penalty rate turns on whether the 'owner' comes forward. Establish ownership from the contract of sale and the Sale of Goods principles (ex-godown or for-destination sale, payment, risk), not merely from the invoice. If ownership is doubtful, the notice may be issued to the person transporting the goods and the owner, in the alternative, with the penalty at (a) or (b) according to the position when the order is passed.*
- ***Tax is not separately demanded*** *where the goods are covered by a genuine tax invoice and the tax has been accounted for; the penalty is computed on the tax payable on the goods. If the consignment were not covered by any invoice, a demand on the supplier under Section 74A would be additionally examined.*
- ***Do not use the Rs.500 route here.*** *Circular 64/38/2018-GST (paras 5-6) is limited to errors in documents where both the invoice and an e-way bill are present. Complete absence of an e-way bill is outside that relief (see Exercise-27 for the proportionate-response exercise).*
- ***Circular 41/15/2018-GST*** *was written for the pre-2022 text of Section 129 (100% of tax plus 100% penalty). The forms and procedure in it (MOV-01 to MOV-11) are still used, but the quantum of penalty*

in the circular's model MOV-07 text must be read in the light of the amended Section 129(1) (w.e.f. 01.01.2022).

- *Penalty under Section 129(1) is a statutory percentage and the discretion in Section 126 does not apply [Section 126(6)]; the lever for proportionality lies in whether to invoke Section 129 at all (see Circular 64/38/2018-GST para 4).*
- *Return of non-RUDs (Non-Relied Upon Documents): When the SCN is issued to the taxpayer in the form of DRC-01 (uploaded on the portal if registered, as well as delivered as per the provisions of law), non-RUDs must be returned to the noticee under due acknowledgement within seven days of issuance of the SCN.*

***

Exercise 24

Goods found in excess of the quantity in invoice and e-way bill - Section 129 or Section 130? Notice under Section 130 (MOV-10)

Exercise 24: Goods found in excess of the quantity in invoice and e-way bill - Section 129 or Section 130? Notice under Section 130 (MOV-10)

Situation in Brief:

1. On 05.10.2026 at about 03:15 hours, officers of the Ghaziabad CGST Commissionerate intercepted a tanker truck bearing registration no. UP-XX-YYYY near the Dasna toll plaza on NH-9, Ghaziabad district, Uttar Pradesh. The tanker, owned by M/s TTT, a transport firm of Hapur, and driven by Mr. P, was carrying refined soyabean oil (HSN 1507) in two compartments (chamber-1 and chamber-2). The statement of Mr. P was recorded in FORM GST MOV-01.

2. Mr. P produced tax invoice no. AAA/26-27/0892 dated 04.10.2026 issued by M/s AAA, an edible oil refiner of Hapur, Uttar Pradesh, to M/s XXX, Ghaziabad, for 18,000 kg of refined soyabean oil at Rs.112/- per kg (taxable value Rs.20,16,000/-, CGST and UPGST at 2.5% each charged) and a valid e-way bill generated by M/s AAA on 04.10.2026 for the same quantity, vehicle no. UP-XX-YYYY. The tanker seals on chamber-1 matched the particulars in the invoice.

3. On a discrepancy being noticed between the visible fill level of the chambers and the quantity shown in the invoice, the vehicle was directed to the weighbridge nearby (MOV-02) and weighed in the presence of the driver and two independent witnesses. The gross weight of the laden tanker was 38,900 kg; the unladen weight as per the registration certificate is 14,400 kg, giving a net load of 24,500 kg. Chamber-1 held 18,000 kg of oil under the sealed condition shown in the invoice, while chamber-2, which had no seal and no mention in the invoice or e-way bill, held 6,500 kg. The weighment and the physical verification were recorded in FORM GST MOV-04 on 05.10.2026.

4. In his statement dated 05.10.2026 Mr. P, an employee of M/s TTT, stated that at the refinery loading point the loading supervisor told him that 18,000 kg was 'on bill' and the balance 6,500 kg 'off the record', for Mr. Z of M/s XXX; that he was told to say, if stopped, that the whole load was covered by the papers; and that he was given Rs.3,000/- as extra batta for the trip. His mobile phone, produced voluntarily, contained a WhatsApp message from a number saved as 'AAA Dispatch' dated 04.10.2026 reading 'kaccha maal 6.5 ton alag chamber me, bill me nahi'. The owner of the tanker, M/s TTT, in reply to a letter dated 06.10.2026, stated that its instructions to the driver were to carry only what was in the papers and the driver was never told of any excess load.

5. In response to a summons dated 05.10.2026 under Section 70, Mr. Q, partner of M/s AAA, appeared on 07.10.2026 and produced the weighbridge ticket of the refinery for the tanker (net weight 24,500 kg, ticket dated 04.10.2026), the dispatch register, and the stock register of the refinery. The weighbridge ticket was found to tally with the weighment of the department. The dispatch register recorded only 18,000 kg against the invoice. Mr. Q stated that the 6,500 kg was dispatched 'on the instructions of the buyer' without invoice and that the sale price was to be received in cash. No GST had been paid on the excess quantity.

6. Mr. Z, Proprietor of M/s XXX, a wholesale dealer of edible oils at Ghaziabad, appeared on 08.10.2026 in response to a summons and, in his statement of that date, accepted that the 6,500 kg of oil in chamber-2 belonged to him; that he had ordered 'twenty-four tonnes, eighteen on bill and the rest in cash' from M/s AAA; that he had given Rs.7,28,000/- in cash to the accountant of M/s AAA on 03.10.2026 for the excess oil at the invoice rate (a handwritten slip of the accountant was produced); and that he had followed this practice in the past, as noted in a pocket diary produced by him, which listed seven earlier dispatches marked 'K' (kaccha) between July and September 2026 with quantities of 5,000 to 7,000 kg each. The diary was retained by the department.

7. The excess quantity of 6,500 kg of oil was transferred, under supervision, to a tank at the premises of a licensed storage operator at Ghaziabad on 05.10.2026 and detained by order in FORM GST MOV-06 of that date. The tanker, with the invoiced 18,000 kg of oil, was released on the same day on the invoice

being found in order (FORM GST MOV-05) and the consignment was delivered to M/s XXX. The market price of refined soyabean oil, as per the contemporaneous sale invoices of M/s AAA to other buyers during the first week of October 2026, is Rs.112/- per kg before tax. The oil is taxable at 2.5% CGST and 2.5% UPGST (5% GST).

8. Now in the light of the above, -

(i) Identify the provision(s) of GST law contravened by M/s XXX (under heading **Contravention**).

(ii) Identify the provision(s) of GST law under which action is to be taken against M/s XXX (under heading **Consequences of Contravention of legal Provisions**).

(iii) Draft the **Charging Paragraph** of the Show Cause Notice proposed to be issued to M/s XXX, calling upon M/s XXX (owner of the goods) and M/s AAA (consignor) to show cause as to why action should not be taken against them, while listing the proposed action to be taken against M/s XXX (owner of the goods) and M/s AAA (consignor).

(iv) Also prepare the **draft Show Cause Notice** for issuance to M/s XXX.

***

SUGGESTED SOLUTION

(Weighment in transit, Intent to evade, Fine in lieu of confiscation, and Draft Notice under Section 130 - M/s XXX and M/s AAA, Ghaziabad CGST Commissionerate)

A. CONTRAVENTION

On the facts as recorded, the following provisions stand contravened (read with the corresponding provisions of the Uttar Pradesh Goods and Services Tax Act, 2017 [UPGST Act] and the Rules made under the two Acts):

1. **Section 31(1) of the CGST Act, 2017 read with Rule 46** - the registered supplier M/s AAA did not issue a tax invoice at or before the removal of the 6,500 kg of oil (goods), thereby supplying goods without invoice.
2. **Section 68(1) of the CGST Act, 2017 and Rule 138A(1) of the CGST Rules, 2017, read with Rule 138(1)** - the 6,500 kg of oil moved in the conveyance with no invoice and no e-way bill (consignment value of this part: Rs.7,28,000/- plus tax, i.e. more than Rs.50,000/-).
3. **Section 9(1) read with Section 15 of the CGST Act, 2017** - tax at 5% (CGST 2.5% + UPGST 2.5%) on the supply of the 6,500 kg of oil has not been paid by M/s AAA, which is the supplier of the goods.
4. **Section 130(1)(i), (ii) and (iv) of the CGST Act, 2017** - goods supplied and received in contravention of the Act and Rules with *intent to evade payment of tax* (clause (i)); goods on which tax is payable not accounted for in the stock/dispatch records (clause (ii)); and contravention of provisions of the Act and Rules with intent to evade tax (clause (iv)). The goods are therefore liable to confiscation and the persons responsible are liable to penalty under Section 122.
5. **Section 122(1)(i) of the CGST Act, 2017** - M/s AAA supplied goods without issue of invoice; and **Section 122(1A)** - M/s XXX retained the benefit of the transaction at whose instance it was conducted.

Note: Section 129 vs. Section 130 - the intent test. *Section 129 applies to goods transported in contravention of the Act or rules, whether or not there is an intent to evade tax (as in Exercise-23). Section 130 requires, for the clauses relied upon in clauses (i) and (iv), that the contravention be with intent to evade tax. Intent is not presumed from the mere excess in quantity; it is inferred from the surrounding proved facts. Here the following are relied on together: (a) a separate unsealed chamber for the excess goods; (b) the instruction to the driver to say that the whole load was covered by the papers; (c) the extra batta; (d) the message 'bill me nahi'; (e) the dispatch register recording only the invoiced quantity while the refinery's own weighbridge ticket shows the full load; (f) the cash payment slip; and (g) the diary showing seven earlier dispatches. Where the excess is a few kilograms attributable to moisture, spillage, temperature or weighing tolerance, and there are no such indicators, the proper course is Section 129 or no action.* ***Not invoked:*** *Section 130(1)(v) against M/s TTT's conveyance (the owner of the conveyance proved on the record that its instructions were only to carry the documented load, and nothing shows that its agent, other than the driver acting on the consignor's directions, knew of the excess); Section 122(1)(xiv) (the transporter) and Section 122(3)(a) against the driver Mr. P (a salaried driver, acting under the direction of the consignor's loading supervisor, who disclosed everything in his first statement).*

B. CONSEQUENCES OF CONTRAVENTION OF LEGAL PROVISIONS

The contraventions at (A) above expose the persons concerned to the following action under the CGST Act, 2017 (read with the corresponding provisions of the UPGST Act, 2017):

1. Confiscation of the excess goods - under **Section 130(1)(i), (ii) and (iv)**. The goods are in the custody of the department under MOV-06 and the notice is in **FORM GST MOV-10**; the order will be in FORM GST MOV-11. A hearing is mandatory before any order of confiscation or penalty [Section 130(4)]. On confiscation the goods vest in the Government [Section 130(5)] and may be disposed of after the time allowed for payment of fine [Section 130(7)].

2. Fine in lieu of confiscation - the adjudicating officer must give the owner of the goods the option to pay a fine in lieu of confiscation, which shall not exceed the market value of the goods less the tax chargeable on them; and the aggregate of the fine and the penalty shall not be less than 100% of the tax payable on the goods [Section 130(2), as amended w.e.f. 01.01.2022]. The pre-2022 floor linked to Section 129(1) penalty is obsolete. The working is shown below. The proposal of 20% of the ceiling is a matter of judgment for the officer: Section 130 prescribes no percentage, and the fine must be reasoned having regard to the gravity of the default, the recurrence (the diary shows seven earlier dispatches) and the value.

3. Penalties under Section 122 - clause (i) on the consignor, M/s AAA, and Section 122(1A) on the person who retained the benefit of the transaction and at whose instance it was conducted, M/s XXX. The two are separate noticees with separate penalty clauses against each. Section 122(1A) is attracted because M/s XXX sought the cash part of the supply and retained its benefit.

4. Tax on the excess goods - the supply is by M/s AAA, which has not accounted for it. After the omission of Section 130(3) the Act no longer has a provision to collect the tax in the confiscation proceedings. The tax of Rs.36,400/- is therefore proposed to be demanded from M/s AAA, together with the tax on the earlier dispatches (to be quantified from the diary, the refinery's weighbridge records and the cash-book), under Section 74A (fraud/suppression) by a *separate* show cause notice issued on completion of the investigation; it is not included in this MOV-10, which is a notice under Section 130 only. That later notice should demand tax and interest only (together with penalty only to the extent not already imposed under Section 122(1)(i) for the same supply), because Section 75(13) bars a second penalty for the same act. The floor in Section 130(2) ensures that the aggregate of fine and penalty is not less than the tax involved.

5. Conveyance - not proposed to be confiscated (see the Note under A). Had the conveyance been liable, as a conveyance used for carriage of goods for hire, the owner would have been given an option to pay a fine equal to the tax payable on the goods carried (Rs.36,400/-) [Section 130(2)].

6. Section 129 alternative - had Section 129 alone been applied, the owner coming forward would have paid 200% of the tax, i.e. Rs.72,800/-, and the goods would have been released without confiscation or any penalty on the supplier. Section 129 does not reach the supplier and does not give the department the confiscation remedy against a deliberate evasion, and it ignores the evidence of intent.

7. Prosecution - Section 132 is considered; the tax evaded in this consignment is Rs.36,400/- and even with the seven earlier dispatches the aggregate is expected to remain far below the monetary limits of Section 132(1). Prosecution is not proposed at this stage but will be re-examined when the tax on the earlier dispatches is quantified.

Illustrative working of fine and penalty (market value assumed to be the open-market price inclusive of GST):

Item	CGST (Rs.)	UPGST (Rs.)	Total (Rs.)
Excess oil: 6,500 kg x Rs.112/- (taxable value)	7,28,000	7,28,000	7,28,000
Tax chargeable on the excess goods @ 2.5% + 2.5%	18,200	18,200	36,400
Market value (taxable value + tax)			7,64,400
Ceiling of fine in lieu = market value less tax chargeable			7,28,000
Fine proposed (20% of ceiling), shared equally between the two Acts	72,800	72,800	1,45,600
Penalty on M/s AAA under Section 122(1)(i) (higher of Rs.10,000 or tax evaded, under each Act)	18,200	18,200	36,400
Penalty on M/s XXX under Section 122(1A) (equal to tax evaded)	18,200	18,200	36,400

Fine + penalty on M/s XXX (floor test: not less than tax Rs.36,400/-)	**91,000**	**91,000**	**1,82,000**

Basis: *Refined soyabean oil of heading 1507 is taxable at 2.5% CGST (+ 2.5% State tax) under Schedule I, S.No. 84 of Notification No. 9/2025-Central Tax (Rate) dated 17.09.2025 (effective 22.09.2025). The 'market value' under Section 130(2) is not defined in the Act; the open-market price is taken from M/s AAA's own invoices of the same week. The treatment of market value as inclusive of tax is an assumption of the working; if it is taken as exclusive of tax, the ceiling of the fine would be market value less tax chargeable, and the fine proposed should be recomputed.*

C. CHARGING PARAGRAPH OF THE SHOW CAUSE NOTICE

[The following is the operative charging paragraph proposed for incorporation in the Notice at Part D below.]

Now, therefore, (1) M/s XXX, Ghaziabad, Uttar Pradesh, through its Proprietor Mr. Z (the owner of the goods), and (2) M/s AAA, Hapur, Uttar Pradesh, through its partner Mr. Q (the consignor), are hereby called upon to show cause in writing to the Assistant/Deputy Commissioner, CGST Division - [•], Ghaziabad CGST Commissionerate, within fourteen (14) days of the receipt of this notice, as to why:

(i) *the 6,500 kg of refined soyabean oil (HSN 1507) of taxable value Rs.7,28,000/- and market value of Rs.7,64,400/-, found in chamber-2 of the tanker bearing registration no. UP-XX-YYYY on 05.10.2026 without invoice or e-way bill and now lying detained, should not be confiscated under Section 130(1)(i), (ii) and (iv) of the CGST Act, 2017/UPGST Act, 2017;*

(ii) *in the event of confiscation, a fine of Rs.1,45,600/- (Rs.72,800/- under the CGST Act and Rs.72,800/- under the UPGST Act) in lieu of confiscation should not be imposed on M/s XXX as owner of the goods under Section 130(2) of the CGST Act, 2017/UPGST Act, 2017 (the said fine being within the ceiling of Rs.7,28,000/- and the aggregate of fine and penalty being not less than 100% of the tax payable on the goods);*

(iii) *a penalty of Rs.18,200/- under the CGST Act and Rs.18,200/- under the UPGST Act, total Rs.36,400/-, should not be imposed on M/s AAA under Section 122(1)(i) of the CGST Act, 2017/UPGST Act, 2017, for supplying goods without issue of invoice;*

(iv) *a penalty of Rs.18,200/- under the CGST Act and Rs.18,200/- under the UPGST Act, total Rs.36,400/-, being equal to the tax evaded, should not be imposed on M/s XXX under Section 122(1A) of the CGST Act, 2017/UPGST Act, 2017, for retaining the benefit of the said transaction conducted at its instance.*

D. DRAFT SHOW CAUSE NOTICE

F. No. GEXCOM/MOV/130/[•]/2026-GZB

DIN: [Document Identification Number to be auto-generated on issue]

Office of the Assistant/Deputy Commissioner, CGST Division - [•], Ghaziabad CGST Commissionerate, Uttar Pradesh

Date: 12.10.2026

SHOW CAUSE NOTICE

(Notice under Section 130 of the Central Goods and Services Tax Act, 2017 read with Section 130 of the Uttar Pradesh Goods and Services Tax Act, 2017 [FORM GST MOV-10], following detention order in FORM GST MOV-06 dated 05.10.2026)

To,
(1) Mr. Z, Proprietor, M/s XXX (owner of the goods), YYYY, Ghaziabad, Uttar Pradesh; and
(2) Mr. Q, Partner, M/s AAA (consignor), YYYY, Hapur, Uttar Pradesh.

(hereinafter referred to as 'the Noticee-1' (M/s XXX and Mr. Z, being one and the same 'person' within the meaning of Section 2(84) of the CGST Act, 2017) and 'the Noticee-2' (M/s AAA), respectively, and jointly as 'the Noticees')

WHEREAS on 05.10.2026 at about 03:15 hours officers of this Commissionerate intercepted a tanker bearing registration no. UP-XX-YYYY, driven by Mr. P, near the Dasna toll plaza on NH-9, Ghaziabad, carrying refined soyabean oil (HSN 1507) in two chambers. The driver produced tax invoice no. AAA/26-27/0892 dated 04.10.2026 of M/s AAA to M/s XXX for 18,000 kg at Rs.112/- per kg and an e-way bill for the same quantity (RUD-1 and RUD-2);

2. AND WHEREAS on weighment at the weighbridge in the presence of the driver and two independent witnesses the net load was found to be 24,500 kg (gross 38,900 kg less unladen weight 14,400 kg as per the registration certificate), of which 18,000 kg in chamber-1 corresponded to the invoice while 6,500 kg in unsealed chamber-2 was without any invoice or e-way bill (RUD-3, RUD-4);

3. AND WHEREAS Mr. P stated on 05.10.2026 (RUD-5) that the loading supervisor of the refinery told him that 18,000 kg was 'on bill' and the remaining 6,500 kg was 'off the record' for Mr. Z of M/s XXX, that he was to say that all the goods were covered by the papers, and that he was paid Rs.3,000/- extra; and a WhatsApp message on his mobile phone from 'AAA Dispatch' dated 04.10.2026 read 'kaccha maal 6.5 ton alag chamber me, bill me nahi' (RUD-6);

4. AND WHEREAS Mr. Q, partner of M/s AAA, in his statement dated 07.10.2026 under Section 70 (RUD-7) produced the refinery weighbridge ticket dated 04.10.2026 showing the net weight of 24,500 kg (RUD-8) and the dispatch register recording only 18,000 kg (RUD-9), and admitted that the 6,500 kg was dispatched without invoice on the instructions of the buyer, against cash, and that no tax had been paid on it;

5. AND WHEREAS Mr. Z, in his statement dated 08.10.2026 under Section 70 (RUD-10), admitted that the 6,500 kg of oil belonged to him, that he had ordered 'eighteen on bill and the rest in cash', that he had paid Rs.7,28,000/- in cash on 03.10.2026 to the accountant of M/s AAA at the invoice rate (RUD-11, slip), and that he had followed this practice earlier, as noted in his pocket diary showing seven earlier dispatches marked 'K' between July and September 2026 (RUD-12);

6. AND WHEREAS the taxable value of the 6,500 kg of oil at the rate of Rs.112/- per kg (as per M/s AAA's own invoices of the first week of October 2026, RUD-13) is Rs.7,28,000/-, on which the tax chargeable at 5% (CGST 2.5% + UPGST 2.5%) under Schedule I, S.No. 84 of Notification No. 9/2025-Central Tax

(Rate) dated 17.09.2025 is Rs.36,400/- (Rs.18,200/- each), and the market value of the goods is Rs.7,64,400/-;

7. AND WHEREAS it appears from the above that the excess goods were deliberately dispatched and received without invoice and e-way bill and without payment of tax, with intent to evade payment of tax, as shown by the separate unsealed chamber, the instruction to the driver, the extra payment to him, the message 'bill me nahi', the cash payment, the dispatch register that recorded only the invoiced quantity and the pattern of earlier dispatches; and that the following provisions of the CGST Act, 2017 and the corresponding provisions of the UPGST Act, 2017 and the Rules have been contravened:

- Section 31(1) read with Rule 46 - non-issue of tax invoice for the supply of 6,500 kg of oil;
- Section 68(1) read with Rules 138 and 138A - movement of goods of value above Rs.50,000/- without an e-way bill and invoice;
- Section 9(1) read with Section 15 - non-payment of tax on the supply;
- Section 130(1)(i), (ii) and (iv) - supply and receipt of goods in contravention with intent to evade tax, non-accounting of goods on which tax is payable, and contravention of the Act and Rules with intent to evade tax;

8. AND WHEREAS the goods are accordingly liable to confiscation under Section 130(1), the Noticee-2 is liable to penalty under Section 122(1)(i) and the Noticee-1 to penalty under Section 122(1A), as set out in the working below:

Particulars	CGST (Rs.)	UPGST (Rs.)	Total (Rs.)
Tax chargeable on the excess goods	18,200	18,200	36,400
Fine in lieu of confiscation (20% of the ceiling of Rs.7,28,000/-)	72,800	72,800	1,45,600
Penalty on Noticee-2 under Section 122(1)(i)	18,200	18,200	36,400
Penalty on Noticee-1 under Section 122(1A)	**18,200**	**18,200**	**36,400**

NOW, THEREFORE

(1) M/s XXX, Ghaziabad, through Mr. Z, its Proprietor and the owner of the goods, and (2) M/s AAA, Hapur, through Mr. Q, its partner, are hereby called upon to show cause in writing to the Assistant/Deputy Commissioner, CGST Division - [•], Ghaziabad CGST Commissionerate, within fourteen (14) days of the receipt of this notice, and to appear for personal hearing on the date to be intimated, as to why:

(i) the 6,500 kg of refined soyabean oil (HSN 1507) of taxable value Rs.7,28,000/- and market value of Rs.7,64,400/-, found in chamber-2 of the tanker bearing registration no. UP-XX-YYYY on 05.10.2026 without invoice or e-way bill and now lying detained, should not be confiscated under Section 130(1)(i), (ii) and (iv) of the CGST Act, 2017/UPGST Act, 2017;

(ii) in the event of confiscation, a fine of Rs.1,45,600/- (Rs.72,800/- under the CGST Act and Rs.72,800/- under the UPGST Act) in lieu of confiscation should not be imposed on M/s XXX as owner of the goods under Section 130(2) of the CGST Act, 2017/UPGST Act, 2017 (the said fine being within the ceiling of Rs.7,28,000/- and the aggregate of fine and penalty being not less than 100% of the tax payable on the goods);

(iii) a penalty of Rs.18,200/- under the CGST Act and Rs.18,200/- under the UPGST Act, total Rs.36,400/-, should not be imposed on M/s AAA under Section 122(1)(i) of the CGST Act, 2017/UPGST Act, 2017, for supplying goods without issue of invoice;

(iv) a penalty of Rs.18,200/- under the CGST Act and Rs.18,200/- under the UPGST Act, total Rs.36,400/-, being equal to the tax evaded, should not be imposed on M/s XXX under Section

122(1A) of the CGST Act, 2017/UPGST Act, 2017, for retaining the benefit of the said transaction conducted at its instance.

9. The Noticees are further informed that:

- a written reply with documents relied on must be filed within fourteen (14) days of receipt of this notice, failing which the matter will be decided ex parte on merits; an opportunity of being heard in person or through an authorised representative will be given before the order under Section 130 is passed [Section 130(4)];
- the option to pay the fine in lieu of confiscation, if the goods are confiscated, will be given to the owner of the goods in the order, and, on payment within the time specified, the goods will be released [Section 130(2)]; if the fine is not paid within the time allowed, the goods may be disposed of as provided in Section 130(7);
- the tax on the supply of the excess goods and on the earlier dispatches shall be dealt with by a separate notice to the persons liable, and nothing in this notice shall prejudice that action;
- this notice is issued without prejudice to any other action that may be taken against the Noticees or any other person under the CGST Act, 2017/UPGST Act, 2017 or any other law for the time being in force.

List of Relied Upon Documents (RUDs):

RUD-1: Tax invoice no. AAA/26-27/0892 dated 04.10.2026 and e-way bill print for 18,000 kg;

RUD-2: Statement of Mr. P in FORM GST MOV-01 dated 05.10.2026 and the order in FORM GST MOV-02;

RUD-3: Weighbridge slip dated 05.10.2026 and registration certificate of the tanker (unladen weight);

RUD-4: Physical verification report in FORM GST MOV-04 and panchnama with two independent witnesses;

RUD-5: Further statement of Mr. P dated 05.10.2026;

RUD-6: Extract of WhatsApp message from the mobile phone of Mr. P, with certification of the extraction;

RUD-7: Statement of Mr. Q under Section 70 dated 07.10.2026;

RUD-8: Refinery weighbridge ticket dated 04.10.2026;

RUD-9: Dispatch register and stock register of M/s AAA (relevant extracts);

RUD-10: Statement of Mr. Z under Section 70 dated 08.10.2026;

RUD-11: Handwritten cash receipt slip of the accountant of M/s AAA dated 03.10.2026;

RUD-12: Pocket diary of Mr. Z (relevant pages);

RUD-13: Tax invoices of M/s AAA of 01.10.2026 to 07.10.2026 showing the price of refined soyabean oil;

RUD-14: Detention order in FORM GST MOV-06 dated 05.10.2026 and the release order in FORM GST MOV-05;

Annexure-A: Working of tax chargeable, ceiling of fine, fine proposed and penalties [as per Part B].

(_____)
Assistant/Deputy Commissioner, CGST
Division - [•], Ghaziabad CGST Commissionerate

Copy to: The Superintendent, CGST Range - [•], Ghaziabad (for service and for action on the separate notice for recovery of tax from M/s AAA); M/s TTT, Hapur, and Mr. P, for information.

Drafting note (not part of the notice):

- *The addressee, jurisdictional range/officer, F. No./DIN and dates shown in square brackets/blanks are illustrative placeholders and must be completed with the correct particulars before issue.*
- ***Authority for MOV-10.*** *Section 130 does not itself fix a monetary limit; the officer designated by the Commissioner to adjudicate confiscation and penalty will issue the notice and the order (MOV-11). The monetary limits of Circular 31/05/2018-GST apply to the demand notices under Sections 73/74/74A and not to Section 130; the designation of the officer should be checked against the Commissioner's order in force. The draft has been addressed to the Assistant/Deputy Commissioner on the assumption that confiscation is assigned at that level.*
- ***Reply period.*** *Neither Section 130 nor Circular 41/15/2018-GST (as read) specifies a number of days for the reply to a MOV-10 notice; fourteen days is a drafting choice and may be altered to the practice of the Commissionerate. A hearing is mandatory [Section 130(4)].*
- ***Tax on the excess goods*** *is not recoverable in the MOV-10 proceedings after the omission of Section 130(3); the draft therefore recovers it by a separate Section 74A notice on the supplier. If the Commissionerate's practice is to demand the tax from the owner as a condition of release, the legal basis should be settled before adopting it, and the working in Part B changed accordingly.*
- ***Do not treat every excess as Section 130.*** *The intent must be shown by evidence; without it, the matter falls within Section 129 (if in transit) or none at all, and the SCN will not survive adjudication. Electronic evidence (the WhatsApp message) should be extracted with a certificate of authenticity as required by the law on electronic records; the provision of the CGST Act on admissibility of electronic records and the law of evidence in force should be checked before issue.*
- ***Detain only what contravenes*** *- the invoiced 18,000 kg was covered by documents and was released with the tanker (Circular 49/2018-CT dated 21.06.2018, para 3.2 - illustration of detention limited to the consignments that violate the Act); only the excess was detained.*
- ***Section 137*** *(offences by companies and firms) deals with offences and prosecution; it has not been relied on for the penalty proceedings and is not invoked against Mr. Q personally in this draft (see Exercise-26 for the discussion). Penalty on a partner personally would need independent evidence of his role.*
- *Return of non-RUDs (Non-Relied Upon Documents): When the SCN is issued to the taxpayer in the form of DRC-01 (uploaded on the portal if registered, as well as delivered as per the provisions of law), non-RUDs must be returned to the noticee under due acknowledgement within seven days of issuance of the SCN.*

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Exercise 25

Same invoice and e-way bill used for three trucks - Confiscation of goods and hired conveyances, and action against consignor, consignee and transporter

Exercise 25: Same invoice and e-way bill used for three trucks - Confiscation of goods and hired conveyances, and action against consignor, consignee and transporter

Situation in Brief:

1. Analytics of e-way bill data by the Anti-Evasion Section of the Surat CGST Commissionerate flagged e-way bill no. EWB-1 (12-digit number on the portal), generated on 07.10.2026 at 19:42 hours by M/s AAA, a plywood manufacturer of Surat, Gujarat, against its tax invoice no. AAA/26-27/0455 dated 07.10.2026 (800 sheets of 18 mm commercial plywood, HSN 4412, at Rs.2,400/- per sheet, to M/s XXX, Bhiwandi, Thane, Maharashtra; IGST at 18% charged), for repeated verification at toll plazas on NH-48 on the night of 07/08.10.2026 against three different vehicle numbers although Part B showed only one vehicle.

2. On 08.10.2026 at about 02:20 hours the squad intercepted three trucks moving in a convoy near Navsari, Gujarat: T1 (GJ-05-AA-1111), T2 (GJ-05-BB-2222) and T3 (GJ-21-CC-3333), all registered in the name of M/s TTT, a transporter of Surat. Each driver produced a copy of the same invoice no. AAA/26-27/0455 and the same e-way bill no. EWB-1. The portal showed that the e-way bill had Part B updated only for T1. The drivers of T2 and T3 (Mr. P and Mr. P1) had photocopies.

3. The three trucks were weighed and the load was physically verified (FORM GST MOV-04) on 08.10.2026. T1 carried 800 sheets, tallying with the invoice, and was allowed to proceed (FORM GST MOV-05). T2 carried 720 sheets and T3 carried 650 sheets of the same plywood, wrapped in the factory's packing, with no invoice and no e-way bill of their own: 1,370 sheets in all. The two trucks and the 1,370 sheets were detained by orders in FORM GST MOV-06 on 08.10.2026.

4. The statements of both drivers recorded on 08.10.2026 are to the effect that the dispatch clerk of M/s TTT at the Surat yard gave each of them a photocopy of the invoice and e-way bill of the first truck, saying 'ek hi bill teeno gaadi ka, checking me yehi dikhana'. A WhatsApp group 'TTT Surat Dispatch' on the phone of Mr. P, produced by him, had a message dated 07.10.2026 from the branch manager of M/s TTT: 'AAA ka bill ek hai, 3 gaadi nikalni hai, copy de do'. The FASTag/ANPR data of the Kamrej toll plaza showed the three trucks crossing within five minutes of one another at 00:48 to 00:53 hours on 08.10.2026.

5. In response to summonses under Section 70, the branch manager of M/s TTT (Mr. R) appeared on 10.10.2026 and admitted that he had sent the three trucks on the single invoice and e-way bill at the request of the dispatch head of M/s AAA, being paid an additional Rs.1,000/- per truck over the normal freight. Mr. Q, partner of M/s AAA, appeared on 10.10.2026 and in his statement admitted that 1,370 sheets in addition to the invoiced 800 sheets were dispatched to Mr. Z without invoice, 'as agreed with the buyer', at a price of Rs.2,400/- per sheet, in cash, and that the invoice number and e-way bill of the first consignment were intentionally used for the other two trucks. The production and loading register of M/s AAA, taken on inspection, showed the dispatch of 2,170 sheets from the factory on 07.10.2026, against which only 800 sheets had been invoiced.

6. Mr. Z, Proprietor of M/s XXX, Bhiwandi, a wholesale trader of plywood, appeared on 11.10.2026 and in his statement admitted that he had ordered 2,170 sheets in all; that 800 were to be on bill and the balance in cash at Rs.2,400/- per sheet (a total of Rs.32,88,000/- paid in cash, as per his notebook); that he knew that no invoice or e-way bill would be there for the balance; and that he planned to sell the balance in the market without bills. The purchase register of M/s XXX shows only invoice no. AAA/26-27/0455. The open-market price of the sheets in the week is Rs.2,400/- per sheet before tax, as shown by M/s AAA's invoices to other customers.

7. The registered owner of T2 and T3 is M/s TTT; both trucks were used for carriage of goods for hire and are in the custody of the department. The consignor and the transporter are located in Surat, within the jurisdiction of this office; the consignee is in Maharashtra.

8. Now in the light of the above, -

(i) Identify the provision(s) of GST law contravened by M/s XXX (under heading **Contravention**).

(ii) Identify the provision(s) of GST law under which action is to be taken against M/s XXX (under heading **Consequences of Contravention of legal Provisions**).

(iii) Draft the **Charging Paragraph** of the Show Cause Notice proposed to be issued to M/s XXX, calling upon M/s XXX (consignee), M/s AAA (consignor) and M/s TTT (transporter) to show cause as to why action should not be taken against them, while listing the proposed action to be taken against M/s XXX (consignee), M/s AAA (consignor) and M/s TTT (transporter).

(iv) Also prepare the **draft Show Cause Notice** for issuance to M/s XXX.

***

SUGGESTED SOLUTION

(Interception, Confiscation of goods and conveyances, and Draft Notice under Section 130 - M/s XXX, M/s AAA and M/s TTT, Surat CGST Commissionerate)

A. CONTRAVENTION

On the facts as recorded, the following provisions stand contravened. Since the supply is an inter-State supply (Gujarat to Maharashtra), the provisions of the CGST Act, 2017 are applied by Section 20 of the Integrated Goods and Services Tax Act, 2017 [IGST Act] to integrated tax, and the Rules made under the CGST Act apply; the corresponding provisions of the Gujarat Goods and Services Tax Act, 2017 [GGST Act] are mentioned for completeness:

1. **Section 31(1) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017** - M/s AAA supplied 1,370 sheets of plywood inter-State without issuing an invoice; the invoice no. AAA/26-27/0455 related only to 800 sheets and was falsely used to cover the other two lots.
2. **Section 68(1) of the CGST Act, 2017 and Rules 138(1), 138A(1) of the CGST Rules, 2017** - the goods in T2 and T3 moved without their own invoice and e-way bill; the documents carried were copies of those of T1, which could not validly cover them.
3. **Section 5 and Section 7 of the IGST Act, 2017 read with Section 9 of the CGST Act** - IGST at 18% is payable on the inter-State supply of the 1,370 sheets (taxable value Rs.32,88,000/-); no tax has been paid.
4. **Section 130(1)(i), (ii), (iv) and (v) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017** - goods supplied and received in contravention with intent to evade payment of tax; goods not accounted for; contravention of provisions of the Act and Rules with intent to evade tax; and use of conveyances for carriage of goods in contravention of the provisions of the Act and Rules (clause (v)), the owner of the conveyance being unable to establish that it was used without his knowledge or connivance (clause (v) exception).
5. **Section 122(1)(i), 122(1A) and 122(3)(a)** - penalty provisions applicable to the consignor, the beneficiary consignee and the transporter respectively (Part B).

Note: Considered and NOT invoked: *(1)* ***Section 129*** *- not used as the principal provision because the intent to evade tax is established by the evidence (a copied invoice and e-way bill, extra freight, the message in the dispatch group, the cash purchase); Section 129 would also not enable confiscation of the goods and the conveyances. (2)* ***Section 122(1)(x)*** *(false documents/information to evade tax) - the use of the copied invoice and e-way bill in T2 and T3 is capable of being charged under this clause; it is not added to the notice because the penalty for the same tax evaded is already proposed against the same persons on the main clause, and the notice should not stack alternative clauses for the same amount. (3)* ***Section 122(1)(xiv)*** *against the transporter - the specified documents were carried but they did not relate to the goods; the transporter is charged as an aider and abettor under Section 122(3)(a) with the conveyances being dealt with under Section 130(1)(v). (4)* ***Section 130(1)(v) on T1*** *- not applicable, because T1 carried goods covered by the documents; only the offending lots and the conveyances carrying them were detained (Circular No. 49/2018-Central Tax dated 21.06.2018, para 3.2). (5)* ***Section 132*** *- tax evaded here is Rs.5,91,840/-, below the monetary limits of Section 132(1); prosecution is not proposed. (6)* ***Section 137*** *(offences by companies/firms) is dealt with in the Notes.*

B. CONSEQUENCES OF CONTRAVENTION OF LEGAL PROVISIONS

The contraventions at (A) above expose the following persons to the action indicated (CGST Act, 2017 read with Section 20 of the IGST Act, 2017 and the corresponding provisions of the GGST Act, 2017):

1. Consignor, M/s AAA - it supplied the goods without invoice and reused the invoice and e-way bill number to cover unaccounted lots. Penalty under **Section 122(1)(i)**: the higher of Rs.10,000/- or the

tax evaded, i.e. Rs.5,91,840/-. The goods are confiscable as goods supplied in contravention (Section 130(1)(i)) but the option of fine is given to the owner of the goods; the tax on the supply (IGST of Rs.5,91,840/-, plus the tax on earlier dispatches to be quantified from the loading register) will be demanded from M/s AAA by a *separate* notice under Section 74A read with Section 20 of the IGST Act. When that notice is issued the penalty under Section 74A(5) must not duplicate the penalty here: the later notice should propose tax and interest and a penalty only to the extent that it is not already covered, subject to Section 75(13).

2. Consignee/owner of the goods, M/s XXX (Mr. Z) - he ordered the unbilled lots, paid in cash and intended to sell them without bills. The goods are liable to confiscation with an option to pay fine in lieu [Section 130(2)], the fine not exceeding the market value less the tax chargeable. Penalty under **Section 122(1A)** (retained the benefit of a transaction under clause (i) at whose instance it was conducted): equal to the tax evaded, Rs.5,91,840/-. The aggregate of fine and penalty (Rs.10,85,040/-) exceeds the floor of 100% of the tax payable (Rs.5,91,840/-).

3. Transporter and owner of the conveyances, M/s TTT - the two trucks were used for hire for carriage of goods in contravention of the Act. Under **Section 130(1)(v)** the conveyances are liable to confiscation unless the owner proves that they were used without his knowledge or connivance, and that of his agent and the person in charge. The branch manager (agent) knew and arranged the movement. The option to pay a fine, where the conveyance is used for hire, is a fine equal to the tax payable on the goods being transported thereon [Section 130(2)] - Rs.3,11,040/- for T2 and Rs.2,80,800/- for T3. Penalty under **Section 122(3)(a)** (aiding and abetting offences under Section 122(1)(i)): Rs.25,000/- (the maximum).

4. Drivers - Mr. P and Mr. P1 are employees who acted on the instructions of the branch manager and made voluntary disclosures. No penalty is proposed on them; their statements are relied on as evidence. The person in charge of the conveyance is served with the detention orders as required.

5. Procedure - the notice is in FORM GST MOV-10 (order in MOV-11) after the detention in MOV-06. A hearing must be given [Section 130(4)]; on confiscation, the goods and conveyances vest in the Government [Section 130(5)] unless the fine is paid within the time allowed. A summary of the notice and order is uploaded in FORM GST DRC-01/DRC-07 as required by Rule 142.

6. Section 129 alternative - had the Section 129 route been applied, the owner of the goods coming forward would have paid 200% of the tax, Rs.11,83,680/-, and the conveyances would have been released with the goods; no penalty would have been imposed on the consignor and the transporter, and the goods and conveyances would not be liable to confiscation. Given the deliberate nature of the reuse of a single invoice and e-way bill, Section 130 is the appropriate provision.

Illustrative working of fine and penalties (market value assumed to be the open-market price inclusive of IGST):

Item	Amount (Rs.)	Against
Plywood in T2: 720 sheets x Rs.2,400 = Rs.17,28,000; IGST @18%	3,11,040	-
Plywood in T3: 650 sheets x Rs.2,400 = Rs.15,60,000; IGST @18%	2,80,800	-
Tax chargeable on the 1,370 sheets (IGST)	5,91,840	-
Ceiling of fine in lieu = market value (Rs.38,79,840) less tax	32,88,000	-
Fine in lieu of confiscation of goods (15% of ceiling) - Section 130(2)	4,93,200	M/s XXX (owner)
Fine in lieu of confiscation of T2 (hired conveyance) = IGST on goods in T2	3,11,040	M/s TTT (owner)
Fine in lieu of confiscation of T3 (hired conveyance) = IGST on goods in T3	2,80,800	M/s TTT (owner)
Penalty under Section 122(1)(i) (higher of Rs.10,000 or tax evaded)	5,91,840	M/s AAA
Penalty under Section 122(1A) (equal to tax evaded)	5,91,840	M/s XXX

Penalty under Section 122(3)(a) (maximum Rs.25,000/-) on M/s TTT	**25,000**	**M/s TTT**

Total monetary exposure proposed in this notice (fines and penalties, excluding the tax to be demanded separately): Rs.22,93,720/-.

Basis: *Plywood of heading 4412 is taxable at 18% IGST (Schedule II, S.No. 159 of Notification No. 9/2025-Integrated Tax (Rate) dated 17.09.2025, effective 22.09.2025). The fine for conveyances is calculated separately for each conveyance on the tax payable on the goods carried on it. The treatment of 'market value' as inclusive of IGST is an assumption of the working.*

C. CHARGING PARAGRAPH OF THE SHOW CAUSE NOTICE

[The following is the operative charging paragraph proposed for incorporation in the Notice at Part D below.]

Now, therefore, (1) M/s XXX, Bhiwandi, Thane, Maharashtra, through its Proprietor Mr. Z (the consignee and owner of the goods), (2) M/s AAA, Surat, Gujarat, through its partner Mr. Q (the consignor), and (3) M/s TTT, Surat, Gujarat, through its partner/proprietor (the transporter and owner of the conveyances), are hereby called upon to show cause in writing to the Assistant/Deputy Commissioner, CGST Division - [•], Surat CGST Commissionerate, within fourteen (14) days of the receipt of this notice, as to why:

(i) *the 1,370 sheets of 18 mm plywood (HSN 4412) of taxable value Rs.32,88,000/- carried in trucks T2 (GJ-05-BB-2222; 720 sheets) and T3 (GJ-21-CC-3333; 650 sheets) on 08.10.2026 without their own invoice and e-way bill, covered by copies of invoice no. AAA/26-27/0455 and e-way bill no. EWB-1 of a different consignment, should not be confiscated under Section 130(1)(i), (ii) and (iv) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017;*

(ii) *a fine of Rs.4,93,200/- in lieu of confiscation of the said goods should not be imposed on M/s XXX, as owner of the goods, under Section 130(2) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017 (the ceiling being Rs.32,88,000/-);*

(iii) *the conveyances T2 and T3 should not be confiscated under Section 130(1)(v) and a fine of Rs.3,11,040/- for T2 and Rs.2,80,800/- for T3 (being the tax payable on the goods carried in each), total Rs.5,91,840/-, in lieu of confiscation of the hired conveyances should not be imposed on M/s TTT under Section 130(2) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017;*

(iv) *a penalty of Rs.5,91,840/- (Rupees Five Lakh Ninety-One Thousand Eight Hundred Forty only) should not be imposed on M/s AAA under Section 122(1)(i) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017;*

(v) *a penalty of Rs.5,91,840/- (Rupees Five Lakh Ninety-One Thousand Eight Hundred Forty only) should not be imposed on M/s XXX under Section 122(1A) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017; and*

(vi) *a penalty of Rs.25,000/- should not be imposed on M/s TTT under Section 122(3)(a) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017.*

D. DRAFT SHOW CAUSE NOTICE

F. No. GEXCOM/MOV/130/[•]/2026-SRT

DIN: [Document Identification Number to be auto-generated on issue]

Office of the Assistant/Deputy Commissioner, CGST Division - [•], Surat CGST Commissionerate, Gujarat

Date: 14.10.2026

SHOW CAUSE NOTICE

(Notice under Section 130 of the Central Goods and Services Tax Act, 2017 read with Section 20 of the Integrated Goods and Services Tax Act, 2017 and the corresponding provisions of the Gujarat Goods and Services Tax Act, 2017 [FORM GST MOV-10], following detention orders in FORM GST MOV-06 dated 08.10.2026)

To,
(1) Mr. Z, Proprietor, M/s XXX (consignee and owner of the goods), YYYY, Bhiwandi, Thane, Maharashtra;
(2) Mr. Q, Partner, M/s AAA (consignor), YYYY, Surat, Gujarat; and
(3) The Proprietor/Partner, M/s TTT (transporter and owner of the conveyances), YYYY, Surat, Gujarat.

(hereinafter referred to as 'Noticee-1', 'Noticee-2' and 'Noticee-3' respectively and together as 'the Noticees')

WHEREAS e-way bill data analytics by the Anti-Evasion Section of this Commissionerate flagged e-way bill no. EWB-1, generated by M/s AAA on 07.10.2026 against its invoice no. AAA/26-27/0455 dated 07.10.2026 for 800 sheets of plywood to M/s XXX (IGST 18%), for verification at toll plazas against three different vehicle numbers (RUD-1);

2. AND WHEREAS on 08.10.2026 at about 02:20 hours three trucks of M/s TTT, T1 (GJ-05-AA-1111), T2 (GJ-05-BB-2222) and T3 (GJ-21-CC-3333), were intercepted near Navsari; each produced a copy of the same invoice and e-way bill, the Part B of which showed only T1. On physical verification (RUD-2) T1 carried 800 sheets and was allowed to proceed; T2 carried 720 sheets and T3 carried 650 sheets, i.e. 1,370 sheets in all, without any invoice or e-way bill of their own. The two trucks and the goods were detained under MOV-06 (RUD-3);

3. AND WHEREAS the drivers Mr. P and Mr. P1, in their statements dated 08.10.2026 (RUD-4), stated that the dispatch clerk of M/s TTT gave them photocopies of the invoice and e-way bill of T1 with instructions to show the same on checking; the messages in the WhatsApp group 'TTT Surat Dispatch' (RUD-5) and the FASTag/ANPR data of the Kamrej toll plaza (RUD-6) show the planned movement of three trucks on one bill;

4. AND WHEREAS Mr. R, branch manager of M/s TTT, in his statement dated 10.10.2026 (RUD-7) admitted that he sent the three trucks on a single invoice and e-way bill at the request of the dispatch head of M/s AAA for an extra Rs.1,000/- per truck; Mr. Q, partner of M/s AAA, in his statement of the same date (RUD-8) admitted that 1,370 sheets were dispatched to Mr. Z without invoice at Rs.2,400/- per sheet in cash and that the invoice and e-way bill of the first consignment were intentionally used for the other two trucks, and the loading register of M/s AAA (RUD-9) showed the dispatch of 2,170 sheets on 07.10.2026 against the invoice for 800 sheets;

5. AND WHEREAS Mr. Z in his statement dated 11.10.2026 (RUD-10) admitted that he had ordered 2,170 sheets, 800 on bill and the balance in cash at Rs.2,400/- per sheet (Rs.32,88,000/- in cash, per his notebook, RUD-11), knowing that there would be no invoice or e-way bill for the balance and intending to sell them without bills; his purchase register (RUD-12) shows only the invoice for 800 sheets;

6. AND WHEREAS the taxable value of the 1,370 sheets at the market price of Rs.2,400/- per sheet (RUD-13) is Rs.32,88,000/- (T2: Rs.17,28,000/-; T3: Rs.15,60,000/-), on which IGST at 18% (Schedule II, S.No.

159 of Notification No. 9/2025-Integrated Tax (Rate) dated 17.09.2025) is Rs.5,91,840/- (T2: Rs.3,11,040/-; T3: Rs.2,80,800/-); the market value of the goods is Rs.38,79,840/-;

7. AND WHEREAS it appears that the aforesaid goods were supplied, transported and received without invoice, e-way bill and payment of tax, with intent to evade payment of tax, in contravention of Section 31(1), Section 68(1), Section 9 and Section 130(1) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017 and Rules 138 and 138A of the CGST Rules, 2017; that M/s TTT, knowing the position through its branch manager, has used the conveyances T2 and T3 for hire for carriage of the goods in contravention of the Act; and that the Noticees are liable to action as under:

Particulars	Amount (Rs.)	Against
Tax chargeable on the 1,370 sheets (IGST) - not demanded here	5,91,840	-
Fine in lieu of confiscation of goods (15% of ceiling Rs.32,88,000)	4,93,200	Noticee-1
Fine in lieu of confiscation of T2 and T3 (hired conveyances)	5,91,840	Noticee-3
Penalty under Section 122(1)(i)	5,91,840	Noticee-2
Penalty under Section 122(1A)	5,91,840	Noticee-1
Penalty under Section 122(3)(a)	**25,000**	**Noticee-3**

NOW, THEREFORE

(1) M/s XXX, (2) M/s AAA and (3) M/s TTT are hereby called upon to show cause in writing to the Assistant/Deputy Commissioner, CGST Division - [•], Surat CGST Commissionerate, within fourteen (14) days of the receipt of this notice, and to appear for personal hearing on the date to be intimated, as to why:

(i) the 1,370 sheets of 18 mm plywood (HSN 4412) of taxable value Rs.32,88,000/- carried in trucks T2 (GJ-05-BB-2222; 720 sheets) and T3 (GJ-21-CC-3333; 650 sheets) on 08.10.2026 without their own invoice and e-way bill, covered by copies of invoice no. AAA/26-27/0455 and e-way bill no. EWB-1 of a different consignment, should not be confiscated under Section 130(1)(i), (ii) and (iv) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017;

(ii) a fine of Rs.4,93,200/- in lieu of confiscation of the said goods should not be imposed on M/s XXX, as owner of the goods, under Section 130(2) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017 (the ceiling being Rs.32,88,000/-);

(iii) the conveyances T2 and T3 should not be confiscated under Section 130(1)(v) and a fine of Rs.3,11,040/- for T2 and Rs.2,80,800/- for T3 (being the tax payable on the goods carried in each), total Rs.5,91,840/-, in lieu of confiscation of the hired conveyances should not be imposed on M/s TTT under Section 130(2) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017;

(iv) a penalty of Rs.5,91,840/- (Rupees Five Lakh Ninety-One Thousand Eight Hundred Forty only) should not be imposed on M/s AAA under Section 122(1)(i) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017;

(v) a penalty of Rs.5,91,840/- (Rupees Five Lakh Ninety-One Thousand Eight Hundred Forty only) should not be imposed on M/s XXX under Section 122(1A) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017; and

(vi) a penalty of Rs.25,000/- should not be imposed on M/s TTT under Section 122(3)(a) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017.

8. The Noticees are further informed that:

- a written reply with documents relied on should be filed within fourteen (14) days; an opportunity of being heard will be given before an order is passed [Section 130(4)]; if no reply is received or no one appears, the matter will be decided ex parte on the available records;
- each Noticee is called upon to show cause separately in respect of the clause or clauses mentioned against it, and the reply of one Noticee shall not be treated as the reply of another;
- the tax on the supply of the goods and on earlier dispatches shall be dealt with by a separate notice on M/s AAA under Section 74A; nothing in this notice shall prejudice it;
- this notice is issued without prejudice to any other action that may be taken against the Noticees or any other person under the CGST Act, 2017/IGST Act, 2017/GGST Act, 2017 or any other law for the time being in force.

List of Relied Upon Documents (RUDs):

RUD-1: E-way bill analytics report and portal print of EWB-1 showing Part B for T1 only;

RUD-2: Invoice no. AAA/26-27/0455 (three copies), MOV-01/MOV-04 of 08.10.2026 and weighment slips;

RUD-3: Detention orders in FORM GST MOV-06 dated 08.10.2026 and release order (MOV-05) for T1;

RUD-4: Statements of Mr. P and Mr. P1 dated 08.10.2026;

RUD-5: Extract of the WhatsApp group 'TTT Surat Dispatch' with certificate of extraction;

RUD-6: FASTag/ANPR data of the Kamrej toll plaza for 08.10.2026;

RUD-7: Statement of Mr. R, branch manager of M/s TTT, dated 10.10.2026;

RUD-8: Statement of Mr. Q, partner of M/s AAA, dated 10.10.2026;

RUD-9: Loading/production register of M/s AAA for 07.10.2026;

RUD-10: Statement of Mr. Z dated 11.10.2026;

RUD-11: Notebook of Mr. Z showing cash payment of Rs.32,88,000/-;

RUD-12: Purchase register of M/s XXX for October 2026;

RUD-13: Invoices of M/s AAA to other customers in the week showing the price of plywood;

Annexure-A: Working of tax chargeable, ceiling of fine, fines and penalties [as per Part B].

(_____)
Assistant/Deputy Commissioner, CGST
Division - [•], Surat CGST Commissionerate

Copy to: The Superintendent, CGST Range - [•], Surat (for service and for the separate notice on M/s AAA); the jurisdictional officer of M/s XXX in Maharashtra, for information.

Drafting note (not part of the notice):

- *The addressee, jurisdictional range/officer, F. No./DIN and dates shown in square brackets/blanks are illustrative placeholders and must be completed with the correct particulars before issue.*
- ***One notice, three different roles.*** *The same facts produce a different consequence for the consignor (penalty for supply without invoice), the consignee-owner (fine in lieu and penalty as the beneficiary) and the transporter (fine on hired conveyances and a penalty for abetment). Draft the charging paragraph so that each person is called upon separately for each clause that applies to him alone.*
- ***Hired conveyances.*** *The fine equal to the tax payable on the goods carried is the option to be given to the owner of a conveyance used for carriage of goods for hire; it is computed conveyance-wise. For a*

conveyance not used for hire, the ordinary limit (market value less tax) applies. The exception in Section 130(1)(v) must be tested on the facts of knowledge or connivance of the owner, his agent or the person in charge: here it is the branch manager's own message and statement.

- ***Inter-State supply.*** *The tax is IGST; fines and penalties under the CGST Act are applied to integrated tax through Section 20 of the IGST Act, and the demand against the consignor will also be made under the IGST route. The consignee is in Maharashtra: the notice may need service through the jurisdictional officer there. Check the cross-empowerment/jurisdiction arrangements before serving.*
- ***Risk of double penalty.*** *Penalty under Section 122(1)(i) is proposed here for the evaded tax; the later Section 74A notice on M/s AAA carries penalty under Section 74A(5) for the same tax. Whether Section 75(13) expressly extends to Section 74A could not be confirmed from the sources consulted; to be safe the later notice should be structured so as not to impose two penalties on the same tax.*
- ***Section 137*** *deals with offences by companies/firms and persons in charge of their business; whether it extends to penalty proceedings (as opposed to prosecution) was not settled from the sources consulted, so penalties here are proposed on the firms and on those whose conduct is individually established. Avoid adding the partners in their personal capacity unless there is independent evidence.*
- ***Unverified citations.*** *Sections 5 and 7 of the IGST Act (levy; inter-State supply) and Section 20 of the IGST Act (application of CGST provisions to integrated tax) are cited from the project LAW_SHEET and general knowledge; their text could not be fetched when this draft was prepared and must be checked against the Act before issue.*
- ***Reply period*** *of fourteen days and the designation of the officer are drafting choices (see the notes to Exercise-24).*
- *Return of non-RUDs (Non-Relied Upon Documents): When the SCN is issued to the taxpayer in the form of DRC-01 (uploaded on the portal if registered, as well as delivered as per the provisions of law), non-RUDs must be returned to the noticee under due acknowledgement within seven days of issuance of the SCN.*

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Exercise 26

Excess stock and shortage found at the godown during inspection - Section 130(1)(ii) for excess goods and Section 74A for assumed clandestine removal

Exercise 26: Excess stock and shortage found at the godown during inspection - Section 130(1)(ii) for excess goods and Section 74A for assumed clandestine removal

Situation in Brief:

1. Intelligence developed by the Anti-Evasion Section of the Delhi West CGST Commissionerate indicated that M/s XXX Pvt. Ltd. (the Company), a registered wholesale trader in polyethylene granules (HSN 3901) with its registered place of business and godown at Bawana Industrial Area, Delhi, directed by Mr. Z, was selling a part of its stock for cash without invoices. The intelligence was supported by the fact that the Company's reported outward supplies for April-August 2026 were not commensurate with its purchases, and by the bank statements of the Company showing credits from persons not shown as its customers.

2. On the authorisation of the Joint Commissioner (Anti-Evasion) dated 02.09.2026 under Section 67(1) of the CGST Act, 2017, the premises (office and godown) of the Company were inspected on 03.09.2026 in the presence of Mr. Z and two independent witnesses. Physical stock-taking was done by counting and weighing the bags of each grade, each bag being labelled with grade and batch. The Tally stock register (Rule 56(2)) of the Company, printed on the spot as at the close of business on 02.09.2026, was taken as the book stock. The comparison, grade-wise, is as follows (rates are the average of the Company's own sale invoices of the grade during August 2026, before tax):

Grade (HSN 3901)	Book stock (MT)	Physical stock (MT)	Difference (MT)	Average rate, Aug-2026 (Rs./MT)
HDPE film grade	240	185	-55	1,05,000
HDPE injection grade	180	241	+61	1,08,000
LDPE	160	108	-52	1,12,000
LLDPE	120	102	-18	98,000
HDPE pipe grade	90	138	+48	1,02,000
TOTAL	**790**	**774**	**-16**	

3. The panchnama of 03.09.2026 records that (a) the opening stock of 01.04.2026 as per the audited stock statement and the purchases and sales of April-August 2026 in Tally had been used to arrive at the book stock; (b) no purchase invoice, delivery challan or other document was available for the 109 MT found in excess in the injection and pipe grades; and (c) the goods found in excess were not entered in any stock record. Considering that the godown is the declared place of business, the excess goods were not seized, and the custodian (Mr. Z) was ordered in writing under Section 67(2) not to remove or deal with the 109 MT of excess goods without the prior permission of the proper officer.

4. From the cabinet of Mr. Z in the office a diary (the 'kaccha book') was recovered, with entries for April-August 2026 of outward cash sales of film, LDPE and LLDPE grades, giving the date, grade, quantity in MT, a party code and the amount received, aggregating 96 MT. The diary entries are not in the books of account. Bank statements of the Company's current account for April-August 2026 show credits of Rs.1,12,50,000/- from 14 persons (by NEFT/UPI) who are not in the sales ledger and which correspond, as to dates, to entries in the diary.

5. In his statement dated 03.09.2026, recorded under Section 70 and signed on each page, Mr. Z stated that he looks after all the affairs of the Company; that the shortage in the three grades was because he had sold the material for cash without bills to small traders, and that the quantity was 'about 125 tonnes'; that the diary was maintained by him; that the excess in the other two grades had been purchased for cash from open-market traders at Panipat, without bills, which he intended to sell later; and that he would pay the tax on the shortage 'after discussion with his consultant'. In a further

statement dated 14.09.2026, he said that the excess and the shortage were to be seen 'together' since the grades were 'mixed up' in the books. He produced no document to support this.

6. On verification, the bags of the injection and pipe grades found in excess carry batch labels of the manufacturers that do not appear in any purchase entry, and the film, LDPE and LLDPE bags are separately stacked and labelled. The Company's Tally records have a clear grade-wise stock ledger, with no entries of transfer or re-classification between the grades in the period. The Company's GSTR-1 and GSTR-3B for April-August 2026 report outward supplies consistent with its sale invoices; no tax has been paid on the cash sales. The Company is a registered person and its stock is 'maintained at the declared place'. The rates of tax on the goods are 9% CGST and 9% DGST.

7. Now in the light of the above, -

(i) Identify the provision(s) of GST law contravened by M/s XXX Pvt. Ltd (under heading **Contravention**).

(ii) Identify the provision(s) of GST law under which action is to be taken against M/s XXX Pvt. Ltd (under heading **Consequences of Contravention of legal Provisions**).

(iii) Draft the **Charging Paragraph** of the Show Cause Notice proposed to be issued to M/s XXX Pvt. Ltd, calling upon M/s XXX Pvt. Ltd. and its Director Mr. Z to show cause as to why action should not be taken against them, while listing the proposed action to be taken against M/s XXX Pvt. Ltd. and its Director Mr. Z.

(iv) Also prepare the **draft Show Cause Notice** for issuance to M/s XXX Pvt. Ltd.

***

SUGGESTED SOLUTION

(Inspection, Stock-taking and Draft Show Cause Notice under Sections 74A and 130 - M/s XXX Pvt. Ltd. and its Director Mr. Z, Delhi West CGST Commissionerate)

A. CONTRAVENTION

On the facts as recorded, the following provisions stand contravened (in each case read with the corresponding provisions of the Delhi Goods and Services Tax Act, 2017 [DGST Act] and the Rules made under the two Acts):

1. **Section 9(1) and Section 15 of the CGST Act, 2017** - tax on the outward supplies of 125 MT of polyethylene granules (film, LDPE and LLDPE grades) of taxable value Rs.1,33,63,000/- removed otherwise than through invoices has not been paid.
2. **Section 31(1) read with Rule 46** - no tax invoice was issued for the said supplies; and **Section 39(1)** - outward supplies were not declared in the GSTR-3B returns for April-August 2026 and the self-assessed tax was not paid.
3. **Section 35(1) read with Rule 56(2)** - failure to maintain true and correct accounts of stock (receipts, supplies and balance) as the stock account does not reflect the 109 MT of excess goods and the 125 MT of goods supplied without records.
4. **Section 130(1)(ii) of the CGST Act, 2017** - the Company does not account for 109 MT of goods on which tax is payable (the excess goods), and **Section 130(1)(iv)** in the alternative - contravention of the Act and the Rules with intent to evade tax.
5. **Section 122(1)(xv) and 122(1)(xvi)** - suppression of turnover leading to evasion of tax, and failure to maintain books and records as required.

Note:* Two different findings, two different remedies - the teaching point.** *(1) The shortage (book exceeds physical) is a case where goods that have been accounted for as purchased have gone out of stock without being accounted for as sold. Combined with the diary, bank credits and the director's admission, the inference is a supply without invoice, and tax is demanded under Section 74A as a case of suppression. (2) The excess (physical exceeds book) is a case of goods that are in the godown, not yet shown to have been supplied. No supply has taken place on which tax can be demanded under Section 74A; the proper remedy is confiscation under Section 130(1)(ii) with the option of fine, which has to meet the floor of 100% of the tax payable on the goods in Section 130(2). The tax will be paid in the ordinary course when the goods are sold. (3) The excess in one grade is* ***not *to be set off against the shortage in another grade merely because the HSN and the tax rate are the same: the products differ, are separately labelled and priced, and the Company produced no document of mix-up. If proof of mix-up (for example a debit/credit entry in the stock ledger or a manufacturer's batch record) is produced, the position will be reviewed at adjudication.* ***Considered and NOT invoked: Rule 56(6)*** *(goods found at a place not declared in the registration, tax determined as if supplied) - the godown is a declared place;* ***Section 74A on the excess goods****;* ***Section 129*** *(there is no goods vehicle in transit);* ***Section 132*** *(see Part B); and* ***Section 122(1)(xvii)*** *since Mr. Z cooperated and gave statements.*

B. CONSEQUENCES OF CONTRAVENTION OF LEGAL PROVISIONS

The contraventions at (A) above expose M/s XXX Pvt. Ltd. and its Director Mr. Z to the following action under the CGST Act, 2017 (read with the corresponding provisions of the DGST Act, 2017):

1. Demand of tax on the shortage - under **Section 74A(1)** (period FY 2026-27, so Section 74A and not Sections 73/74 applies [Section 74A(12); Notification No. 17/2024-Central Tax dated 27.09.2024]). The notice is within time as it can be issued up to 42 months from the due date of the annual return for FY 2026-27 (31.12.2027), i.e. up to 30.06.2031 [Section 74A(2)]; the order is to be passed within twelve

months from the date of notice, extendable by six months [Section 74A(7)]. The shortage is for April-August 2026.

2. Interest - under **Section 50(1)** at 18% per annum from the day after the due date of the GSTR-3B of each month of removal till payment (Notification No. 13/2017-Central Tax dated 28.06.2017). As the date-wise removal cannot be fixed for all the quantity, an illustrative figure is worked out assuming the whole to have been removed in August 2026 (due date 20.09.2026), i.e. for 32 days up to the date of this notice: Rs.37,958/-; the actual interest is payable from the due date of the month of removal.

3. Penalty on the demand - the shortage is a clandestine supply, concealed from the books and returns, supported by the diary and by the director's admission, and thus a case of suppression of facts to evade tax; penalty is equal to the tax due, Rs.24,05,340/-, under **Section 74A(5)(ii)**. The concession of Section 74A(9) is available: pre-notice payment with 15% penalty, payment within 60 days of the notice with 25% penalty (Rs.6,01,335/- on this tax), and within 60 days of the order with 50%. Penalty under Section 122(1)(xv) is proposed only in the alternative and subject to Section 75(13) and Section 126.

4. Confiscation of the excess stock - **Section 130(1)(ii)**; fine in lieu of confiscation [Section 130(2)]: not exceeding the market value less the tax chargeable, and such that the aggregate of fine and penalty is not less than 100% of the tax payable on the goods. Here the tax on the excess goods is Rs.20,67,120/-. With a penalty of only Rs.20,000/- under Section 122(1)(xvi) a fine of 10% of the ceiling would be Rs.11,48,400/-, and the aggregate (Rs.11,68,400/-) would be *below* the floor; the fine must be at least Rs.20,47,120/-. A fine of 20% of the ceiling, Rs.22,96,800/-, is proposed.

5. Penalty on the Company for the excess stock - Section 122(1)(xvi) (failure to keep and maintain books and records), Rs.10,000/- under each Act (the amount being the minimum, since no tax evaded on this part has been quantified).

6. Mr. Z - he is the director in charge of the affairs of the Company, maintained the diary, sold the goods and gave instructions. He is proposed to be penalised under **Section 122(3)(a)** (aids or abets the offences under Section 122(1)(xv) and (xvi)), up to Rs.25,000/- under each Act. **Section 137** (offences by companies) deals with offences and prosecution of persons in charge and is considered only for the purposes of prosecution, which is not proposed: the tax involved (Rs.24,05,340/-) is below Rs.1 crore, the lowest monetary threshold in the tiers of Section 132(1).

7. Authority - central tax in the demand is Rs.12,02,670/-, above Rs.10 lakh and up to Rs.1 crore, so the Deputy/Assistant Commissioner is the proper officer to adjudicate (Circular 31/05/2018-GST dated 09.02.2018) and the same officer is proposed as the authority to decide the confiscation and penalty under Section 130.

Working 1 - tax on the shortage (clandestine removal) - Section 74A:

Grade	Shortage (MT)	Rate (Rs./MT)	Taxable value (Rs.)	CGST @9% (Rs.)	DGST @9% (Rs.)
HDPE film grade	55	1,05,000	57,75,000	5,19,750	5,19,750
LDPE	52	1,12,000	58,24,000	5,24,160	5,24,160
LLDPE	18	98,000	17,64,000	1,58,760	1,58,760
TOTAL	**125**		**1,33,63,000**	**12,02,670**	**12,02,670**

Working 2 - excess goods - Section 130 (value and market value inclusive of tax):

Grade	Excess (MT)	Rate (Rs./MT)	Value (Rs.)	Tax @18% (Rs.)
HDPE injection grade	61	1,08,000	65,88,000	11,85,840
HDPE pipe grade	48	1,02,000	48,96,000	8,81,280
TOTAL	**109**		**1,14,84,000**	**20,67,120**

Item	Rs.
Market value of the excess goods (value + tax)	1,35,51,120
Ceiling of the fine = market value less tax chargeable	1,14,84,000
Minimum fine so that fine + penalty on the Company is not less than the tax	20,47,120
Fine proposed (20% of the ceiling) - shared equally between CGST and DGST	22,96,800
Fine + penalty on the Company (Rs.20,000/-)	**23,16,800**

Basis: *Polymers of ethylene in primary forms of heading 3901 fall in Schedule II, S.No. 114 of Notification No. 9/2025-Central Tax (Rate) dated 17.09.2025, taxable at 9% CGST (+ 9% State tax) from 22.09.2025.* ***Cum-tax issue (not settled):*** *the working adds tax over the sale price because the Company's regular invoices show prices exclusive of tax and the cash price per diary is taken on the same basis. If the Noticee shows that the cash price actually received was all-inclusive, the tax would be Rs.20,38,424/- (18/118 of the value) instead of Rs.24,05,340/- , and the demand would be reduced; the legal position on the benefit of cum-tax in such a case was not verified and the point should be settled at adjudication on the facts.*

C. CHARGING PARAGRAPH OF THE SHOW CAUSE NOTICE

[The following is the operative charging paragraph proposed for incorporation in the Show Cause Notice at Part D below.]

Now, therefore, (1) M/s XXX Pvt. Ltd., Bawana Industrial Area, Delhi, and (2) Mr. Z, its Director, are hereby called upon to show cause in writing to the Deputy/Assistant Commissioner, CGST Division - [•], Delhi West CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) *the 109 MT of polyethylene granules (injection grade 61 MT and pipe grade 48 MT), of taxable value Rs.1,14,84,000/- and market value Rs.1,35,51,120/-, found in excess of the book stock at the godown on 03.09.2026, which the Company has not accounted for, should not be confiscated under Section 130(1)(ii) (and, in the alternative, Section 130(1)(iv)) of the CGST Act, 2017/DGST Act, 2017;*

(ii) *in the event of confiscation, a fine of Rs.22,96,800/- (Rs.11,48,400/- under each Act) in lieu of confiscation should not be imposed on the Company under Section 130(2) of the CGST Act, 2017/DGST Act, 2017;*

(iii) *an amount of Rs.12,02,670/- (Central tax) and Rs.12,02,670/- (Delhi State tax), total Rs.24,05,340/- (Rupees Twenty-Four Lakh Five Thousand Three Hundred Forty only), being tax not paid on the supply of 125 MT of polyethylene granules of taxable value Rs.1,33,63,000/- without invoice during April-August 2026, as detailed in Annexure-A, should not be demanded and recovered from the Company under Section 74A(1) of the CGST Act, 2017 and the corresponding provisions of the DGST Act, 2017;*

(iv) *interest under Section 50(1) of the CGST Act, 2017/DGST Act, 2017 on the tax at (iii) above should not be charged and recovered from the respective due dates till the date of payment;*

(v) *a penalty of Rs.12,02,670/- (Central tax) and Rs.12,02,670/- (Delhi State tax), total Rs.24,05,340/- , being equal to the tax due, should not be imposed on the Company under Section 74A(5)(ii) of the CGST Act, 2017/DGST Act, 2017 (without prejudice to the reduced penalty payable under Section 74A(9) in the event of payment within the time therein specified);*

(vi) *a penalty of Rs.10,000/- under each Act, total Rs.20,000/-, should not be imposed on the Company under Section 122(1)(xvi) of the CGST Act, 2017/DGST Act, 2017, and penalty under Section 122(1)(xv) should not be imposed in the alternative, without prejudice to (v) above and subject to Section 75(13) and Section 126;*

(vii) *a penalty of Rs.25,000/- under each Act, total Rs.50,000/-, should not be imposed on Mr. Z under Section 122(3)(a) of the CGST Act, 2017/DGST Act, 2017.*

D. DRAFT SHOW CAUSE NOTICE

F. No. GEXCOM/ADJN/SCN/[•]/2026-DLW

DIN: [Document Identification Number to be auto-generated on issue]

Office of the Deputy/Assistant Commissioner, CGST Division - [•], Delhi West CGST Commissionerate, Delhi

Date: 22.10.2026

SHOW CAUSE NOTICE

(Issued under Sections 74A and 130 of the Central Goods and Services Tax Act, 2017 read with Sections 74A and 130 of the Delhi Goods and Services Tax Act, 2017)

To,
(1) M/s XXX Pvt. Ltd.,
Bawana Industrial Area, Delhi; and
(2) Mr. Z, Director, M/s XXX Pvt. Ltd., YYYY, Delhi.

(hereinafter referred to as 'the Company' and 'Mr. Z' respectively, and together as 'the Noticees')

WHEREAS intelligence was developed by the Anti-Evasion Section of this Commissionerate that M/s XXX Pvt. Ltd. (the Company), a registered wholesale trader in polyethylene granules, was selling part of its stock for cash without invoices; the Company's reported outward supplies for April-August 2026 were not commensurate with its purchases and its bank account showed credits from persons not in its sales ledger (RUD-1);

2. AND WHEREAS on the authorisation of the Joint Commissioner (Anti-Evasion) dated 02.09.2026 under Section 67(1) (RUD-2), the premises of the Company at Bawana Industrial Area, Delhi, were inspected on 03.09.2026 in the presence of Mr. Z and two independent witnesses, and the physical stock of each grade was counted and weighed and compared with the book stock printed from the Tally stock register as on the close of business on 02.09.2026 (RUD-3: panchnama; RUD-4: stock tally). The comparison showed the following:

Grade (HSN 3901)	Book stock (MT)	Physical stock (MT)	Difference (MT)	Average rate, Aug-2026 (Rs./MT)
HDPE film grade	240	185	-55	1,05,000
HDPE injection grade	180	241	+61	1,08,000
LDPE	160	108	-52	1,12,000
LLDPE	120	102	-18	98,000
HDPE pipe grade	90	138	+48	1,02,000
TOTAL	**790**	**774**	**-16**	

3. AND WHEREAS in respect of the 109 MT of excess goods of injection and pipe grades, no purchase invoice, delivery challan or other document was produced, the goods were not entered in any stock record, and the batch labels on the bags do not appear in any purchase entry; the custodian, Mr. Z, was ordered under Section 67(2) not to remove or deal with the said goods without permission (RUD-5);

4. AND WHEREAS a diary kept in the cabinet of Mr. Z (RUD-6) records outward cash sales of film, LDPE and LLDPE grades during April-August 2026, aggregating 96 MT, with dates, party codes and amounts, none of which is in the books of account; and the bank statements of the Company (RUD-7) show

credits of Rs.1,12,50,000/- from 14 persons not in the sales ledger, the dates of which correspond to the diary entries;

5. AND WHEREAS Mr. Z in his statement dated 03.09.2026 under Section 70 (RUD-8) admitted that he looks after the entire affairs of the Company, that the shortage was due to sales for cash without bills to small traders, the quantity being 'about 125 tonnes', that the diary was maintained by him, and that the excess had been bought for cash from open-market traders at Panipat without bills; and in his further statement dated 14.09.2026 (RUD-9) he stated that the grades were 'mixed up' in the books but produced no document in support;

6. AND WHEREAS the Tally records do not show any transfer or reclassification between grades in the period, the grades are separately labelled and priced, and the excess in one grade cannot be set off against the shortage in another; the shortage is 125 MT (film grade 55 MT, LDPE 52 MT and LLDPE 18 MT) of taxable value Rs.1,33,63,000/- at the Company's own average August 2026 sale rates (RUD-10), on which tax at 18% (9% CGST + 9% DGST, Schedule II, S.No. 114 of Notification No. 9/2025-Central Tax (Rate) dated 17.09.2025) is Rs.24,05,340/-, as detailed in Annexure-A;

7. AND WHEREAS it appears that the 125 MT of goods were supplied without invoice, without being recorded in the books or declared in GSTR-1/GSTR-3B, and the proceeds were received in cash and by UPI/NEFT into the bank account, with the deliberate intent to evade tax, as shown by the diary kept outside the books, the cash sales and the admission of Mr. Z; and that this is a case of suppression of facts to evade payment of tax within the meaning of Section 74A(5)(ii), for which the Explanation 2 to Section 74A defines 'suppression' as the non-declaration of facts or information which is required to be declared in a return, statement, report or document;

8. AND WHEREAS it thus appears that the Company has contravened the following provisions of the CGST Act, 2017 (and the corresponding provisions of the DGST Act, 2017):

- Section 9(1) read with Section 15 - non-payment of tax on the supplies of 125 MT;
- Section 31(1) read with Rule 46 - non-issue of tax invoice; and Section 39(1) - non-declaration of the supplies in GSTR-3B and non-payment of the self-assessed tax;
- Section 35(1) read with Rule 56(2) - failure to maintain the stock account properly and to account for the goods;
- Section 130(1)(ii) and, in the alternative, Section 130(1)(iv) - 109 MT of goods on which tax is payable are not accounted for;

9. AND WHEREAS the Company is accordingly liable to demand and recovery of tax under Section 74A(1), interest under Section 50(1), penalty under Section 74A(5)(ii), confiscation of the excess goods and fine in lieu under Section 130 and penalty under Section 122(1)(xvi) (and, in the alternative, 122(1)(xv)), and Mr. Z is liable to penalty under Section 122(3)(a);

NOW, THEREFORE

(1) M/s XXX Pvt. Ltd., Bawana Industrial Area, Delhi, and (2) Mr. Z, its Director, are hereby called upon to show cause in writing to the Deputy/Assistant Commissioner, CGST Division - [•], Delhi West CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) the 109 MT of polyethylene granules (injection grade 61 MT and pipe grade 48 MT), of taxable value Rs.1,14,84,000/- and market value Rs.1,35,51,120/-, found in excess of the book stock at the godown on 03.09.2026, which the Company has not accounted for, should not be confiscated under Section 130(1)(ii) (and, in the alternative, Section 130(1)(iv)) of the CGST Act, 2017/DGST Act, 2017;

(ii) in the event of confiscation, a fine of Rs.22,96,800/- (Rs.11,48,400/- under each Act) in lieu of confiscation should not be imposed on the Company under Section 130(2) of the CGST Act, 2017/DGST Act, 2017;

(iii) an amount of Rs.12,02,670/- (Central tax) and Rs.12,02,670/- (Delhi State tax), total Rs.24,05,340/- (Rupees Twenty-Four Lakh Five Thousand Three Hundred Forty only), being tax not paid on the supply of 125 MT of polyethylene granules of taxable value Rs.1,33,63,000/- without invoice during April-August 2026, as detailed in Annexure-A, should not be demanded and recovered from the Company under Section 74A(1) of the CGST Act, 2017 and the corresponding provisions of the DGST Act, 2017;

(iv) interest under Section 50(1) of the CGST Act, 2017/DGST Act, 2017 on the tax at (iii) above should not be charged and recovered from the respective due dates till the date of payment;

(v) a penalty of Rs.12,02,670/- (Central tax) and Rs.12,02,670/- (Delhi State tax), total Rs.24,05,340/- , being equal to the tax due, should not be imposed on the Company under Section 74A(5)(ii) of the CGST Act, 2017/DGST Act, 2017 (without prejudice to the reduced penalty payable under Section 74A(9) in the event of payment within the time therein specified);

(vi) a penalty of Rs.10,000/- under each Act, total Rs.20,000/-, should not be imposed on the Company under Section 122(1)(xvi) of the CGST Act, 2017/DGST Act, 2017, and penalty under Section 122(1)(xv) should not be imposed in the alternative, without prejudice to (v) above and subject to Section 75(13) and Section 126;

(vii) a penalty of Rs.25,000/- under each Act, total Rs.50,000/-, should not be imposed on Mr. Z under Section 122(3)(a) of the CGST Act, 2017/DGST Act, 2017.

10. The Noticees are further informed that:

- a written reply to this notice with all documents relied on must be furnished within thirty (30) days of receipt of this notice, failing which the case will be decided ex parte on merits; an opportunity of personal hearing will be given before adjudication [Sections 74A(6), 130(4)], on a date to be intimated;
- attention is drawn to Section 74A(9) of the CGST Act, 2017/DGST Act, 2017: where the tax at (iii) and interest at (iv) are paid with a penalty of 15% of the tax before the notice, or 25% within 60 days of the issue of this notice, or 50% within 60 days of the communication of the order, all proceedings in respect of the said notice are deemed to be concluded; the concession is limited to the proceedings under Section 74A and does not extend to the confiscation and fine under Section 130;
- the goods found in excess shall remain in the custody of Mr. Z as the custodian under the order dated 03.09.2026, and shall not be removed or dealt with without the written permission of the proper officer;
- this notice is issued without prejudice to any other action that may be taken against the Noticees or any other person under the CGST Act, 2017/DGST Act, 2017 or any other law for the time being in force.

List of Relied Upon Documents (RUDs):

RUD-1: Intelligence report of the Anti-Evasion Section and analysis of returns and bank data;

RUD-2: Authorisation under Section 67(1) dated 02.09.2026;

RUD-3: Panchnama dated 03.09.2026 with the signatures of the independent witnesses;

RUD-4: Stock tally statement (physical vs. Tally book stock as on 02.09.2026) and printout of the stock register;

RUD-5: Order under Section 67(2) dated 03.09.2026 directing the custodian not to remove the excess goods;

RUD-6: Diary recovered from the cabinet of Mr. Z (relevant pages);

RUD-7: Bank statements of the Company for April-August 2026 with the credit analysis;

RUD-8: Statement of Mr. Z dated 03.09.2026 under Section 70;

RUD-9: Further statement of Mr. Z dated 14.09.2026;

RUD-10: Sale invoices of the Company for August 2026 and grade-wise average rate working;

Annexure-A: Grade-wise computation of tax on the shortage, market value, ceiling and fine on the excess goods [as per Part B].

(_____)
Deputy/Assistant Commissioner, CGST
Division - [•], Delhi West CGST Commissionerate

Copy to: The Superintendent, CGST Range - [•], Delhi West (for service and for compliance of the custody order).

Drafting note (not part of the notice):

- *The addressee, jurisdictional range/officer, F. No./DIN and dates shown in square brackets/blanks are illustrative placeholders and must be completed with the correct particulars before issue.*
- ***Excess and shortage need different remedies** - tax on the clandestine removal of the shortage under Section 74A; confiscation and fine on the excess under Section 130. Do not demand tax under Section 74A on the excess merely because it is unaccounted, unless there is evidence of its supply.*
- ***The floor in Section 130(2)** (aggregate of fine and penalty not less than 100% of the tax payable on the goods) must be checked every time. In this exercise a fine of 10% of the ceiling would have fallen below it; always compute the minimum fine and keep the proposal above it.*
- ***Cum-tax.** Whether the cash price recovered on the clandestine sales is to be treated as inclusive of tax (and the tax computed as 18/118) was not verified from any authority; the draft takes the additive method and notes the alternative figure. The point is likely to be raised in the reply.*
- ***Interest.** For a complete SCN, interest should be computed month-wise by assigning removals to the months of the diary entries; the draft gives an illustrative figure to keep the exercise manageable.*
- ***Section 137** - whether the penal provisions can be applied to a director under Section 137 (as opposed to Section 122(3)(a)) was not settled from the sources consulted. Section 137 is therefore not relied on for penalty.*
- ***Time limit under Section 67(7)** - if the excess goods were seized rather than placed under a custody order, the notice must issue within six months of the seizure (extendable by six months for sufficient cause), failing which the goods are to be returned.*
- *Electronic and diary evidence should be authenticated and the persons from whom it was recovered should be given the opportunity to explain the entries; the draft relies on the statement, the diary and the bank trail together, not on any one alone.*
- *The draft should be settled by the jurisdictional Range/Division before issue (DRC-01), including verification of the monetary-limit-based issuing/adjudicating authority under Circular No. 31/05/2018-GST dated 09.02.2018 (Superintendent: central tax up to Rs.10 lakh; Deputy/Assistant Commissioner:*

above Rs.10 lakh up to Rs.1 crore; Additional/Joint Commissioner: above Rs.1 crore). Here the central tax demand is Rs.12,02,670/-, so the Deputy/Assistant Commissioner issues the notice.

- *Return of non-RUDs (Non-Relied Upon Documents): When the SCN is issued to the taxpayer in the form of DRC-01 (uploaded on the portal if registered, as well as delivered as per the provisions of law), non-RUDs must be returned to the noticee under due acknowledgement within seven days of issuance of the SCN.*

***

Exercise 27

Minor errors in transit documents (vehicle number in Part B, e-way bill expired by a few hours) - Section 129 or a proportionate response under Sections 125 and 126?

Exercise 27: Minor errors in transit documents (vehicle number in Part B, e-way bill expired by a few hours) - Section 129 or a proportionate response under Sections 125 and 126?

Situation in Brief:

1. On 17.10.2026 at about 02:45 hours, a mobile squad of the Bhubaneswar CGST Commissionerate, on routine road-check duty on NH-16 near Khurda, Odisha, intercepted two goods carriages of M/s XXX, a goods transport agency of Cuttack (proprietor Mr. Z), travelling about 20 minutes apart: Consignment-1 in truck OD-02-AB-1001 and Consignment-2 in truck OD-02-CD-2002. Both carried Portland cement (HSN 2523) in 50 kg bags from M/s AAA, a cement dealer of Cuttack, to M/s BBB, a builder of Berhampur, Odisha (a distance of about 190 km). The statements of the persons in charge of the vehicles were recorded in FORM GST MOV-01.

2. **Consignment-1** (truck OD-02-AB-1001): the driver produced tax invoice no. AAA/26-27/2210 dated 16.10.2026 for 800 bags at Rs.395/- per bag (taxable value Rs.3,16,000/-; CGST Rs.28,440/- and OGST Rs.28,440/- charged) and a valid e-way bill generated on 16.10.2026 at 19:30 hours. On verification on the portal, the vehicle number entered in Part B of the e-way bill was OD-02-AB-1010, whereas the number of the truck actually carrying the goods was OD-02-AB-1001, i.e. the last two digits were transposed. The truck's registration certificate, driver's statement and the lorry receipt, all in the number OD-02-AB-1001, were produced. The transporter's operator, who had entered the vehicle number, admitted a typing mistake.

3. **Consignment-2** (truck OD-02-CD-2002): the driver produced tax invoice no. AAA/26-27/2198 dated 15.10.2026 for 700 bags at Rs.395/- per bag (taxable value Rs.2,76,500/-; CGST Rs.24,885/- and OGST Rs.24,885/- charged), and an e-way bill generated on 15.10.2026 at 21:10 hours, with the correct vehicle number in Part B. The e-way bill, for a distance of about 190 km, had a validity of one day, which expired at midnight of 16.10.2026. The truck was intercepted at 02:45 hours on 17.10.2026, i.e. two hours and forty-five minutes after the e-way bill expired, about 150 km short of Berhampur. The driver stated that, the loading having been delayed, the truck left Cuttack only at about 17:30 hours on 16.10.2026; that it developed a clutch failure at about 20:30 hours near Bhubaneswar and was repaired at a roadside garage there, after which it resumed the journey at about 01:50 hours on 17.10.2026; he produced the garage job card and bill dated 16.10.2026 and 17.10.2026, and the FASTag record of the vehicle (passing the Cuttack toll at 18:10 hours on 16.10.2026 and the Khurda toll at 02:20 hours on 17.10.2026) was consistent with this. The operator of M/s XXX stated that he did not know of the breakdown till the next morning and had not extended the validity of the e-way bill.

4. In both cases the invoices are genuine and are recorded in the outward supply register of M/s AAA; the quantity and description of the goods tallied with the invoices on counting (MOV-04); the payment by M/s BBB to M/s AAA by RTGS on 14.10.2026 was verified; and the delivery at Berhampur on the same morning was confirmed by M/s BBB. M/s XXX has been registered since 2019, and the records of the Commissionerate show no prior detention, notice or default against it. Mr. Z cooperated, appeared on 17.10.2026 and stated that the transporter's staff had been told to enter the vehicle number only from the registration certificate and that they would improve the controls.

5. The officer allowed Consignment-1 to proceed after verification; in the case of Consignment-2 the officer recorded that the vehicle was still within eight hours of the expiry of the e-way bill, directed the transporter to extend the validity on the portal after updating Part B, and allowed the vehicle to proceed on the extension being done at 03:40 hours on 17.10.2026 (the extension is recorded on the portal). Neither the vehicles nor the goods were detained under MOV-06. The officer has to decide whether any action is called for under Section 129, or under any other provision, and if so against whom and in what amount.

6. Now in the light of the above, -

(i) Identify the provision(s) of GST law contravened by M/s XXX (under heading **Contravention**).

(ii) Identify the provision(s) of GST law under which action is to be taken against M/s XXX (under heading **Consequences of Contravention of legal Provisions**).

(iii) Draft the **Charging Paragraph** of the Show Cause Notice proposed to be issued to M/s XXX, calling upon M/s XXX (transporter), through its Proprietor Mr. Z to show cause as to why action should not be taken against them, while listing the proposed action to be taken against M/s XXX (transporter), through its Proprietor Mr. Z.

(iv) Also prepare the **draft Show Cause Notice** for issuance to M/s XXX.

***

SUGGESTED SOLUTION

(Interception, Evaluation of the response and Draft Notice under Section 125 read with Section 126 - M/s XXX, Prop. Mr. Z, Bhubaneswar CGST Commissionerate)

A. CONTRAVENTION

On the facts as recorded, the following technical contraventions are noticed (read with the corresponding provisions of the Odisha Goods and Services Tax Act, 2017 [OGST Act] and the Rules made under the two Acts):

1. **Rule 138(2) and Rule 138(5) read with Rule 138A(1)(b) of the CGST Rules, 2017** (Consignment-1) - the Part B of the e-way bill must carry the number of the conveyance actually used; the number entered (OD-02-AB-1010) was not the number of the vehicle which carried the goods (OD-02-AB-1001). The error is of two characters (transposition of two digits).
2. **Rule 138(10) read with Rule 138A(1)(b)** (Consignment-2) - the goods were being carried on an e-way bill whose validity had expired by two hours and forty-five minutes, no extension having been made before the interception, though the extension was still possible within eight hours of the expiry.
3. **Section 125 of the CGST Act, 2017** - general penalty, up to Rs.25,000/-, for contravention of the Act or Rules for which no penalty is separately provided.

Note: This is the 'do not over-charge' exercise. Provisions considered and consciously NOT invoked, with reasons: *(1)* ***Section 129*** *- it is a literal possibility on both consignments (there was no valid e-way bill for Consignment-2, and for Consignment-1 the e-way bill did not match the conveyance), but Circular No. 64/38/2018-GST dated 14.09.2018 (para 4) states that Section 129 proceedings should not be started for every mistake in the documents; para 5(f) specifically lists an error in one or two digits or characters of the vehicle number as a situation where Section 129 proceedings may not be initiated, with a penalty of Rs.500/- each under Section 125 of the CGST Act and the State Act (para 6). The expiry of the validity by a few hours, when the vehicle had broken down and is documented as such, is not listed but the list is introduced by the words 'inter alia'; there is no other circumstance that shows an intent to evade or a risk to revenue. (2)* ***Section 130*** *- requires intent to evade tax, which is absent. (3)* ***Section 122(1)(xiv)*** *- the goods did move under documents, which were defective but genuine. (4)* ***Section 126*** *- since the Act fixes the penalty under Section 129(1) as a percentage of tax, the discretion in Section 126 would not be available if Section 129 were invoked [Section 126(6)]; so the discipline is exercised by the choice of provision at the beginning (Section 125, to which Section 126 applies), not by reducing a Section 129 penalty afterwards. (5)* ***Demand of tax*** *- none; the tax was charged and accounted for by the supplier.*

B. CONSEQUENCES OF CONTRAVENTION OF LEGAL PROVISIONS

The decision on the response is a proportionality judgement, taken in the following sequence:

1. Are the invoice and a genuine e-way bill both present, and is the defect only in the particulars? Consignment-1: yes. Consignment-2: the e-way bill is genuine but its validity had lapsed by less than three hours. Under Circular 64/38/2018-GST (para 5) the relief applies where *both* the invoice and the e-way bill accompany the goods.
2. Is the defect within the list in para 5 of the Circular? Consignment-1: yes, para 5(f) (error in one or two digits/characters of the vehicle number). Consignment-2: no, the expiry of validity is not listed. The list is illustrative ('inter alia'), and the proper officer, under the guidance of para 4 that proceedings should not be started for every mistake, may treat a case of similar gravity in the same manner. This is a judgement call and it should be recorded with reasons; a contrary view, that expiry is a substantive default for which Section 129 is attracted, can reasonably be taken.
3. Is there any indication of intent to evade tax or risk to revenue? None in either case: the invoices are genuine and recorded, the tax is charged and accounted for, the payment is through banking channels,

the quantity tallies, the breakdown is established by independent evidence (job card, FASTag logs), the transporter is a first-time defaulter and has corrected the position promptly.

4. Result - no proceedings under Sections 129 or 130; goods not detained; a penalty under **Section 125** of Rs.500/- under the CGST Act and Rs.500/- under the OGST Act per consignment (Rs.2,000/- in all), as prescribed for the listed errors by para 6 of the Circular, and the same quantum applied by analogy to Consignment-2. For the listed error (Consignment-1) the Circular says the penalty is to be imposed in FORM GST DRC-07 and a record of such consignments sent weekly to the controlling officer. Since Section 126(3) requires an opportunity of being heard before any penalty is imposed, and para 6 does not dispense with it, a short notice is issued (Part D) and the order is passed thereafter, with the nature of the breach and the provision under which the penalty is imposed stated in the order [Section 126(4)].

5. Alternative - nil penalty - on Consignment-2, if the proper officer is satisfied that the breach is a minor, easily rectifiable and bona fide breach without fraud or gross negligence [Section 126(1)], he may drop the proceeding with an advisory letter. Whether a breach in which no tax is in dispute is a 'minor breach' within the Explanation to Section 126(1) (breach where the tax involved is less than Rs.5,000/-) is a point of interpretation that has not been tested here; if a nil penalty is chosen the file should record the reasons. A nil penalty is not recommended for Consignment-1, for which the Circular itself prescribes Rs.500/- each.

6. Whom to charge? Part B of the e-way bill was filled in by the transporter M/s XXX on the consignor's authorisation, and the vehicle, the driver and the Part B belong to it. The penalty is therefore proposed on M/s XXX, not on the consignor M/s AAA (who generated nothing and whose invoices are correct) nor on the consignee M/s BBB.

Comparison - what the over-charging alternative would have cost:

Consignment	Value (Rs.)	Tax payable (Rs.)	If Section 129(1)(a) applied: 200% (Rs.)	Proposed under Section 125 (Rs.)
Consignment-1	3,16,000	56,880	1,13,760	1,000
Consignment-2	2,76,500	49,770	99,540	1,000
TOTAL	**5,92,500**	**1,06,650**	**2,13,300**	**2,000**

Basis: *Cement of heading 2523 is taxable at 9% CGST + 9% State tax under Schedule II, S.No. 9 of Notification No. 9/2025-Central Tax (Rate) dated 17.09.2025 (from 22.09.2025). The e-way bill generated at 21:10 hours on 15.10.2026 for a distance of about 190 km has a validity of one day (up to 200 km), each day being counted as expiring at midnight of the day following the date of generation [Rule 138(10) and Explanation 1], i.e. midnight at the end of 16.10.2026. The validity may be extended within eight hours from the time of its expiry [as per Rule 138(10), third proviso - this proviso was verified from one secondary source only and must be checked against the current Rules before the notice is issued].*

C. CHARGING PARAGRAPH OF THE SHOW CAUSE NOTICE

[The following is the operative charging paragraph proposed for incorporation in the Notice at Part D below.]

Now, therefore, M/s XXX, a goods transport agency of Cuttack, Odisha, through its Proprietor Mr. Z, is hereby called upon to show cause in writing to the Superintendent, CGST Range - [•], Bhubaneswar CGST Commissionerate, within seven (7) days of the receipt of this notice, as to why:

(i) *in respect of Consignment-1 (800 bags of Portland cement under tax invoice no. AAA/26-27/2210 dated 16.10.2026, in truck OD-02-AB-1001), the vehicle number entered in Part B of the e-way bill being OD-02-AB-1010 instead of OD-02-AB-1001, a penalty of Rs.500/- under Section 125 of the CGST Act, 2017 and Rs.500/- under Section 125 of the OGST Act, 2017, total Rs.1,000/-, should*

not be imposed on M/s XXX for contravention of Rule 138 and Rule 138A of the CGST Rules, 2017, as provided in paras 5(f) and 6 of Circular No. 64/38/2018-GST dated 14.09.2018;

(ii) *in respect of Consignment-2 (700 bags of Portland cement under tax invoice no. AAA/26-27/2198 dated 15.10.2026, in truck OD-02-CD-2002), the goods being carried on 17.10.2026 at 02:45 hours on an e-way bill whose validity had expired at midnight of 16.10.2026 without extension, a penalty of Rs.500/- under Section 125 of the CGST Act, 2017 and Rs.500/- under Section 125 of the OGST Act, 2017, total Rs.1,000/-, should not be imposed on M/s XXX for contravention of Rule 138(10) and Rule 138A(1)(b) of the CGST Rules, 2017, having regard to the principle of proportionality in Section 126(2).*

D. DRAFT SHOW CAUSE NOTICE

F. No. GEXCOM/ADJN/125/[•]/2026-BBSR

DIN: [Document Identification Number to be auto-generated on issue]

Office of the Superintendent, CGST Range - [•], Division - [•], Bhubaneswar CGST Commissionerate, Odisha

Date: 20.10.2026

SHOW CAUSE NOTICE

(Notice of proposed penalty under Section 125 read with Section 126 of the Central Goods and Services Tax Act, 2017 and the corresponding provisions of the Odisha Goods and Services Tax Act, 2017; no proceedings under Section 129 or Section 130 are initiated)

To,
Mr. Z,
Proprietor, M/s XXX,
YYYY, Cuttack, Odisha.

(hereinafter referred to as 'the Noticee', which expression shall include M/s XXX and Mr. Z, being one and the same 'person' within the meaning of Section 2(84) of the CGST Act, 2017)

WHEREAS on 17.10.2026 at about 02:45 hours a mobile squad of this Commissionerate intercepted two trucks of the Noticee, OD-02-AB-1001 (Consignment-1) and OD-02-CD-2002 (Consignment-2), on NH-16 near Khurda, carrying a total of 1,500 bags of Portland cement from M/s AAA, Cuttack, to M/s BBB, Berhampur; the statements of the drivers were recorded in FORM GST MOV-01 (RUD-1);

2. AND WHEREAS Consignment-1 was accompanied by tax invoice no. AAA/26-27/2210 dated 16.10.2026 (800 bags; taxable value Rs.3,16,000/-) and an e-way bill generated on 16.10.2026 whose Part B carried the vehicle number OD-02-AB-1010 instead of the actual OD-02-AB-1001, the last two digits being transposed, as admitted by the Noticee's operator (RUD-2, RUD-3);

3. AND WHEREAS Consignment-2 was accompanied by tax invoice no. AAA/26-27/2198 dated 15.10.2026 (700 bags; taxable value Rs.2,76,500/-) and an e-way bill generated on 15.10.2026 at 21:10 hours, the validity of which expired at midnight of 16.10.2026, and the truck was intercepted 2 hours 45 minutes after the expiry, no extension having been made by the Noticee before the interception (RUD-4, RUD-5); the truck had suffered a breakdown at about 20:30 hours on 16.10.2026 as shown by the garage job card and FASTag record (RUD-6);

4. AND WHEREAS the invoices are genuine and recorded in the supplier's records, the quantity and description of goods tallied, the payment was through banking channels, and the goods were delivered; no tax is found to be unpaid or evaded and no intent to evade tax is established (RUD-7). It is therefore considered that proceedings under Section 129 or Section 130 are not warranted, as guided by paras 4 to 6 of Circular No. 64/38/2018-GST dated 14.09.2018, and the vehicles and goods were not detained; the extension of the e-way bill for Consignment-2 was made at 03:40 hours on 17.10.2026 on the direction of the officer;

5. AND WHEREAS it appears that the Noticee has contravened Rule 138 and Rule 138A(1)(b) of the CGST Rules, 2017 (and the corresponding rules of the OGST Rules) as regards the particulars of the e-way bill in respect of Consignment-1 (error in two characters of the vehicle number, para 5(f) of the Circular) and as regards its validity in respect of Consignment-2, for which no specific penalty is provided and the general penalty under Section 125 is attracted; and that, having regard to the facts above and to the principle of proportionality in Section 126(2), a penalty of Rs.500/- under each Act per consignment is considered sufficient;

NOW, THEREFORE

M/s XXX, Cuttack, Odisha, through Mr. Z, its Proprietor, is hereby called upon to show cause in writing to the Superintendent, CGST Range - [•], Bhubaneswar CGST Commissionerate, within seven (7) days of the receipt of this notice, and to appear for personal hearing on the date to be intimated, as to why:

(i) in respect of Consignment-1 (800 bags of Portland cement under tax invoice no. AAA/26-27/2210 dated 16.10.2026, in truck OD-02-AB-1001), the vehicle number entered in Part B of the e-way bill being OD-02-AB-1010 instead of OD-02-AB-1001, a penalty of Rs.500/- under Section 125 of the CGST Act, 2017 and Rs.500/- under Section 125 of the OGST Act, 2017, total Rs.1,000/-, should not be imposed on M/s XXX for contravention of Rule 138 and Rule 138A of the CGST Rules, 2017, as provided in paras 5(f) and 6 of Circular No. 64/38/2018-GST dated 14.09.2018;

(ii) in respect of Consignment-2 (700 bags of Portland cement under tax invoice no. AAA/26-27/2198 dated 15.10.2026, in truck OD-02-CD-2002), the goods being carried on 17.10.2026 at 02:45 hours on an e-way bill whose validity had expired at midnight of 16.10.2026 without extension, a penalty of Rs.500/- under Section 125 of the CGST Act, 2017 and Rs.500/- under Section 125 of the OGST Act, 2017, total Rs.1,000/-, should not be imposed on M/s XXX for contravention of Rule 138(10) and Rule 138A(1)(b) of the CGST Rules, 2017, having regard to the principle of proportionality in Section 126(2).

6. The Noticee is further informed that:

- a written reply may be filed within seven (7) days of receipt, failing which the order will be passed on the available records; a personal hearing will be given before any penalty is imposed [Section 126(3)];
- if the Noticee wishes to pay the amount proposed, he may do so and intimate the officer, in which case the penalty order will be passed in FORM GST DRC-07 (para 6 of Circular No. 64/38/2018-GST); the provisions of Section 74A(8) and (9) do not apply, as this notice is not for demand of tax;
- the order will state the nature of the breach and the provision under which the penalty is imposed [Section 126(4)], and a record of the consignment will be sent to the controlling officer as required by the Circular;
- this notice is issued without prejudice to any other action that may be taken against the Noticee or any other person under the CGST Act, 2017/OGST Act, 2017 or any other law for the time being in force.

List of Relied Upon Documents (RUDs):

RUD-1: Statements of the drivers in FORM GST MOV-01 dated 17.10.2026 and physical verification report (MOV-04);

RUD-2: Tax invoice no. AAA/26-27/2210 dated 16.10.2026, e-way bill print (Part B) and registration certificate of truck OD-02-AB-1001;

RUD-3: Statement of the operator of M/s XXX dated 17.10.2026;

RUD-4: Tax invoice no. AAA/26-27/2198 dated 15.10.2026 and e-way bill print for Consignment-2 with validity details;

RUD-5: Portal record of extension of validity made at 03:40 hours on 17.10.2026;

RUD-6: Garage job card and bill, and FASTag records of truck OD-02-CD-2002;

RUD-7: RTGS advice of M/s BBB dated 14.10.2026, outward register extract of M/s AAA and delivery confirmation by M/s BBB;

Annexure-A: Comparison of the amounts under Section 129(1)(a) and the amounts proposed [as per Part B].

(_____)
Superintendent, CGST
Range - [•], Division - [•], Bhubaneswar CGST Commissionerate

Copy to: The Deputy/Assistant Commissioner, CGST Division, Bhubaneswar, for information; the controlling officer (weekly record).

Drafting note (not part of the notice):

- *The addressee, jurisdictional range/officer, F. No./DIN and dates shown in square brackets/blanks are illustrative placeholders and must be completed with the correct particulars before issue.*
- ***The best notice may be no notice.*** *If the Commissionerate's practice, under para 6 of Circular 64/38/2018-GST, is to impose the Rs.500/- penalty directly by an order in FORM GST DRC-07, the Part D draft is the short pre-order notice that satisfies Section 126(3). For Consignment-2 a nil-penalty advisory letter is equally defensible (Part B, item 5).*
- ***Section 126(6) is the trap.*** *The proportionality in Section 126 does not reach a penalty fixed as a percentage (Section 129). An officer who starts with Section 129 for a technical lapse has no power to reduce the penalty to Rs.500/- later; the proportionality must be exercised in choosing not to invoke Section 129. This is the learning point of the exercise.*
- ***Independent evidence of the explanation*** *(job card, FASTag record, payment trail, supplier's records) should be placed on record before dropping Section 129; without it, the 'breakdown' explanation could not be accepted.*
- ***Why the transporter is charged, not the owner or consignor:*** *the defects are in the transport particulars (Part B, validity), which are within the transporter's province. If the consignor itself had generated and failed to update the e-way bill, the notice would be addressed to him.*
- ***Unverified point.*** *The eight-hour window for extension after expiry [Rule 138(10)] was confirmed from only one secondary source, and no CBIC circular specifically dealing with expired e-way bills was located; both must be checked before issue. The treatment of expiry by analogy with para 5 of Circular 64/38/2018 is the draft's judgement and is flagged as such.*
- ***Over-charging risk*** *- issuing a Section 129 notice for a penalty of over Rs.2 lakh in these facts invites reversal on appeal and defeats the Department's own circular; the monetary comparison in Part B shows the order of difference.*
- *The draft should be settled by the jurisdictional Range/Division before issue (DRC-01), including verification of the monetary-limit-based issuing/adjudicating authority under Circular No. 31/05/2018-GST dated 09.02.2018 (Superintendent: central tax up to Rs.10 lakh; Deputy/Assistant Commissioner: above Rs.10 lakh up to Rs.1 crore; Additional/Joint Commissioner: above Rs.1 crore). This exercise involves penalty only and no demand of tax, so the monetary limits do not strictly apply; the Superintendent signs as the officer in the jurisdictional Range.*
- *Return of non-RUDs (Non-Relied Upon Documents): When the SCN is issued to the taxpayer in the form of DRC-01 (uploaded on the portal if registered, as well as delivered as per the provisions of law), non-RUDs must be returned to the noticee under due acknowledgement within seven days of issuance of the SCN.*

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Exercise 28

Composition taxpayer issuing tax invoices and collecting GST from customers, and concealing turnover

Exercise 28: Composition taxpayer issuing tax invoices and collecting GST from customers, and concealing turnover

Situation in Brief:

1. The Anti-Evasion Branch of Raipur CGST Commissionerate, while analysing the GSTR-3B returns of registered recipients for FY 2024-25, noticed that six business recipients had claimed input tax credit on invoices bearing the GSTIN of M/s XXX, Raipur, Chhattisgarh (a proprietary concern of Mr. Z, dealing in wholesale trading of electrical and hardware goods at YYYY, Raipur), although none of those invoices appeared in their auto-drafted statements in FORM GSTR-2B. Verification on the common portal on 15.06.2026 showed that M/s XXX had opted to pay tax under the composition scheme of Section 10 with effect from 01.04.2024 (intimation in FORM GST CMP-02 filed on 21.03.2024), had paid composition tax through the quarterly statements in FORM GST CMP-08 and had filed the annual return in FORM GSTR-4 for FY 2024-25. Its aggregate turnover in FY 2023-24 was Rs.1,12,00,000/-.

2. Letters were sent to the six recipients on 18.06.2026. M/s AAA, a civil contractor of Raipur, produced on 24.06.2026 twelve invoices issued by M/s XXX in FY 2024-25. Each was headed 'TAX INVOICE', carried the GSTIN of M/s XXX, described the goods with HSN codes, and showed Central tax at 9% and Chhattisgarh State tax at 9% as separate line items, in addition to the value of goods. M/s AAA also produced its bank statement showing that it had paid the full invoice amount (value of goods plus the tax shown) by RTGS.

3. On 18.08.2026 the business premises and godown of M/s XXX were searched under Section 67(1) of the CGST Act, 2017 on the authorisation of the Joint Commissioner. The following were recovered and seized under panchnama: (a) three bound books of invoices in the series 'TI/24-25' containing 187 tax invoices issued to registered business customers; (b) a hand-written register headed 'GST Received' recording, invoice by invoice, the tax shown on those invoices; (c) a desktop computer with billing software, a forensic image of which was taken in the presence of Mr. Z; (d) a pocket diary headed 'Not in books', recording cash sales to walk-in customers; and (e) the books of account in Tally, the CMP-08 and GSTR-4 filings, and bank statements for FY 2024-25.

4. Statements of Mr. Z were recorded under Section 70 of the CGST Act, 2017 on 19.08.2026 and 02.09.2026. He stated, inter alia, that he opted for the composition scheme because the turnover of the business was below Rs.1.5 crore; that many of his business customers, particularly contractors and manufacturers, insisted on tax invoices so that they could claim input tax credit, and he therefore started issuing 'tax invoices' from April 2024 and charging GST at 18% on them; that he knew that a composition dealer was not to charge GST but was 'managing the difference' because he thought that the Government would not lose anything if the customers got their credit; that the amounts so collected were recorded in the 'GST Received' register and used for working capital and for purchases of stock, and only composition tax at 1% on the declared turnover was deposited; that the diary contains cash sales to walk-in customers, for which neither bill nor entry in the books was made, and the same were not included in his CMP-08 statements; and that he was willing to deposit the amounts if they were determined.

5. Scrutiny of the seized records, the Tally data, the forensic image, the CMP-08 statements, the GSTR-4 and the bank statements showed that (a) all the 187 'tax invoices' relate to intra-State sales to registered customers at Raipur and other places in Chhattisgarh; (b) the taxable value of those sales is included in the turnover declared in CMP-08, on which composition tax at the rate of 0.5% (Central) plus 0.5% (State) was paid, but the GST of 18% collected was not deposited in the Government account; (c) bank credits for those invoices match the invoice value inclusive of the tax shown; and (d) the diary records cash sales not included in the books. The quarter-wise position is as follows:

Quarter	Turnover shown in CMP-08 (Rs.)	Of which: B2B sales on 'tax invoices' (Rs.)	GST @18% charged on those invoices (Rs.)	Cash sales noted in diary, not in books (Rs.)
Q1 (Apr-Jun 2024)	29,00,000	10,00,000	1,80,000	3,00,000
Q2 (Jul-Sep 2024)	31,00,000	12,00,000	2,16,000	5,00,000
Q3 (Oct-Dec 2024)	34,00,000	13,00,000	2,34,000	6,00,000
Q4 (Jan-Mar 2025)	30,00,000	11,00,000	1,98,000	4,00,000
FY 2024-25	**1,24,00,000**	**46,00,000**	**8,28,000**	**18,00,000**

6. Now in the light of the above, -

(i) Identify the provision(s) of GST law contravened by M/s XXX (under heading **Contravention**).

(ii) Identify the provision(s) of GST law under which action is to be taken against M/s XXX (under heading **Consequences of Contravention of legal Provisions**).

(iii) Draft the **Charging Paragraph** of the Show Cause Notice proposed to be issued to M/s XXX, calling upon M/s XXX and Mr. Z to show cause as to why action should not be taken against them, while listing the proposed action to be taken against M/s XXX and Mr. Z.

(iv) Also prepare the **draft Show Cause Notice** for issuance to M/s XXX.

***

SUGGESTED SOLUTION

(Search, statements, Determination of Liability under Section 76 and Section 74A, and Draft Show Cause Notice - M/s XXX, Prop. Mr. Z, Raipur CGST Commissionerate)

A. CONTRAVENTION

On the facts as recorded, the following provisions of law stand contravened (in each case read with the corresponding provisions of the Chhattisgarh Goods and Services Tax Act, 2017 [CGGST Act] and the Rules made under the two Acts):

1. **Section 10(4) of the CGST Act, 2017** - a person paying tax under the composition scheme 'shall not collect any tax from the recipient on supplies made by him'; the Noticee collected GST at 18% from the recipients on 187 invoices.
2. **Section 31(3)(c) of the CGST Act, 2017 read with Rule 5 of the CGST Rules, 2017** - a composition dealer must issue, instead of a tax invoice, a bill of supply bearing the legend 'composition taxable person, not eligible to collect tax on supplies'; the Noticee issued documents headed 'TAX INVOICE' showing Central and State tax separately.
3. **Section 76(1) of the CGST Act, 2017** - every person who has collected from any other person any amount as representing tax must pay it to the Government 'irrespective of whether the supplies in respect of which such amount was collected are taxable or not'; the amount collected on the 187 invoices has not been paid, except for the composition tax of 1% on the same turnover.
4. **Section 10(1) of the CGST Act, 2017 read with Rule 7 of the CGST Rules, 2017** - non-payment of composition tax at the prescribed rate (0.5% Central tax plus 0.5% State tax, for a trader) on the turnover of cash sales noted in the diary and omitted from the CMP-08 statements and the GSTR-4 return.
5. **Section 35(1) of the CGST Act, 2017 read with Rule 56** - failure to maintain true and correct accounts of the supplies made (cash sales were kept outside the books).

Note:* Section 10(5)** *(liability of a person who pays tax under the composition scheme although not eligible) is considered and not invoked: on the evidence the Noticee was eligible when he opted (turnover of FY 2023-24 and of FY 2024-25, even after adding the diary sales, is below Rs.1.5 crore; all supplies are intra-State goods supplies; no ineligibility under Section 10(2) is shown). The breach of Section 10(4) is dealt with under Section 76 and Section 122(1)(iv). Likewise, the denial of the composition option by FORM GST CMP-05/CMP-07 under Rule 6(4)-(5) is not proposed (see Part B, item 7).* ***Section 122(1)(iii) *is not chosen because the collection was not 'in accordance with the provisions of this Act' - it was in contravention of Section 10(4) - so clause (iv) is the apt clause.*

B. CONSEQUENCES OF CONTRAVENTION OF LEGAL PROVISIONS

The contraventions at (A) above expose M/s XXX/Mr. Z to the following action under the CGST Act, 2017 (read with the corresponding provisions of the CGGST Act, 2017). The key to the exercise is to keep two different things apart: (1) the amount *collected as tax*, which is recoverable under Section 76 irrespective of whether any tax was due on those supplies, and (2) the Noticee's own *tax liability* (composition tax) on turnover he concealed, which is recoverable under Section 74A.

1. Amount collected as tax but not paid - under **Section 76(1) and 76(2) of the CGST Act, 2017**. The Noticee collected Rs.8,28,000/- as tax (Rs.4,14,000/- Central and Rs.4,14,000/- State, at 9% each on a taxable value of Rs.46,00,000/-). Since composition tax at 0.5% each on the same supplies (Rs.23,000/- each) has been paid and included in the CMP-08 payments, that part is given credit, so that the Government is not paid twice for the same supplies; the balance, Rs.7,82,000/- (Rs.3,91,000/- each of Central and State tax), is the amount proposed to be recovered. Section 76 does not require an inquiry

whether the supplies are taxable, which is why the better view is that the ineligibility of a composition dealer to charge tax is not an answer to the demand.

2. Interest on the amount at item 1 - under **Section 76(4) of the CGST Act, 2017**, at the rate specified under Section 50(1) (18% per annum, Notification No.13/2017-Central Tax), from the date of collection of each amount (the date of the respective invoice/receipt) up to the date of payment.

3. Penalty on the amount at item 1 - a penalty equivalent to the amount specified in the notice under **Section 76(2)**, i.e. Rs.7,82,000/-. As the amount is collected tax and not the Noticee's own liability, **Section 74A(8)/(9) concessions are not available for this component**; Section 76 contains no such concession.

4. Composition tax on concealed turnover - under **Section 74A(1) of the CGST Act, 2017** (FY 2024-25 is within Section 74A, per Section 74A(12) and Notification No.17/2024-Central Tax dated 27.09.2024). Composition tax at 0.5% + 0.5% on the unrecorded turnover of Rs.18,00,000/- amounts to Rs.18,000/- (Rs.9,000/- each of Central and State tax). The notice is within the forty-two months allowed by Section 74A(2) from the due date of the annual return (GSTR-4) for FY 2024-25, and the order must be passed within twelve months of the notice [Section 74A(7)], which also satisfies the one-year limit in Section 76(6). Interest is payable under **Section 50(1)** at 18% from the due date of payment for the quarter concerned.

5. Penalty on the concealed turnover - fraud or not? The Noticee kept cash sales in a separate diary headed 'Not in books', did not enter them in Tally, omitted them from every CMP-08 statement and from the GSTR-4 return, and admitted that these were 'not in books'. That is deliberate non-declaration of facts required to be declared in the statement and return, i.e. 'suppression' within Explanation 2 to Section 74A, with intent to evade tax. Penalty is therefore proposed under **Section 74A(5)(ii)**, equal to the tax due, i.e. Rs.18,000/-. The concession is Section 74A(9): 15% of tax if paid before the notice (with interest), 25% if paid within sixty days of the notice, 50% if paid within sixty days of the order.

6. Other penalties - **Section 122(1)(iv)** (collection of tax in contravention of the Act and failure to pay it to the Government beyond three months of the date it became due) and **Section 122(1)(xv)** (suppression of turnover leading to evasion of tax) of the CGST Act, 2017 are also attracted, but, since the penalties at items 3 and 5 are proposed on the same acts and omissions, these are proposed in the alternative and without prejudice, subject to the bar on double penalty for the same act or omission [Section 75(13)] and to Section 126. No separate penalty is proposed for issuing 'tax invoices' in place of bills of supply, because that act is the very act of collection penalised at item 3.

7. Option to pay composition tax - denial of the option under Rule 6(4)-(5) (CMP-05 / CMP-07) would convert the whole turnover of FY 2024-25 to normal-rate liability, and would also double count what the Noticee has already collected from customers. It is therefore not proposed at this stage; the Noticee is, however, put on notice that continuation of the contraventions after this notice will warrant it.

8. Recipients - the six recipients that claimed input tax credit on the invoices are not noticees here. Whether the credit is admissible turns on Section 16(2) conditions (including those relating to tax actually paid to the Government and communication in the statement of inward supplies) in their own cases; the matter is to be referred, with the RUDs, to their jurisdictional officers. Payment by the Noticee under Section 76 does not by itself make the credit admissible.

9. Prosecution and recovery - Section 132(1)(d) (collection of tax and failure to pay beyond three months) was considered; the tax collected, Rs.8,28,000/-, is below the Rs.1 crore threshold of the punishment tiers in Section 132(1) and prosecution is not proposed. Unpaid amounts are recoverable under Sections 78 and 79.

Illustrative working (a): amount collected as tax and not paid [Section 76]; (b): composition tax on concealed turnover [Section 74A]

Quarter	Taxable value on tax invoices (Rs.)	CGST @9% charged (Rs.)	CGGST @9% charged (Rs.)	Composition CGST @0.5% paid (Rs.)	Composition CGGST @0.5% paid (Rs.)	Net CGST (Rs.)	Net CGGST (Rs.)
Q1 (Apr-Jun 2024)	10,00,000	90,000	90,000	5,000	5,000	85,000	85,000
Q2 (Jul-Sep 2024)	12,00,000	1,08,000	1,08,000	6,000	6,000	1,02,000	1,02,000
Q3 (Oct-Dec 2024)	13,00,000	1,17,000	1,17,000	6,500	6,500	1,10,500	1,10,500
Q4 (Jan-Mar 2025)	11,00,000	99,000	99,000	5,500	5,500	93,500	93,500
TOTAL	**46,00,000**	**4,14,000**	**4,14,000**	**23,000**	**23,000**	**3,91,000**	**3,91,000**

Quarter	Unrecorded turnover (Rs.)	Composition CGST @0.5% (Rs.)	Composition CGGST @0.5% (Rs.)
Q1 (Apr-Jun 2024)	3,00,000	1,500	1,500
Q2 (Jul-Sep 2024)	5,00,000	2,500	2,500
Q3 (Oct-Dec 2024)	6,00,000	3,000	3,000
Q4 (Jan-Mar 2025)	4,00,000	2,000	2,000
TOTAL	**18,00,000**	**9,000**	**9,000**

Basis: *Total tax/amount proposed to be recovered: Rs.7,82,000/- under Section 76 plus Rs.18,000/- under Section 74A = Rs.8,00,000/- (Central Rs.4,00,000/-, State Rs.4,00,000/-); penalties proposed: Rs.7,82,000/- under Section 76(2) plus Rs.18,000/- under Section 74A(5)(ii) = Rs.8,00,000/-; interest additional. Crediting the composition tax already paid on the invoiced supplies is a drafting choice made to avoid double recovery; the adjudicating authority may take a different view, but the choice should be stated in the notice, as is done in para 7 of the draft.*

C. CHARGING PARAGRAPH OF THE SHOW CAUSE NOTICE

[The following is the operative charging paragraph proposed for incorporation in the Show Cause Notice at Part D below.]

Now, therefore, M/s XXX, a proprietary concern of Mr. Z, situated at YYYY, Raipur, Chhattisgarh, and Mr. Z, Proprietor of M/s XXX, in his personal capacity as the 'person' and 'registered person' constituting the said proprietary concern (M/s XXX and Mr. Z being one and the same person in law), are hereby called upon to show cause in writing to the Superintendent, CGST Range - [•], Raipur CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) *the amount of Rs.7,82,000/- (Central tax Rs.3,91,000/- and Chhattisgarh State tax Rs.3,91,000/-), being the balance of the amount of Rs.8,28,000/- collected by them from recipients as representing tax on the 187 invoices headed 'Tax Invoice' during FY 2024-25, after giving credit for composition tax of Rs.46,000/- already paid on the same supplies, as detailed in Annexure-A, should not be paid to the Central Government and the Government of Chhattisgarh under Section 76(1) read with Section 76(2) of the CGST Act, 2017/CGGST Act, 2017;*

(ii) *interest at the rate specified under Section 50(1) of the CGST Act, 2017/CGGST Act, 2017 should not be paid by them on the amount at (i) above, from the date of collection till the date of payment, under Section 76(4) thereof;*

(iii) *a penalty of Rs.7,82,000/- (Central tax Rs.3,91,000/- and State tax Rs.3,91,000/-), equivalent to the amount at (i) above, should not be imposed on them under Section 76(2) of the CGST Act, 2017/CGGST Act, 2017;*

(iv) *composition tax of Rs.18,000/- (Central tax Rs.9,000/- and State tax Rs.9,000/-), not paid on the turnover of Rs.18,00,000/- suppressed from the CMP-08 statements and the GSTR-4 return for FY 2024-25, as detailed in Annexure-A, should not be demanded and recovered from them under Section 74A(1) of the CGST Act, 2017/CGGST Act, 2017 read with Section 10(1) and Rule 7 of the CGST Rules, 2017;*

(v) *interest at the applicable rate under Section 50(1) of the CGST Act, 2017/CGGST Act, 2017 should not be charged and recovered on the tax at (iv) above, from the due dates of payment for the respective quarters till the date of payment;*

(vi) *a penalty of Rs.18,000/- (Central tax Rs.9,000/- and State tax Rs.9,000/-), equal to the tax at (iv) above, should not be imposed on them under Section 74A(5)(ii) of the CGST Act, 2017/CGGST Act, 2017, for suppression of turnover with intent to evade tax (without prejudice to the benefit of reduced penalty under Section 74A(9) on payment in the time and manner therein specified);*

(vii) *penalty should not separately be imposed on them under Section 122(1)(iv) and Section 122(1)(xv) of the CGST Act, 2017/CGGST Act, 2017, in the alternative to and without prejudice to (iii) and (vi) above, and subject to Section 75(13) and Section 126 of the CGST Act, 2017.*

D. DRAFT SHOW CAUSE NOTICE

F. No. GEXCOM/ADJN/SCN/[•]/2026-RAIPUR

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Office of the Superintendent, CGST Range - [•], Division - [•], Raipur CGST Commissionerate, Chhattisgarh

Date: [•].11.2026

SHOW CAUSE NOTICE

(Issued under Sections 76 and 74A of the Central Goods and Services Tax Act, 2017 read with the corresponding provisions of the Chhattisgarh Goods and Services Tax Act, 2017)

To,
Mr. Z,
Proprietor, M/s XXX (GSTIN: [•]),
YYYY, Raipur, Chhattisgarh.

(hereinafter referred to as 'the Noticee', which expression shall, unless the context otherwise requires, include M/s XXX and Mr. Z, the two being one and the same 'person' within the meaning of Section 2(84) of the CGST Act, 2017)

WHEREAS, in the course of analysis of the returns of registered recipients for FY 2024-25, the Anti-Evasion Branch of Raipur CGST Commissionerate noticed that six recipients had claimed input tax credit on invoices bearing the GSTIN of M/s XXX, a person registered under the CGST Act, 2017/CGGST Act, 2017 who, according to the common portal, had opted to pay tax under Section 10 of the CGST Act, 2017 with effect from 01.04.2024 (RUD-1). The Noticee's aggregate turnover in FY 2023-24 was Rs.1,12,00,000/-;

2. AND WHEREAS, M/s AAA, one of the recipients, produced twelve invoices issued by the Noticee in FY 2024-25 headed 'TAX INVOICE', showing Central tax at 9% and State tax at 9% separately, together with proof of payment of the full amount including the tax shown (RUD-2 and RUD-3);

3. AND WHEREAS, the search of the premises of the Noticee on 18.08.2026 under Section 67(1) of the CGST Act, 2017 resulted in the seizure of three invoice books of the series 'TI/24-25' containing 187 tax invoices, a register headed 'GST Received', a pocket diary headed 'Not in books', the billing software with a forensic image, and the books of account and bank statements for FY 2024-25 (RUD-4 to RUD-9);

4. AND WHEREAS, in his statements recorded under Section 70 of the CGST Act, 2017 on 19.08.2026 and 02.09.2026 (RUD-10 and RUD-11), Mr. Z, inter alia, admitted and stated that:

- he had opted for the composition scheme as his turnover was below Rs.1.5 crore;
- on the insistence of business customers who wanted input tax credit, he had from April 2024 issued 'tax invoices' charging GST at 18%, knowing that a composition dealer is not to charge GST;
- the amounts collected as GST were noted in the 'GST Received' register, were used for working capital and purchase of stock, and only composition tax at 1% on the declared turnover was deposited;
- the diary records cash sales to walk-in customers for which no bill or entry in the books was made and which were not included in the CMP-08 statements; and
- he was willing to deposit the amounts determined;

5. AND WHEREAS, scrutiny of the seized records and data shows that 187 invoices of aggregate taxable value Rs.46,00,000/- carry GST of Rs.8,28,000/- (Central tax Rs.4,14,000/-, State tax Rs.4,14,000/-), that the taxable value of these invoices is part of the turnover of Rs.1,24,00,000/- declared in CMP-08 on

which composition tax of 1% was paid, and that the amount of tax collected on them was not paid to the Government. After giving credit for composition tax of Rs.46,000/- already paid on the same supplies, the balance of Rs.7,82,000/- remains collected and unpaid. The quarter-wise working is in Annexure-A (RUD-12);

6. AND WHEREAS, the diary records cash sales of Rs.18,00,000/- during FY 2024-25 which do not figure in the books or in the CMP-08 statements and GSTR-4 return. The composition tax at 0.5% (Central) plus 0.5% (State) on this turnover is Rs.18,000/-. The Noticee had no excuse for the omission: the sales were deliberately recorded in a separate diary headed 'Not in books' and kept out of the books, the statements and the return, as he admitted; the omission is therefore a suppression of facts required to be declared in the statement and return, within the meaning of Explanation 2 to Section 74A, with intent to evade tax, attracting penalty under Section 74A(5)(ii) of the CGST Act, 2017/CGGST Act, 2017;

7. AND WHEREAS, the aggregate turnover of the Noticee in FY 2024-25 including the above Rs.18,00,000/- is Rs.1,42,00,000/-, which does not exceed the limit of Rs.1.5 crore and the option under Section 10 has therefore not lapsed under Section 10(3), and no ground of ineligibility under Section 10(2) is made out. The Noticee's option to pay tax under Section 10 is accordingly not denied by this notice, and the credit for the composition tax already paid on the invoiced supplies has been given to avoid double recovery; the Noticee may make submissions on both points in his reply;

8. AND WHEREAS, it thus appears that the Noticee has contravened the following provisions of the CGST Act, 2017 (and the corresponding provisions of the CGGST Act, 2017):

- Section 10(4) - collection of tax from recipients by a composition dealer;
- Section 31(3)(c) read with Rule 5 - issue of 'tax invoices' in place of bills of supply bearing the prescribed legend;
- Section 76(1) - non-payment of the amount collected as tax;
- Section 10(1) read with Rule 7 - non-payment of composition tax on suppressed turnover;
- Section 35(1) read with Rule 56 - failure to maintain true accounts of supplies;

9. AND WHEREAS, the aforesaid acts and omissions of the Noticee render him liable to:

(a) payment of the amount collected as tax, with interest, and penalty, under Section 76 of the CGST Act, 2017/CGGST Act, 2017;

(b) demand and recovery of composition tax under Section 74A(1), with interest under Section 50(1);

(c) penalty under Section 74A(5)(ii) of the CGST Act, 2017/CGGST Act, 2017; and

(d) penalty under Sections 122(1)(iv) and 122(1)(xv) of the CGST Act, 2017/CGGST Act, 2017 (without prejudice to, and subject to Section 75(13) in relation to, the penalties at (a) and (c) above);

NOW, THEREFORE

M/s XXX, a proprietary concern of Mr. Z, situated at YYYY, Raipur, Chhattisgarh, and Mr. Z, Proprietor of M/s XXX, are hereby called upon to show cause in writing to the Superintendent, CGST Range - [•], Raipur CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) the amount of Rs.7,82,000/- (Central tax Rs.3,91,000/- and Chhattisgarh State tax Rs.3,91,000/-), being the balance of the amount of Rs.8,28,000/- collected by them from recipients as representing tax on the 187 invoices headed 'Tax Invoice' during FY 2024-25, after giving credit for composition tax of Rs.46,000/- already paid on the same supplies, as detailed in Annexure-A, should not be paid to the Central Government and the Government of Chhattisgarh under Section 76(1) read with Section 76(2) of the CGST Act, 2017/CGGST Act, 2017;

(ii) interest at the rate specified under Section 50(1) of the CGST Act, 2017/CGGST Act, 2017 should not be paid by them on the amount at (i) above, from the date of collection till the date of payment, under Section 76(4) thereof;

(iii) a penalty of Rs.7,82,000/- (Central tax Rs.3,91,000/- and State tax Rs.3,91,000/-), equivalent to the amount at (i) above, should not be imposed on them under Section 76(2) of the CGST Act, 2017/CGGST Act, 2017;

(iv) composition tax of Rs.18,000/- (Central tax Rs.9,000/- and State tax Rs.9,000/-), not paid on the turnover of Rs.18,00,000/- suppressed from the CMP-08 statements and the GSTR-4 return for FY 2024-25, as detailed in Annexure-A, should not be demanded and recovered from them under Section 74A(1) of the CGST Act, 2017/CGGST Act, 2017 read with Section 10(1) and Rule 7 of the CGST Rules, 2017;

(v) interest at the applicable rate under Section 50(1) of the CGST Act, 2017/CGGST Act, 2017 should not be charged and recovered on the tax at (iv) above, from the due dates of payment for the respective quarters till the date of payment;

(vi) a penalty of Rs.18,000/- (Central tax Rs.9,000/- and State tax Rs.9,000/-), equal to the tax at (iv) above, should not be imposed on them under Section 74A(5)(ii) of the CGST Act, 2017/CGGST Act, 2017, for suppression of turnover with intent to evade tax (without prejudice to the benefit of reduced penalty under Section 74A(9) on payment in the time and manner therein specified);

(vii) penalty should not separately be imposed on them under Section 122(1)(iv) and Section 122(1)(xv) of the CGST Act, 2017/CGGST Act, 2017, in the alternative to and without prejudice to (iii) and (vi) above, and subject to Section 75(13) and Section 126 of the CGST Act, 2017.

10. The Noticee is further informed that:

- a written reply to this notice, along with all documents relied upon, must be furnished within thirty (30) days of receipt of this notice, failing which the case will be decided ex parte on the basis of available records, on merits;
- an opportunity of personal hearing will be granted before adjudication, on a date to be separately intimated, and the Noticee (or an authorised representative) may appear in person or through counsel; a hearing under Section 76(5) will be granted if requested in writing;
- for the demand at (iv) above, which is based on suppression of facts, the reduced penalty of 15%, 25% or 50% of the tax under Section 74A(9)(i), (ii) or (iii) respectively is available if the tax and interest are paid before the issue of this notice, within sixty days of its issue, or within sixty days of communication of the order, respectively, and on such payment all proceedings in respect of the said demand shall be deemed to be concluded; no such concession is provided in Section 76 for the amount at (i) above, which, with interest, is payable forthwith under Section 76(1) and 76(4);
- this notice is issued without prejudice to any other action that may be taken against the Noticee or any other person (including the recipients of the said invoices) under the CGST Act, 2017/CGGST Act, 2017, or any other law for the time being in force.

List of Relied Upon Documents (RUDs):

RUD-1: Report of the Anti-Evasion Branch with GSTR-3B/GSTR-2B analysis of six recipients and portal status of the Noticee (composition option);

RUD-2: Letters to recipients dated 18.06.2026 and reply of M/s AAA dated 24.06.2026;

RUD-3: Twelve invoices of the Noticee produced by M/s AAA and bank statement of M/s AAA showing payment;

RUD-4: Authorisation under Section 67(1) and search panchnama dated 18.08.2026;

RUD-5: Invoice books series 'TI/24-25' (187 tax invoices);

RUD-6: Register headed 'GST Received';

RUD-7: Pocket diary headed 'Not in books';

RUD-8: Forensic image of the desktop/billing software, with certificate relating to electronic records [see Note on electronic evidence];

RUD-9: Tally data, CMP-08 statements, GSTR-4 return and bank statements for FY 2024-25;

RUD-10: Statement of Mr. Z dated 19.08.2026 under Section 70;

RUD-11: Statement of Mr. Z dated 02.09.2026 under Section 70;

RUD-12: Quarter-wise computation sheets (Annexure-A);

Annexure-A: Quarter-wise statement of (a) tax collected and composition tax paid thereon, and (b) unrecorded turnover and composition tax thereon [as per the working in Part B].

(_____)
Superintendent, CGST
Range - [•], Division - [•], Raipur CGST Commissionerate

Copy to: The Deputy/Assistant Commissioner, CGST Division, Raipur, for information.

Drafting note (not part of the notice):

- *The addressee, jurisdictional range/officer, F. No./DIN and dates shown in square brackets/blanks are illustrative placeholders and must be completed with the correct particulars before issue.*
- *The tax, interest and penalty figures are worked out on the reasoned basis explained in Part B and remain subject to reconciliation with the seized/recorded documents.*
- ***Section 76 or Section 74A for the amount collected?** The amount a composition dealer collects over and above the composition levy is not his own 'tax liability' - his liability is the composition tax. A demand for the 18% as 'tax short paid' under Section 74A would therefore assume that he was ineligible and liable to normal-rate tax, which is a different (and larger) case that depends on denying the option (Rule 6(4)-(5)). Section 76 reaches the money collected irrespective of taxability, carries its own penalty (equal to the amount) and interest from the date of collection, and is the cleaner route here. Section 74A is used for the part which really is the Noticee's own liability - the composition tax on concealed turnover. The lesson is to match the section to the character of the amount.*
- ***Fraud or not?** The two components are treated differently on purpose. The concealed cash sales (diary 'Not in books', omission from every statement and the annual return) are suppression, so Section 74A(5)(ii) is proposed. For the collected amounts the question of fraud versus non-fraud does not arise because Section 76(2) fixes a penalty equal to the amount; none of the Section 74A(8)/(9) concessions applies to it.*
- ***CAVEAT on Section 10(5):** The wording of Section 10(5) was read from the text on the cggst.com reproduction of the Act, which refers to the proper officer having reason to believe that a taxable person 'has paid tax under sub-section (1)' while not eligible, with Sections 73/74 applying mutatis mutandis; whether the current text also names Section 74A could not be confirmed from the sources available. For that reason the draft does not rely on Section 10(5).*
- ***Electronic evidence:** RUD-8 (forensic image) should be accompanied by a certificate in the form required by the provision of the Act dealing with the admissibility of electronic records (Section 145 of the CGST*

Act, 2017); the section and the format of the certificate were not independently verified in this build and should be checked before the notice is issued.

- ***Recipients' credit:*** *the six recipients are not noticees. The department's position on their ITC should be taken separately by their jurisdictional officers; no view is expressed here on whether tax paid under Section 76 by the supplier cures the Section 16(2) conditions (UNCERTAIN).*
- ***Monetary limit:*** *the Central tax involved is Rs.4,00,000/- (Rs.3,91,000/- under Section 76 plus Rs.9,000/- under Section 74A), within the Superintendent's limit. Circular No. 31/05/2018-GST was issued for Sections 73/74; its application to Section 74A and to Section 76 is by analogy and should be confirmed with the Commissionerate (UNCERTAIN). The draft should be settled by the jurisdictional Range/Division before issue (DRC-01), including verification of the monetary-limit-based issuing/adjudicating authority under Circular No. 31/05/2018-GST dated 09.02.2018 (Superintendent: central tax up to Rs.10 lakh; Deputy/Assistant Commissioner: above Rs.10 lakh up to Rs.1 crore; Additional/Joint Commissioner: above Rs.1 crore).*
- ***Credit for composition tax already paid:*** *the Noticee paid composition tax on the full turnover declared in CMP-08, including the taxable value of the invoiced sales. The draft credits the composition tax attributable to those sales against the amount collected, to avoid double recovery. There is no express rule on this; it is a drafting judgment that should be stated in the notice, as is done in the draft.*
- *Return of non-RUDs (Non-Relied Upon Documents): When the SCN is issued to the taxpayer in the form of DRC-01 (uploaded on the portal if registered, as well as delivered as per the provisions of law), non-RUDs must be returned to the noticee under due acknowledgement within seven days of issuance of the SCN.*

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Exercise 29

Continuing in the composition scheme after making inter-State supplies and crossing the turnover limit

Exercise 29: Continuing in the composition scheme after making inter-State supplies and crossing the turnover limit

Situation in Brief:

1. M/s XXX is a partnership firm, with Mr. Z and Mr. P as partners, engaged at YYYY, Ludhiana, Punjab in the manufacture of nuts, bolts and other fasteners of iron and steel (HSN 7318). Its aggregate turnover in FY 2023-24 was Rs.1,38,00,000/-. It opted to pay tax under the composition scheme of Section 10 of the CGST Act, 2017 with effect from 01.04.2024 (FORM GST CMP-02 filed on 26.03.2024) and, through its managing partner Mr. Z, paid composition tax at 0.5% Central plus 0.5% Punjab State tax on its turnover through the quarterly statements in FORM GST CMP-08 during FY 2024-25. It filed the annual return in FORM GSTR-4 for FY 2024-25 declaring a turnover of Rs.2,42,00,000/-.

2. During return scrutiny under Section 61 of the CGST Act, 2017 the officer noticed that the turnover declared in the GSTR-4 exceeded the composition limit of Rs.1.5 crore. A notice in FORM GST ASMT-10 was issued on 12.06.2026; the firm replied on 30.06.2026 that the turnover had exceeded Rs.1.5 crore only in November 2024, late in the year and that it had 'continued the same scheme' since it had not been told otherwise. The reply was not accepted as it did not address the e-way bill data (below), and the firm was informed accordingly.

3. The e-way bill data of the firm for FY 2024-25 showed that, from 14.08.2024 onwards, a large number of consignments were moved from Ludhiana to buyers in Haryana and Delhi. A summons dated 02.07.2026 was issued to Mr. Z under Section 70 of the CGST Act, 2017, and on 14.07.2026 he appeared and produced the sales register, the bills of supply, the CMP-08 statements and the GSTR-4 return, and the bank statement for FY 2024-25.

4. In his statement recorded on 14.07.2026 under Section 70, Mr. Z stated that the firm had started selling to buyers in Haryana and Delhi from the middle of August 2024 on the request of a regular customer, M/s BBB of Ambala (first consignment on 14.08.2024); that he knew of the e-way bills and that the goods were being sent out of Punjab but 'did not think it mattered'; that the firm continued to issue bills of supply and paid composition tax at 1% on all sales; that he did not know the limit of Rs.1.5 crore had been crossed until the ASMT-10 notice came; that no GST had been charged or collected from any customer; that no input tax credit had been taken; that the firm had not filed FORM GST CMP-04 or any return in FORM GSTR-1 or GSTR-3B; and that the firm would pay whatever was determined, since the books and returns disclosed everything.

5. Scrutiny of the sales register, bills of supply, e-way bill data and the bank statement, which reconcile with the CMP-08 statements and the GSTR-4, showed that all sales were of fasteners of the firm's own manufacture, and that the first inter-State consignment (to M/s BBB, Ambala, Haryana) was supplied on 14.08.2024. The cumulative turnover in the sales register reached Rs.1,50,00,000/- on 25.11.2024. The period-wise value of outward supplies, as declared in the CMP-08 statements and the GSTR-4 return, is as follows:

Period	Intra-State supplies (Rs.)	Inter-State supplies (Rs.)	Cumulative turnover (Rs.)
Apr 2024	14,00,000	-	14,00,000
May 2024	15,00,000	-	29,00,000
Jun 2024	13,00,000	-	42,00,000
Jul 2024	16,00,000	-	58,00,000
01.08.2024 - 13.08.2024	7,00,000	-	65,00,000
14.08.2024 - 31.08.2024	7,00,000	6,00,000	78,00,000
Sep 2024	13,00,000	10,00,000	1,01,00,000
Oct 2024	14,00,000	11,00,000	1,26,00,000

Nov 2024	15,00,000	11,00,000	1,52,00,000
Dec 2024	14,00,000	9,00,000	1,75,00,000
Jan 2025	13,00,000	9,00,000	1,97,00,000
Feb 2025	12,00,000	8,00,000	2,17,00,000
Mar 2025	16,00,000	9,00,000	2,42,00,000
FY 2024-25	**1,69,00,000**	**73,00,000**	**2,42,00,000**

6. Now in the light of the above, -

(i) Identify the provision(s) of GST law contravened by M/s XXX (under heading **Contravention**).

(ii) Identify the provision(s) of GST law under which action is to be taken against M/s XXX (under heading **Consequences of Contravention of legal Provisions**).

(iii) Draft the **Charging Paragraph** of the Show Cause Notice proposed to be issued to M/s XXX, calling upon M/s XXX (through its partners Mr. Z and Mr. P) to show cause as to why action should not be taken against them, while listing the proposed action to be taken against M/s XXX (through its partners Mr. Z and Mr. P).

(iv) Also prepare the **draft Show Cause Notice** for issuance to M/s XXX.

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SUGGESTED SOLUTION

(Return scrutiny, Inquiry, Determination of Tax Liability under Section 74A, and Draft Show Cause Notice - M/s XXX, Ludhiana CGST Commissionerate)

A. CONTRAVENTION

On the facts as recorded, the following provisions of law stand contravened (in each case read with the corresponding provisions of the Punjab Goods and Services Tax Act, 2017 [PGST Act], the Integrated Goods and Services Tax Act, 2017 [IGST Act] and the Rules made under the Acts):

1. **Section 10(2)(c) of the CGST Act, 2017** - a composition person must not be engaged in making any inter-State outward supplies of goods or services; from 14.08.2024 the firm made inter-State outward supplies of goods to buyers in Haryana and Delhi.
2. **Section 10(3) of the CGST Act, 2017** - the option lapses with effect from the day on which the aggregate turnover during the financial year exceeds the limit of Rs.1.5 crore (notified under the proviso to Section 10(1)); this happened on 25.11.2024. Because the ineligibility under Section 10(2)(c) arose earlier (14.08.2024), this is a second and later ground, not the operative date.
3. **Rule 6(2) of the CGST Rules, 2017** - a person who ceases to satisfy any of the conditions of Section 10 becomes liable to pay tax under Section 9(1) from the day he ceases to satisfy them, must issue a tax invoice for every taxable supply thereafter, and must file FORM GST CMP-04 within seven days of the event; none of this was done.
4. **Section 9(1) of the CGST Act, 2017 and Section 5(1) of the IGST Act, 2017** - non-payment of tax at the normal rate on the outward supplies made on and after 14.08.2024: Central tax and State tax on the intra-State supplies, and integrated tax on the supplies to Haryana and Delhi (inter-State supplies within Section 7(1)(a) of the IGST Act, since the place of supply of goods moved for delivery is the location where the movement terminates, under Section 10(1)(a) of that Act).
5. **Section 31(1) of the CGST Act, 2017 read with Rule 46** - issue of bills of supply, in place of tax invoices, for supplies after 14.08.2024; and **Sections 37(1) and 39(1)** - failure to furnish FORM GSTR-1 and FORM GSTR-3B and to pay the self-assessed tax by the due dates for the tax periods from August 2024.

Note: Section 122(1)(i) *(supply without invoice / incorrect invoice) is considered and not invoked: bills of supply were issued for every sale and recorded in the books, and the default flows from a mistaken belief in the continuing validity of the option; Section 126 (minor, rectifiable breaches without fraud or gross negligence) also points away from a separate penalty where the Act already fixes a penalty on the tax. Likewise,* ***Section 10(5)*** *(penalty for paying tax under Section 10 while not eligible) is not applicable: the firm was eligible when it opted (turnover of FY 2023-24 was below Rs.1.5 crore, and it was a manufacturer of non-notified goods), and became ineligible only later. No ITC is involved and no case of fraud is made out.*

B. CONSEQUENCES OF CONTRAVENTION OF LEGAL PROVISIONS

The contraventions at (A) above expose M/s XXX (through its partners) to the following action under the CGST Act, 2017 (read with the corresponding provisions of the PGST Act, 2017 and the IGST Act, 2017):

1. Date of ineligibility - the key issue. Two events took the firm out of the scheme: (a) the first inter-State outward supply on **14.08.2024** [Section 10(2)(c)] and (b) the crossing of Rs.1.5 crore on **25.11.2024** [Section 10(3)]. Rule 6(2) makes the person liable to normal tax from the day he ceases to satisfy *any* condition, which is the earlier of the two - 14.08.2024. A demand from 25.11.2024 (the date which the firm will urge, being the date of the 'turnover' ground) would leave out the supplies of about Rs.85,00,000/- made between the two dates (cumulative turnover of Rs.1.5 crore less Rs.65,00,000/- up to 13.08.2024). The supplies before 14.08.2024 (Rs.65,00,000/-) remain correctly under the composition levy and are not touched.

2. Determination and recovery of tax - under **Section 74A(1) of the CGST Act, 2017** (and the PGST Act) for Central and State tax, and under **Section 74A(1) read with Section 20 of the IGST Act, 2017** for integrated tax. FY 2024-25 is within Section 74A [Section 74A(12); Notification No.17/2024-Central Tax dated 27.09.2024]. The notice is within forty-two months of the due date of the annual return for FY 2024-25 [Section 74A(2)] and the order must be passed within twelve months of the notice [Section 74A(7)]. No prior order in FORM GST CMP-05/CMP-07 is needed to found liability: Rule 6(2) operates by itself on the happening of the event.

3. Computation - tax is computed at 18% (9% + 9% on intra-State supplies; 18% integrated tax on inter-State supplies) on the value of supplies from 14.08.2024 to 31.03.2025, i.e. Rs.1,04,00,000/- intra-State and Rs.73,00,000/- inter-State. Credit is given against Central and State tax for the composition tax (0.5% each) already paid on the intra-State supplies of the same period (Rs.52,000/- each); the composition tax paid on the inter-State supplies (Rs.36,500/- each of Central and State tax) cannot be set off against integrated tax in this notice and is left for the firm to claim as refund under Section 77(1) of the CGST Act, 2017 (tax paid as Central and State tax on a transaction considered by the person to be intra-State but held to be inter-State). No input tax credit is allowed, because none was taken and the firm was not a person entitled to it during the composition period; the firm may, however, file FORM GST ITC-01 for credit on stock under Section 18(1)(c) within thirty days of the date of the withdrawal/denial, as provided in Rule 6(6).

4. Interest - under **Section 50(1) of the CGST Act, 2017** at 18% per annum on the tax so determined, from the day after the due date of payment for each tax period (the due date of FORM GSTR-3B), up to the date of actual payment.

5. Penalty - under **Section 74A(5)(i)**, i.e. ten per cent of the tax due or Rs.10,000/-, whichever is higher, for each head of tax: Rs.88,400/- (Central), Rs.88,400/- (State) and Rs.1,31,400/- (integrated tax), total Rs.3,08,200/-. *Why not Section 74A(5)(ii)?* The firm declared the full turnover, in CMP-08 and GSTR-4, the e-way bills were generated in its own GSTIN, the books reconcile with the bank statement and with the returns, no tax was collected from any customer, and it produced everything on summons. The failure is of understanding of an automatic lapse, not of concealment; no 'suppression' within Explanation 2 to Section 74A is made out. The concession under **Section 74A(8)** is available: no penalty if tax and interest are paid before notice [clause (i)] or within sixty days of issue [clause (ii)], and the proceedings are then concluded. Section 74A(11) is not engaged because no self-assessed tax of the regular type was shown in a Section 39 return.

6. Late fee and returns - the firm must furnish the returns in FORM GSTR-1 and FORM GSTR-3B for the periods from August 2024 and will be liable to late fee under Section 47 at the notified rates; the amount depends on the filing date and is not quantified here.

7. Prosecution - Section 132 is considered and not proposed: the tax involved (Rs.30,82,000/- in all) does not exceed the monetary thresholds in Section 132(1), and no intention to evade is established.

8. Recovery - under Sections 78 and 79 of the CGST Act, 2017, if the amount confirmed is not paid within the time allowed.

Illustrative working of the tax proposed to be demanded (supplies from 14.08.2024 to 31.03.2025 taxed at the normal rate; the value is the value declared in CMP-08/GSTR-4, treated as the taxable value, i.e. exclusive of tax):

Period	Intra-State value (Rs.)	CGST @9% (Rs.)	PGST @9% (Rs.)	Less composition tax paid, each (Rs.)	Net CGST = PGST (Rs.)	Inter-State value (Rs.)	IGST @18% (Rs.)
14.08.2024 - 31.08.2024	7,00,000	63,000	63,000	3,500	59,500	6,00,000	1,08,000
Sep 2024	13,00,000	1,17,000	1,17,000	6,500	1,10,500	10,00,000	1,80,000

Oct 2024	14,00,000	1,26,000	1,26,000	7,000	1,19,000	11,00,000	1,98,000
Nov 2024	15,00,000	1,35,000	1,35,000	7,500	1,27,500	11,00,000	1,98,000
Dec 2024	14,00,000	1,26,000	1,26,000	7,000	1,19,000	9,00,000	1,62,000
Jan 2025	13,00,000	1,17,000	1,17,000	6,500	1,10,500	9,00,000	1,62,000
Feb 2025	12,00,000	1,08,000	1,08,000	6,000	1,02,000	8,00,000	1,44,000
Mar 2025	16,00,000	1,44,000	1,44,000	8,000	1,36,000	9,00,000	1,62,000
TOTAL	**1,04,00,000**	**9,36,000**	**9,36,000**	**52,000**	**8,84,000**	**73,00,000**	**13,14,000**

Basis: *Central tax Rs.8,84,000/-, State tax Rs.8,84,000/-, integrated tax Rs.13,14,000/- = Rs.30,82,000/-. Central tax and integrated tax together = Rs.21,98,000/-. Cum-tax question: the firm never charged tax, and the draft treats the declared value as the price before tax. If the firm argues that the price received already included GST, the taxable value would be the price divided by 1.18; the Act has no express provision for treating a price as cum-tax in a case like this and the point should be left to the adjudicating authority (UNCERTAIN - see notes).*

C. CHARGING PARAGRAPH OF THE SHOW CAUSE NOTICE

[The following is the operative charging paragraph proposed for incorporation in the Show Cause Notice at Part D below.]

Now, therefore, M/s XXX, a partnership firm having its place of business at YYYY, Ludhiana, Punjab, through its partners Mr. Z and Mr. P, are hereby called upon to show cause in writing to the Deputy/Assistant Commissioner, CGST Division - [•], Ludhiana CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) *the option exercised by them to pay tax under Section 10 of the CGST Act, 2017/PGST Act, 2017 should not be held to have ceased, on and from 14.08.2024, being the day on which they made the first inter-State outward supply of goods in contravention of Section 10(2)(c) (and, in any event, to have lapsed on 25.11.2024 under Section 10(3)), and they should not be held liable to pay tax under Section 9(1) of the CGST Act, 2017/PGST Act, 2017 and Section 5(1) of the IGST Act, 2017 on the outward supplies made by them from 14.08.2024 to 31.03.2025, in terms of Rule 6(2) of the CGST Rules, 2017;*

(ii) *an amount of Rs.8,84,000/- (Central tax), Rs.8,84,000/- (Punjab State tax) and Rs.13,14,000/- (integrated tax), total Rs.30,82,000/- (Rupees Thirty Lakh Eighty-Two Thousand only), being tax not paid on the supplies of the aggregate value of Rs.1,77,00,000/- (intra-State Rs.1,04,00,000/- and inter-State Rs.73,00,000/-) as detailed in Annexure-A to this notice, after giving credit for composition tax paid on the intra-State supplies, should not be demanded and recovered from them under Section 74A(1) of the CGST Act, 2017, the corresponding provisions of the PGST Act, 2017, and Section 20 of the IGST Act, 2017;*

(iii) *interest at the applicable rate under Section 50(1) of the CGST Act, 2017/PGST Act, 2017/IGST Act, 2017 should not be charged and recovered on the tax at (ii) above, from the respective due dates till the date of payment;*

(iv) *a penalty of Rs.88,400/- (Central tax), Rs.88,400/- (State tax) and Rs.1,31,400/- (integrated tax), total Rs.3,08,200/-, being ten per cent of the tax due under each head, should not be imposed on them under Section 74A(5)(i) of the CGST Act, 2017/PGST Act, 2017/IGST Act, 2017 (without prejudice to the benefit of nil penalty to which they may become entitled under Section 74A(8) on payment of tax and interest within the time therein specified).*

D. DRAFT SHOW CAUSE NOTICE

F. No. GEXCOM/ADJN/SCN/[•]/2026-LUDHIANA

DIN: [Document Identification Number to be auto-generated on issue]

Office of the Deputy/Assistant Commissioner, CGST Division - [•], Ludhiana CGST Commissionerate, Punjab

Date: [•].11.2026

SHOW CAUSE NOTICE

(Issued under Section 74A of the Central Goods and Services Tax Act, 2017 read with Section 74A of the Punjab Goods and Services Tax Act, 2017 and Section 20 of the Integrated Goods and Services Tax Act, 2017)

To,
M/s XXX (GSTIN: [•]),
through its Managing Partner Mr. Z,
YYYY, Ludhiana, Punjab.

(hereinafter referred to as 'the Noticee', which expression shall, unless the context otherwise requires, include M/s XXX and its partners, Mr. Z and Mr. P)

WHEREAS M/s XXX, a partnership firm of Mr. Z and Mr. P, registered in Punjab and engaged in the manufacture of nuts, bolts and other fasteners (HSN 7318) at Ludhiana, opted with effect from 01.04.2024 to pay tax under Section 10 of the CGST Act, 2017/PGST Act, 2017, its aggregate turnover for FY 2023-24 having been Rs.1,38,00,000/-. It paid composition tax on its turnover for FY 2024-25 through FORM GST CMP-08 and filed FORM GSTR-4 for FY 2024-25 declaring a turnover of Rs.2,42,00,000/- (RUD-1);

2. AND WHEREAS, during scrutiny of the GSTR-4 return, a notice in FORM GST ASMT-10 dated 12.06.2026 was issued, to which the Noticee replied on 30.06.2026 (RUD-2). The e-way bill data for FY 2024-25 showed inter-State movement of goods from 14.08.2024 onwards (RUD-3), on which a summons dated 02.07.2026 was issued to Mr. Z (RUD-4); he appeared on 14.07.2026 and produced the sales register, bills of supply, CMP-08 statements, GSTR-4 and bank statements (RUD-5);

3. AND WHEREAS, in his statement recorded under Section 70 on 14.07.2026 (RUD-6), Mr. Z, inter alia, admitted and stated that:

- the Noticee started selling to buyers in Haryana and Delhi in mid-August 2024, the first consignment going to M/s BBB, Ambala, on 14.08.2024;
- he knew that the goods were being sent outside Punjab and e-way bills were generated, but did not think the scheme was affected;
- the Noticee continued to issue bills of supply and pay composition tax at 1% on all sales and did not file CMP-04, GSTR-1 or GSTR-3B;
- no GST was charged or collected from any customer and no input tax credit was taken; and
- the Noticee would pay what was determined, as books and returns disclosed all the supplies;

4. AND WHEREAS the sales register, bills of supply, e-way bill data and bank statement reconcile with the CMP-08 statements and GSTR-4 return. They show that the first inter-State supply was made on 14.08.2024 and that the cumulative turnover crossed Rs.1.5 crore on 25.11.2024. The value of supplies made on and after 14.08.2024 up to 31.03.2025 was Rs.1,77,00,000/- (intra-State Rs.1,04,00,000/-; inter-State Rs.73,00,000/-);

5. AND WHEREAS Section 10(2)(c) of the CGST Act, 2017 permits the composition scheme only to a person who is not engaged in making inter-State outward supplies of goods or services, and Section 10(3)

provides that the option lapses from the day on which the aggregate turnover during a financial year exceeds the limit. Rule 6(2) of the CGST Rules, 2017 provides that a person who ceases to satisfy any condition is liable to pay tax under Section 9(1) from the day he ceases to satisfy it, and to issue tax invoices thereafter. The Noticee thus ceased to be eligible on 14.08.2024 (and, in any event, on 25.11.2024) and was liable to pay tax at the normal rate from 14.08.2024, but did not file CMP-04, did not issue tax invoices, did not file GSTR-1 or GSTR-3B and did not pay tax at the normal rate;

6. AND WHEREAS the tax payable at 18% (9% CGST + 9% PGST on intra-State supplies and 18% IGST on inter-State supplies) has been worked out as under, after crediting composition tax paid on the intra-State supplies (basis explained in Annexure-A, which forms part of this notice):

Head	Value of supplies (Rs.)	Tax at normal rate (Rs.)	Less composition tax paid (Rs.)	Tax demanded (Rs.)
CGST	1,04,00,000	9,36,000	52,000	8,84,000
PGST	1,04,00,000	9,36,000	52,000	8,84,000
IGST	73,00,000	13,14,000	-	13,14,000
TOTAL		**31,86,000**	**1,04,000**	**30,82,000**

7. AND WHEREAS the Noticee declared its full turnover in CMP-08 and GSTR-4, the e-way bills were raised in its own GSTIN, the sales register and bank statement reconcile, no tax was collected from any customer and all documents were produced on summons. No evidence has been found to show that the non-payment of tax was by reason of fraud, wilful misstatement or suppression of facts to evade tax; it appears to be a case other than fraud etc. and attracts penalty under Section 74A(5)(i) of the CGST Act, 2017/PGST Act, 2017/IGST Act, 2017;

8. AND WHEREAS, it thus appears that the Noticee has contravened the following provisions of the CGST Act, 2017 (and the corresponding provisions of the PGST Act, 2017 and the IGST Act, 2017):

- Section 10(2)(c) and Section 10(3) read with Rule 6(2) of the CGST Rules, 2017 - continuing under the composition scheme after becoming ineligible;
- Section 9(1) of the CGST Act and Section 5(1) of the IGST Act - non-payment of tax at the normal rate;
- Section 31(1) read with Rule 46 - non-issue of tax invoices after 14.08.2024;
- Sections 37(1) and 39(1) - failure to furnish GSTR-1 and GSTR-3B and pay tax by the due dates;

9. AND WHEREAS the aforesaid acts and omissions of the Noticee render it liable to:

(a) payment of tax under Section 9(1) of the CGST Act/PGST Act and Section 5(1) of the IGST Act, determined under Section 74A(1);

(b) interest under Section 50(1); and

(c) penalty under Section 74A(5)(i) of the CGST Act, 2017/PGST Act, 2017/IGST Act, 2017;

NOW, THEREFORE

M/s XXX, a partnership firm having its place of business at YYYY, Ludhiana, Punjab, through its partners Mr. Z and Mr. P, are hereby called upon to show cause in writing to the Deputy/Assistant Commissioner, CGST Division - [•], Ludhiana CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) the option exercised by them to pay tax under Section 10 of the CGST Act, 2017/PGST Act, 2017 should not be held to have ceased, on and from 14.08.2024, being the day on which they made the first inter-State outward supply of goods in contravention of Section 10(2)(c) (and, in any event, to have lapsed on 25.11.2024 under Section 10(3)), and they should not be held liable to pay tax under Section 9(1) of the CGST Act, 2017/PGST Act, 2017 and Section 5(1) of the IGST

Act, 2017 on the outward supplies made by them from 14.08.2024 to 31.03.2025, in terms of Rule 6(2) of the CGST Rules, 2017;

(ii) an amount of Rs.8,84,000/- (Central tax), Rs.8,84,000/- (Punjab State tax) and Rs.13,14,000/- (integrated tax), total Rs.30,82,000/- (Rupees Thirty Lakh Eighty-Two Thousand only), being tax not paid on the supplies of the aggregate value of Rs.1,77,00,000/- (intra-State Rs.1,04,00,000/- and inter-State Rs.73,00,000/-) as detailed in Annexure-A to this notice, after giving credit for composition tax paid on the intra-State supplies, should not be demanded and recovered from them under Section 74A(1) of the CGST Act, 2017, the corresponding provisions of the PGST Act, 2017, and Section 20 of the IGST Act, 2017;

(iii) interest at the applicable rate under Section 50(1) of the CGST Act, 2017/PGST Act, 2017/IGST Act, 2017 should not be charged and recovered on the tax at (ii) above, from the respective due dates till the date of payment;

(iv) a penalty of Rs.88,400/- (Central tax), Rs.88,400/- (State tax) and Rs.1,31,400/- (integrated tax), total Rs.3,08,200/-, being ten per cent of the tax due under each head, should not be imposed on them under Section 74A(5)(i) of the CGST Act, 2017/PGST Act, 2017/IGST Act, 2017 (without prejudice to the benefit of nil penalty to which they may become entitled under Section 74A(8) on payment of tax and interest within the time therein specified).

10. The Noticee is further informed that:

- a written reply to this notice, along with all documents relied upon, must be furnished within thirty (30) days of receipt of this notice, failing which the case will be decided ex parte on the basis of available records, on merits;
- an opportunity of personal hearing will be granted before adjudication, on a date to be separately intimated, and the Noticee (or an authorised representative) may appear in person or through counsel;
- attention is drawn to the benefit available under Section 74A(8) of the CGST Act, 2017/PGST Act, 2017/IGST Act, 2017, whereby, if the tax at (ii) above and the interest at (iii) above are paid before the issue of this notice, no notice shall be served in respect of the said tax; and if they are paid within sixty (60) days of the issue of this notice, no penalty shall be payable and all proceedings in respect of the said notice shall be deemed to be concluded;
- the Noticee may, if so advised, exercise the right under Rule 6(6) of the CGST Rules, 2017 to furnish a statement in FORM GST ITC-01 within the time therein allowed, and may seek refund of the composition tax paid on the inter-State supplies in accordance with Section 77(1) of the CGST Act, 2017; both are subject to law and are not decided by this notice;
- this notice is issued without prejudice to any other action that may be taken against the Noticee or any other person under the CGST Act, 2017/PGST Act, 2017/IGST Act, 2017, or any other law for the time being in force.

List of Relied Upon Documents (RUDs):

RUD-1: CMP-02 intimation, CMP-08 statements and GSTR-4 return for FY 2024-25 (portal extracts);

RUD-2: ASMT-10 notice dated 12.06.2026 and the reply dated 30.06.2026;

RUD-3: E-way bill data (consignor-wise) for FY 2024-25;

RUD-4: Summons dated 02.07.2026 issued under Section 70, with proof of service;

RUD-5: Sales register, bills of supply and bank statement for FY 2024-25, produced on 14.07.2026;

RUD-6: Statement of Mr. Z recorded under Section 70 on 14.07.2026;

Annexure-A: Period-wise statement of supplies and tax calculation from 14.08.2024 to 31.03.2025 [as per the working in Part B].

(_____)
Deputy/Assistant Commissioner, CGST
Division - [•], Ludhiana CGST Commissionerate

Copy to: The Joint/Additional Commissioner, Ludhiana CGST Commissionerate, for information.

Drafting note (not part of the notice):

- *The addressee, jurisdictional range/officer, F. No./DIN and dates shown in square brackets/blanks are illustrative placeholders and must be completed with the correct particulars before issue.*
- *The tax, interest and penalty figures are worked out on the reasoned basis explained in Part B and remain subject to reconciliation with the seized/recorded documents.*
- ***Date of ineligibility.** The Noticee will argue that the option lapsed only on crossing Rs.1.5 crore (25.11.2024) because that is the only ground in the 'lapse' provision, Section 10(3). Rule 6(2), however, is triggered when the person ceases to satisfy any condition of Section 10 or of the Rules. The inter-State supply on 14.08.2024 is the earlier event; the draft uses it and pleads the later date only in the alternative. Trainees should check both dates against the invoice-wise register.*
- ***Fraud or not?** Contrast Exercise 28, where tax was actually collected and turnover concealed. Here every supply was disclosed, bills of supply were issued and nothing was collected, so penalty is under Section 74A(5)(i) with the Section 74A(8) concession.*
- ***Credit for composition tax.** The composition tax already paid on the intra-State supplies of the same period is credited so that the same supplies are not taxed twice. For inter-State supplies the composition tax was paid under the wrong head (Central/State, not integrated tax) and cannot be set off against integrated tax; the draft leaves the Noticee to seek refund under Section 77(1) (the text of which was read from knowyourgst.com). Whether Section 77(1) squarely covers composition tax paid, and the procedure for such a refund, were not verified (UNCERTAIN).*
- ***ITC.** No input tax credit is allowed in the working. The Noticee may become entitled to credit on its stock on the day before the lapse under Section 18(1)(c) subject to Rule 6(6) (FORM GST ITC-01, within thirty days of the withdrawal/denial order); the officer should watch for any such claim and verify it against Section 16 conditions. Whether the thirty-day period under Rule 6(6) can start where no CMP-04/CMP-07 has been filed or issued is unclear and the officer may wish to issue FORM GST CMP-05 in parallel to fix a date; this is a procedural choice, not a requirement for the demand (UNCERTAIN).*
- ***Cum-tax?** The draft treats the declared value as exclusive of tax. If the Noticee shows that its prices to customers were fixed on the footing that no tax would be payable and that prices cannot be increased, it may ask for the value to be treated as inclusive of tax. We have not found an express provision of the Act that deems a price to be inclusive of tax in such a case, and no judgment has been cited; Rule 35 of the CGST Rules, 2017 (value of supply inclusive of taxes: tax = value x rate / (100 + rate)) supplies the formula only once it is established, as a fact, that the price included the tax (compare Exercise 31, where the seller-terms and the admission establish this). Flagged for the adjudicating authority (UNCERTAIN).*
- ***Rate.** The 18% rate for nuts, bolts and screws of iron or steel (HSN 7318), under Notification No.1/2017-Central Tax (Rate) and Notification No.1/2017-Integrated Tax (Rate), was stated from memory and could not be re-verified against the rate schedule in this build. It must be checked against the schedule in force for FY 2024-25 before issue (UNCERTAIN). If the rate is different, only the percentages in the working change.*

- ***Authority.*** *The Central tax (Rs.8,84,000/-) plus integrated tax (Rs.13,14,000/-) is Rs.21,98,000/-, which is above the Rs.20 lakh limit for a Superintendent, so the notice is issued by the Deputy/Assistant Commissioner. The draft should be settled by the jurisdictional Range/Division before issue (DRC-01), including verification of the monetary-limit-based issuing/adjudicating authority under Circular No. 31/05/2018-GST dated 09.02.2018 (Superintendent: central tax up to Rs.10 lakh; Deputy/Assistant Commissioner: above Rs.10 lakh up to Rs.1 crore; Additional/Joint Commissioner: above Rs.1 crore).*
- ***Other notices.*** *The draft does not itself apply late fee under Section 47; that attaches to the late filing of GSTR-1/GSTR-3B at the notified rates.*
- *Return of non-RUDs (Non-Relied Upon Documents): When the SCN is issued to the taxpayer in the form of DRC-01 (uploaded on the portal if registered, as well as delivered as per the provisions of law), non-RUDs must be returned to the noticee under due acknowledgement within seven days of issuance of the SCN.*

***



Exercise 30

Registration obtained on a forged rent agreement for non-existent premises, with the real operator concealed behind a dummy proprietor



Exercise 30: Registration obtained on a forged rent agreement for non-existent premises, with the real operator concealed behind a dummy proprietor

Situation in Brief:

1. M/s XXX, a proprietary concern of Mr. Z, obtained registration under the CGST Act, 2017/DGST Act, 2017 (GSTIN [•], Delhi) with effect from 12.07.2024 (application dated 28.06.2024) for wholesale trading in plastic granules. The declared principal place of business was Shop No. 114, First Floor, YYYY Market, Delhi, supported by a notarised rent agreement dated 20.06.2024 between Mr. L (landlord) and Mr. Z for eleven months, and an electricity bill in the name of Mr. L. Registration was granted without physical verification. The registered person filed FORM GSTR-1 and FORM GSTR-3B regularly, declaring outward supplies as shown below, and paid the tax shown in the returns; the correctness of the outward supplies and of the input tax credit claimed in those returns has not yet been examined.

Period	Outward supplies declared in GSTR-3B (Rs.)
FY 2024-25 (Jul 2024 - Mar 2025)	3,12,00,000
FY 2025-26 (Apr 2025 - Mar 2026)	2,97,00,000
FY 2026-27 (Apr 2026 - Aug 2026)	81,00,000
TOTAL	**6,90,00,000**

2. In July 2026 the data-analytics cell of Delhi West CGST Commissionerate flagged the GSTIN because the e-way bills generated against it showed the consignor address as Shop No. 114 but every consignment originated from transport-company godowns in Bawana, and the portal login records showed access, for the entire period, from internet connections and a mobile number registered at Narela, Delhi, which were not those of Mr. Z's residence.

3. On 03.08.2026 the Superintendent and Inspector of the Range visited the declared premises in connection with the physical verification of the place of business and prepared a panchnama with photographs (verification report uploaded in FORM GST REG-30 on 12.08.2026). They found that Shop No. 114 was occupied by M/s ZZZ, a mobile-repair shop, with no name board, goods, books or staff of M/s XXX, and nobody in the neighbourhood had heard of it.

4. Mr. L, the owner of the shop, was summoned and his statement was recorded on 04.08.2026 under Section 70. He stated that Shop No. 114 had been let to M/s ZZZ since 2019 and was never let to Mr. Z; that he had never signed the rent agreement dated 20.06.2024 and the signature on it was not his; and that the electricity connection number on the bill was not of his shop. Replies dated 05.08.2026 and 06.08.2026 from the notary named in the agreement and the electricity distribution company confirmed respectively that the serial number of the notarial attestation belonged to a different document of a different person, and that the consumer number on the bill belonged to a connection in another locality.

5. Mr. Z, a resident of Mundka, Delhi, and employed as a driver, was summoned on 07.08.2026 and appeared on 11.08.2026. In his statement under Section 70 he stated that Mr. P, a trader of Narela, had offered him Rs.8,000/- a month in return for the use of his documents to 'open a GST firm'; that he had given his Aadhaar, PAN, photograph, a signed blank form and the OTPs received on his mobile; that he had never visited Shop No. 114, and did not know the landlord or the rent agreement; that he had never operated the GST portal or the bank account of M/s XXX; that he was paid Rs.8,000/- in cash every month; and that he knew the firm was to do business for Mr. P.

6. Mr. P was summoned on 12.08.2026 and appeared on 21.08.2026. In his statement under Section 70 he admitted that his own earlier registration had been cancelled in 2023 for non-filing of returns with dues pending, and that he wanted to continue trading in plastic granules without his earlier dues being

traced to him; that he got the rent agreement and a copy of the electricity bill prepared through an agent for Rs.15,000/-; that he had submitted the application using Mr. Z's documents with his own mobile number and e-mail ID; that he had operated the GST portal, raised all invoices and e-way bills in the name of M/s XXX, and filed all returns; that the bank account of M/s XXX (opened in Mr. Z's name) was operated entirely by him through the cheque book, debit card and net-banking in his possession; and that he had paid Mr. Z Rs.8,000/- a month. The bank statement of M/s XXX shows credits of Rs.6,98,00,000/- from buyers from July 2024 to August 2026.

7. Now in the light of the above, -

(i) Identify the provision(s) of GST law contravened by M/s XXX (under heading **Contravention**).

(ii) Identify the provision(s) of GST law under which action is to be taken against M/s XXX (under heading **Consequences of Contravention of legal Provisions**).

(iii) Draft the **Charging Paragraph** of the Show Cause Notice proposed to be issued to M/s XXX, calling upon M/s XXX, Mr. Z and Mr. P to show cause as to why action should not be taken against them, while listing the proposed action to be taken against M/s XXX, Mr. Z and Mr. P.

(iv) Also prepare the **draft Show Cause Notice** for issuance to M/s XXX.

***

SUGGESTED SOLUTION

(Physical verification, Inquiry on summons, Cancellation notice and Penalty under Section 122, and Draft Combined Show Cause Notice - M/s XXX, Mr. Z and Mr. P, Delhi West CGST Commissionerate)

A. CONTRAVENTION

On the facts as recorded, the following provisions of law stand contravened (in each case read with the corresponding provisions of the Delhi Goods and Services Tax Act, 2017 [DGST Act] and the Rules made under the two Acts):

1. **Section 29(2)(e) of the CGST Act, 2017** - the registration of M/s XXX was obtained by fraud, wilful misstatement and suppression of facts: a forged rent agreement, an electricity bill of another connection, and a non-existent place of business, were used, and the true operator was concealed. This is a ground on which the registration is liable to be cancelled, and the proper officer may cancel it from such date, including any retrospective date, as he deems fit.
2. **Section 29(2)(a) of the CGST Act, 2017 read with Rule 21(a) of the CGST Rules, 2017** - the registered person did not conduct any business from the declared place of business.
3. **Section 122(1)(xii) of the CGST Act, 2017** - furnishing false information with regard to registration particulars at the time of applying for registration: the place of business, the rent agreement and the identity of the person who would operate the business (the application was submitted by Mr. P through Mr. Z's documents and OTPs). Mr. Z is the registered person, the application is in his name, and he gave the documents and OTPs knowing that the firm was meant for Mr. P's business.
4. **Section 122(1)(xix) of the CGST Act, 2017** - issue of invoices and e-way bills by Mr. P using the registration number of another registered person (M/s XXX), for the whole period from July 2024 to August 2026.
5. **Section 122(3)(a) of the CGST Act, 2017** - Mr. P aided and abetted the offence under Section 122(1)(xii), by procuring the forged documents and filing the application.

Note: ***Section 132(1)(f)*** *(falsification of records or giving false information 'with an intention to evade payment of tax') is considered and not proposed: the registration was clearly obtained on false material, but no evasion of tax has been established in the present inquiry and the returns show regular payment of tax; the case may be revisited if the examination of the returns discloses evasion.* ***Section 122(1)(xi)*** *(failure to obtain registration by a person liable to be registered) is also not invoked against Mr. P in addition: the supplies were reported under a (fraudulently obtained) registration, and the same conduct is already penalised under clause (xix) and Section 122(3)(a); a further penalty for the same underlying conduct would be duplicative and disproportionate.* ***Section 122(1)(vii)/(ii)*** *and the demand provisions (Section 74A) are not invoked because the inquiry has not examined whether the ITC and supplies reported in the returns are genuine - a separate matter, expressly reserved.* ***Section 137*** *(offences by companies) does not arise as M/s XXX is a proprietary concern.*

B. CONSEQUENCES OF CONTRAVENTION OF LEGAL PROVISIONS

The contraventions at (A) above expose the persons concerned to the following action under the CGST Act, 2017 (read with the corresponding provisions of the DGST Act, 2017):

1. Cancellation of registration - under **Section 29(2)(e)** and **Section 29(2)(a) read with Rule 21(a)**. The proper officer may cancel from such date, including any retrospective date, as he thinks fit, but not without giving the person an opportunity of being heard (proviso to Section 29(2)). The notice for the purpose is a notice in FORM GST REG-17 under Rule 22(1), in which the registered person has seven working days to show cause (FORM GST REG-18); the order (FORM GST REG-19) is to be passed within thirty days of the reply. The registration may also be suspended pending the proceedings, as provided in the second proviso to Section 29(2). **Retrospective date:** where, as here, the registration itself was

procured by fraud, cancellation from the date of registration (12.07.2024) is proposed, reserving the choice of the date to the proper officer. Section 29(3) is clear that cancellation does not affect the liability of the person to pay tax and other dues for the earlier period. The officer should weigh the consequence for bona fide recipients, whose input tax credit may be affected, and may therefore decide on a later effective date.

2. Penalty on Mr. Z / M/s XXX - under **Section 122(1)(xii)**: Rs.10,000/- or the tax evaded, whichever is higher; no tax evasion is established, so Rs.10,000/- under each Act. This is a fixed sum, so the proportionality discipline in Section 126 does not allow a reduction; Mr. Z's cooperation and the small sum he was paid may be recorded in the order, but they cannot reduce a penalty fixed by the Act.

3. Penalty on Mr. P - under **Section 122(1)(xix)**: Rs.10,000/- under each Act (Rs.10,000/- or the tax evaded, whichever is higher; no tax evasion established), for issuing the invoices and e-way bills using the registration number of another registered person; and under **Section 122(3)(a)**, which provides for a penalty which may extend to Rs.25,000/-, Rs.25,000/- under each Act is proposed for aiding and abetting the false registration (the maximum, because he was the originator and the principal beneficiary). The two penalties are for different acts: the false application and the later use of the registration number. Mr. P is a 'taxable person' for the purposes of Section 122(1) because, on his own admission, he made the supplies which crossed the registration threshold and he was liable to be registered.

4. No demand of tax in this notice - because Section 74A requires a determination that tax has not been paid, short paid, or that ITC has been wrongly availed, and none is established on the present evidence. The outward supplies and ITC in the returns will be verified separately (for example by Section 61 scrutiny or under Section 65 audit), and any demand and penalty under Section 74A or Section 122(1)(vii)/(ii) will be proposed by separate notice. This notice is therefore without prejudice to such action.

5. Prosecution - not proposed (Section 132(1)(f); see the Note at (A)). Provisional attachment under Section 83 is not warranted at this stage as no demand exists.

6. One notice or two? Cancellation (REG-17, seven working days, order within thirty days) and penalty (thirty days to reply, personal hearing) run on different clocks. The draft combines them to give one factual narrative and a single set of RUDs, but states the time for reply separately for each, so that the cancellation proceedings are not held up by the thirty days given for the penalty. The alternative is a separate REG-17 followed by a penalty notice. No express limitation period for a notice imposing penalty alone under Section 122 was found in the sources consulted (UNCERTAIN, see notes); the notice should be issued without delay.

Illustrative plan of penalties proposed:

Noticee	Offence / provision	CGST Act (Rs.)	DGST Act (Rs.)	Total (Rs.)
Mr. Z / M/s XXX	Section 122(1)(xii)	10,000	10,000	20,000
Mr. P	Section 122(1)(xix)	10,000	10,000	20,000
Mr. P	Section 122(3)(a) (aiding and abetting the offence at 122(1)(xii))	25,000	25,000	50,000
TOTAL		**45,000**	**45,000**	**90,000**

Basis: *No tax or interest is demanded in this notice. The 'amount' at stake is therefore the penalties (Rs.90,000/- in all: Mr. Z Rs.20,000/-; Mr. P Rs.70,000/-) together with cancellation of the registration. Section 122(1) fixes the amount at Rs.10,000/- when no tax is evaded. The Rs.25,000/- under Section 122(3) is a ceiling, and the amount should be reasoned in the notice.*

C. CHARGING PARAGRAPH OF THE SHOW CAUSE NOTICE

[The following is the operative charging paragraph proposed for incorporation in the Show Cause Notice at Part D below.]

Now, therefore, (1) M/s XXX, a proprietary concern of Mr. Z, shown as situated at Shop No. 114, First Floor, YYYY Market, Delhi, and Mr. Z, Proprietor of M/s XXX, and (2) Mr. P, of Narela, Delhi, are hereby called upon to show cause in writing to the Superintendent, CGST Range - [•], Delhi West CGST Commissionerate, within thirty (30) days of the receipt of this notice [and, as regards item (i), within seven working days of service], as to why:

(i) *the registration of M/s XXX (GSTIN [•]) should not be cancelled under Section 29(2)(e) and Section 29(2)(a) (read with Rule 21(a) of the CGST Rules, 2017) of the CGST Act, 2017/DGST Act, 2017, with effect from 12.07.2024, being the date of registration, or from such other date as the proper officer may deem fit (this part being a notice under Rule 22(1) in FORM GST REG-17, to which a reply is to be filed in FORM GST REG-18 within seven working days of service);*

(ii) *a penalty of Rs.10,000/- under Section 122(1)(xii) of the CGST Act, 2017 and Rs.10,000/- under the corresponding provision of the DGST Act, 2017, total Rs.20,000/-, should not be imposed on Mr. Z, Proprietor of M/s XXX, for furnishing false information with regard to registration particulars at the time of applying for registration;*

(iii) *a penalty of Rs.10,000/- under Section 122(1)(xix) of the CGST Act, 2017 and Rs.10,000/- under the corresponding provision of the DGST Act, 2017, total Rs.20,000/-, should not be imposed on Mr. P for issuing invoices and e-way bills using the registration number of another registered person;*

(iv) *a penalty of Rs.25,000/- under Section 122(3)(a) of the CGST Act, 2017 and Rs.25,000/- under the corresponding provision of the DGST Act, 2017, total Rs.50,000/-, should not be imposed on Mr. P for aiding and abetting the offence at (ii) above; and*

(v) *the registered person and Mr. P should not be directed to produce, for further verification, all the invoices, e-way bills, purchase records, ITC particulars and bank statements for the period from July 2024 to the date of notice (such verification being without prejudice to a demand of tax and penalty, if any, by separate notice).*

D. DRAFT SHOW CAUSE NOTICE

F. No. GEXCOM/ADJN/SCN/[•]/2026-DELHI WEST

DIN: [Document Identification Number to be auto-generated on issue]

Office of the Superintendent, CGST Range - [•], Division - [•], Delhi West CGST Commissionerate, Delhi

Date: [•].11.2026

SHOW CAUSE NOTICE

(Issued under Section 29(2) and Section 122 of the Central Goods and Services Tax Act, 2017 read with Rule 22(1) of the CGST Rules, 2017 and the corresponding provisions of the Delhi Goods and Services Tax Act, 2017)

To,
(1) M/s XXX (GSTIN: [•]), through Mr. Z, Proprietor, Shop No. 114, First Floor, YYYY Market, Delhi; and Mr. Z, Proprietor, M/s XXX, residing at Mundka, Delhi;
(2) Mr. P, residing at Narela, Delhi.

(Mr. Z and M/s XXX being one and the same 'person' within the meaning of Section 2(84) of the CGST Act, 2017, are hereinafter referred to as 'Noticee-1'; Mr. P is hereinafter referred to as 'Noticee-2'; and both are referred to together as 'the Noticees')

WHEREAS M/s XXX was granted registration (GSTIN [•]) with effect from 12.07.2024 on an application dated 28.06.2024 giving Shop No. 114, First Floor, YYYY Market, Delhi as the principal place of business, supported by a rent agreement dated 20.06.2024 and an electricity bill (RUD-1). Returns have been filed regularly from July 2024, showing outward supplies of Rs.6,90,00,000/- up to August 2026 (RUD-2);

2. AND WHEREAS the data-analytics cell flagged the GSTIN, because the e-way bills showed the consignor address as Shop No. 114 while every consignment originated from godowns of transporters at Bawana, and the portal login records showed access from a connection and mobile number at Narela (RUD-3);

3. AND WHEREAS the physical verification of 03.08.2026 (panchnama with photographs and FORM GST REG-30 report, RUD-4) showed that Shop No. 114 was occupied by M/s ZZZ, a mobile-repair shop, with no sign, goods, books or staff of M/s XXX;

4. AND WHEREAS, in his statement under Section 70 on 04.08.2026 (RUD-5), Mr. L, the owner of the shop, stated that the shop had been let to M/s ZZZ since 2019, that it was never let to Mr. Z, that the signature on the rent agreement was not his, and that the electricity connection number on the bill was not of his shop; the letters from the notary and the electricity distribution company (RUD-6 and RUD-7) confirm that the notarial serial number belongs to a different document and the consumer number to a connection in another locality;

5. AND WHEREAS, in his statement under Section 70 on 11.08.2026 (RUD-8), Mr. Z, inter alia, admitted and stated that:

- Mr. P had offered him Rs.8,000/- a month for the use of his documents to 'open a GST firm', and he gave his Aadhaar, PAN, photograph, a signed blank form and the OTPs received on his mobile;
- he never visited Shop No. 114, and did not know the landlord or the rent agreement;
- he never operated the GST portal or the bank account of M/s XXX, and was paid Rs.8,000/- in cash every month; and
- he knew that the firm was to do business for Mr. P;

6. AND WHEREAS, in his statement under Section 70 on 21.08.2026 (RUD-9), Mr. P, inter alia, admitted and stated that:

- his earlier registration had been cancelled in 2023 for non-filing of returns with dues pending, and he wanted to continue trading without those dues being traced to him;
- he got the rent agreement and a copy of the electricity bill prepared through an agent for Rs.15,000/- ;
- he submitted the application using Mr. Z's documents with his own mobile number and e-mail ID;
- he operated the GST portal, raised all invoices and e-way bills in the name of M/s XXX and filed all returns; and
- the bank account of M/s XXX was entirely operated by him, and Mr. Z was paid Rs.8,000/- a month;

7. AND WHEREAS the bank statement of M/s XXX (RUD-10) shows credits of Rs.6,98,00,000/- from buyers between July 2024 and August 2026, all of which were operated by Mr. P, and the portal login and IP logs (RUD-3) are consistent with his statement;

8. AND WHEREAS it thus appears that M/s XXX does not conduct any business from the declared place of business, the registration was obtained by fraud, wilful misstatement and suppression of facts, Mr. Z furnished false information with regard to registration particulars at the time of applying for registration, and Mr. P used the registration number of another registered person and aided and abetted the offence. Since the present inquiry has not established any evasion of tax, the penalty under Section 122(1) is Rs.10,000/- under each Act per offence; no demand of tax is made in this notice, which is without prejudice to a demand, if any, on the examination of the returns;

9. AND WHEREAS, it thus appears that the Noticees have contravened the following provisions of the CGST Act, 2017 (and the corresponding provisions of the DGST Act, 2017):

- Section 29(2)(e) and Section 29(2)(a) read with Rule 21(a) of the CGST Rules, 2017 - registration obtained by fraud, wilful misstatement or suppression of facts, and non-conduct of business from the declared place;
- Section 122(1)(xii) - false information regarding registration particulars (Noticee-1);
- Section 122(1)(xix) - invoices issued using the registration number of another registered person (Noticee-2);
- Section 122(3)(a) - aiding and abetting (Noticee-2);

10. AND WHEREAS the aforesaid acts and omissions render:

(a) the registration of M/s XXX liable to cancellation;

(b) Noticee-1 liable to penalty under Section 122(1)(xii) of the CGST Act, 2017/DGST Act, 2017; and

(c) Noticee-2 liable to penalty under Section 122(1)(xix) and Section 122(3)(a) of the CGST Act, 2017/DGST Act, 2017;

NOW, THEREFORE

(1) M/s XXX, through Mr. Z, Proprietor, and Mr. Z, and (2) Mr. P, are hereby called upon to show cause in writing to the Superintendent, CGST Range - [•], Delhi West CGST Commissionerate, within thirty (30) days of the receipt of this notice [and, as regards item (i), within seven working days of service of this notice], as to why:

(i) the registration of M/s XXX (GSTIN [•]) should not be cancelled under Section 29(2)(e) and Section 29(2)(a) (read with Rule 21(a) of the CGST Rules, 2017) of the CGST Act, 2017/DGST Act, 2017, with effect from 12.07.2024, being the date of registration, or from such other date as the proper officer may deem fit (this part being a notice under Rule 22(1) in FORM GST REG-17, to which a reply is to be filed in FORM GST REG-18 within seven working days of service);

(ii) a penalty of Rs.10,000/- under Section 122(1)(xii) of the CGST Act, 2017 and Rs.10,000/- under the corresponding provision of the DGST Act, 2017, total Rs.20,000/-, should not be imposed on Mr. Z, Proprietor of M/s XXX, for furnishing false information with regard to registration particulars at the time of applying for registration;

(iii) a penalty of Rs.10,000/- under Section 122(1)(xix) of the CGST Act, 2017 and Rs.10,000/- under the corresponding provision of the DGST Act, 2017, total Rs.20,000/-, should not be imposed on Mr. P for issuing invoices and e-way bills using the registration number of another registered person;

(iv) a penalty of Rs.25,000/- under Section 122(3)(a) of the CGST Act, 2017 and Rs.25,000/- under the corresponding provision of the DGST Act, 2017, total Rs.50,000/-, should not be imposed on Mr. P for aiding and abetting the offence at (ii) above; and

(v) the registered person and Mr. P should not be directed to produce, for further verification, all the invoices, e-way bills, purchase records, ITC particulars and bank statements for the period from July 2024 to the date of notice (such verification being without prejudice to a demand of tax and penalty, if any, by separate notice).

11. The Noticees are further informed that:

- this notice is a notice in FORM GST REG-17 for the purposes of Rule 22(1) of the CGST Rules, 2017, in so far as it relates to the cancellation of registration; the reply to that part must be furnished in FORM GST REG-18 within seven working days from the date of service of this notice; the registration of M/s XXX may be suspended with effect from the date of this notice pending the proceedings; and the cancellation, if ordered, does not affect any liability for tax and other dues for the earlier period (Section 29(3));
- a written reply to the rest of this notice, along with all documents relied upon, must be furnished within thirty (30) days of receipt of this notice, failing which the case will be decided ex parte on the basis of available records, on merits;
- an opportunity of personal hearing will be granted before adjudication, on a date to be separately intimated, and the Noticees (or their authorised representatives) may appear in person or through counsel;
- this notice does not relate to the tax in the returns filed or the input tax credit availed under the registration, which is under verification, and is issued without prejudice to any other action, including proceedings under Section 74A and Section 132, that may be taken against the Noticees or any other person under the CGST Act, 2017/DGST Act, 2017, or any other law for the time being in force.

List of Relied Upon Documents (RUDs):

RUD-1: Registration application dated 28.06.2024 with the rent agreement and electricity bill (portal extracts);

RUD-2: Return-wise summary of GSTR-1/GSTR-3B for July 2024 to August 2026;

RUD-3: Report of the data-analytics cell with e-way bill consignor-wise data and portal login/IP records;

RUD-4: Panchnama dated 03.08.2026 with photographs and physical verification report (FORM GST REG-30);

RUD-5: Statement of Mr. L dated 04.08.2026 under Section 70;

RUD-6: Reply dated 05.08.2026 of the notary;

RUD-7: Reply dated 06.08.2026 of the electricity distribution company;

RUD-8: Statement of Mr. Z dated 11.08.2026 under Section 70;

RUD-9: Statement of Mr. P dated 21.08.2026 under Section 70;

RUD-10: Bank statement of M/s XXX for July 2024 to August 2026 with account-opening documents;

(_____)
Superintendent, CGST
Range - [•], Division - [•], Delhi West CGST Commissionerate

Copy to: The Deputy/Assistant Commissioner, CGST Division, Delhi West, for information.

Drafting note (not part of the notice):

- *The addressee, jurisdictional range/officer, F. No./DIN and dates shown in square brackets/blanks are illustrative placeholders and must be completed with the correct particulars before issue.*
- *The tax, interest and penalty figures are worked out on the reasoned basis explained in Part B and remain subject to reconciliation with the seized/recorded documents.*
- ***Penalty-only SCN.** No tax is demanded: the supplies and ITC in the returns are not examined here. The 'amount' is the penalties (Rs.90,000/-) and the cancellation of registration. Section 74A is silent about penalty-only notices and no express limitation period for a notice under Section 122 alone was found in the sources consulted; the officer should issue promptly and keep the file note explaining the basis (UNCERTAIN).*
- ***Proprietor is not the operator.** The registered person is Mr. Z, who is a dummy; the real operator is Mr. P. The notice therefore charges Mr. Z under 122(1)(xii) (he is the applicant, he supplied documents and OTPs knowing the firm was for another's business) and charges Mr. P under 122(1)(xix) and 122(3)(a), and avoids calling Mr. P the 'proprietor'. Whether Mr. Z had knowledge is a question of fact; his admission (RUD-8) is what makes the charge sustainable. Had he been wholly ignorant (documents stolen or forged), the charge against him would fail and the charge should be only against Mr. P.*
- ***Combined notice.** The cancellation limb runs under Rule 22(1) (reply in seven working days; order in thirty days of the reply under Rule 22(3)), the penalty limb under Section 122 (thirty days; hearing). A combined notice is permitted by practice but the two time-lines should be separately stated, as the draft does. In practice many officers issue the REG-17 first and the penalty notice after the physical verification and statements are complete. The proper officer for Section 29 may not be the same officer as the adjudicating authority for the penalty (UNCERTAIN: not verified; check the notifications under Section 2(91)).*
- ***Retrospective cancellation.** Section 29(2) allows cancellation from 'any retrospective date'. The effect on bona fide recipients' ITC for supplies after 12.07.2024 is serious. The draft proposes the date of registration because the registration is itself fraudulent, but leaves the date to the proper officer, with a caution. Section 29(3) preserves all liabilities.*
- ***Rule 21(a).** The text of Rule 21(a) ('does not conduct any business from the declared place of business') was read from a secondary source (gstzen.in) and not from the Gazette; the rule exists, but its later amendments, if any, should be checked.*
- ***Section 63 possibility.** Section 63 (best-judgment assessment) also covers a person 'whose registration has been cancelled under sub-section (2) of section 29 but who was liable to pay tax'. It is not needed here as no tax is demanded.*
- ***Authority.** Penalties of Rs.90,000/- are within the Superintendent's limit. The draft should be settled by the jurisdictional Range/Division before issue (DRC-01), including verification of the monetary-limit-based issuing/adjudicating authority under Circular No. 31/05/2018-GST dated 09.02.2018*

(Superintendent: central tax up to Rs.10 lakh; Deputy/Assistant Commissioner: above Rs.10 lakh up to Rs.1 crore; Additional/Joint Commissioner: above Rs.1 crore).

- *Return of non-RUDs (Non-Relied Upon Documents): When the SCN is issued to the taxpayer in the form of DRC-01 (uploaded on the portal if registered, as well as delivered as per the provisions of law), non-RUDs must be returned to the noticee under due acknowledgement within seven days of issuance of the SCN.*

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Exercise 31

Unregistered supplier of goods selling inter-State through an e-commerce operator, without registration

Exercise 31: Unregistered supplier of goods selling inter-State through an e-commerce operator, without registration

Situation in Brief:

1. Mr. Z, proprietor of M/s XXX, located at YYYY, Jaipur, Rajasthan, deals in plastic household articles (kitchenware, storage containers; HSN 3924), which he buys from manufacturers in Jaipur and sells only through the online marketplace of M/s AAA, an electronic commerce operator (ECO). In July 2026 the Jaipur CGST Commissionerate called, by a notice under Section 70 of the CGST Act, 2017 dated 13.07.2026 to M/s AAA, for details of all sellers in Rajasthan who sold goods through its platform during FY 2025-26 without a GSTIN. The ECO replied on 24.07.2026 listing 41 such sellers, in which M/s XXX showed the highest sales.

2. Verification on the GST common portal on 28.07.2026 showed that no registration existed against the PAN of Mr. Z. A summons dated 03.08.2026 under Section 70 was issued to the nodal officer of M/s AAA, who appeared on 12.08.2026 and furnished, with a certificate of the correctness of the data, (a) the seller-onboarding record of M/s XXX (dated 01.04.2025, with PAN, bank account, and a seller declaration ticked 'GSTIN not available'), (b) the order-wise sales ledger of the seller from 06.04.2025 to 15.09.2025 (order id, date, ship-to State, price paid by the customer, return/ cancellation status), (c) the seller-terms, under which the listed price is the final price payable by the customer, inclusive of applicable taxes, and (d) the settlement statement showing the amounts paid to the seller's bank account after deduction of the platform's commission and fees. The seller's account was suspended by the ECO on 16.09.2025 following a mandatory-GSTIN drive.

3. A summons dated 25.08.2026 under Section 70 was issued to Mr. Z, who appeared on 22.09.2026 and produced (a) purchase invoices from three manufacturers at Jaipur, (b) his bank statement for the period, and (c) the dashboard downloads from the ECO's portal. He did not produce any sales register, invoice book or other books of account, and stated that none was kept.

4. In his statement recorded on 22.09.2026 under Section 70, Mr. Z stated that he began supplying through M/s AAA's marketplace on 06.04.2025; that all his sales were made through that marketplace; that he had set the listed prices on the basis of the market retail price and no GST was charged or shown separately; that he did not obtain GST registration because he believed it was necessary only for a turnover over Rs.40 lakh and the platform had never asked him for a GSTIN, the field being optional at onboarding; that he did not know that registration is compulsory for a person selling goods across States through an e-commerce platform; that he kept no accounts and relied on the platform dashboard; that the ECO ledger correctly reflected his sales; and that he was ready to obtain registration and pay the tax found due.

5. Reconciliation of the ECO ledger with the settlement statements and the seller's bank statement shows that the ledger is accurate: the net sales value was Rs.1,69,00,000/-, the ECO deducted commission and fees of Rs.23,66,000/-, and Rs.1,45,34,000/- was remitted to the seller's account. The goods were of plastic household articles falling in HSN 3924, supplied to customers in Rajasthan and in other States. The month-wise position (price paid by customers, as per the ECO ledger) is as follows:

Month	Gross orders (Rs.)	Returns/ cancellations (Rs.)	Net sales value (Rs.)	Of which to buyers in Rajasthan (Rs.)
Apr 2025 (from 06.04.2025)	21,50,000	1,50,000	20,00,000	3,00,000
May 2025	28,40,000	2,40,000	26,00,000	4,00,000
Jun 2025	33,00,000	3,00,000	30,00,000	4,50,000
Jul 2025	38,60,000	2,60,000	36,00,000	5,40,000
Aug 2025	44,00,000	3,00,000	41,00,000	6,00,000

Sep 2025 (up to 15.09.2025)	17,20,000	1,20,000	16,00,000	2,40,000
TOTAL	**1,82,70,000**	**13,70,000**	**1,69,00,000**	**25,30,000**

6. Now in the light of the above, -

(i) Identify the provision(s) of GST law contravened by M/s XXX (under heading **Contravention**).

(ii) Identify the provision(s) of GST law under which action is to be taken against M/s XXX (under heading **Consequences of Contravention of legal Provisions**).

(iii) Draft the **Charging Paragraph** of the Show Cause Notice proposed to be issued to M/s XXX, calling upon M/s XXX and Mr. Z to show cause as to why action should not be taken against them, while listing the proposed action to be taken against M/s XXX and Mr. Z.

(iv) Also prepare the **draft Show Cause Notice** for issuance to M/s XXX.

***

SUGGESTED SOLUTION

(ECO data, Inquiry on summons, Determination of Tax Liability under Section 74A, and Draft Show Cause Notice - M/s XXX, Prop. Mr. Z, Jaipur CGST Commissionerate)

A. CONTRAVENTION

On the facts as recorded, the following provisions of law stand contravened (in each case read with the corresponding provisions of the Rajasthan Goods and Services Tax Act, 2017 [RGST Act], the Integrated Goods and Services Tax Act, 2017 [IGST Act] and the Rules made under the Acts):

1. **Section 24(i) of the CGST Act, 2017** - persons making any inter-State taxable supply are required to be registered, irrespective of the threshold in Section 22(1); the Noticee made inter-State supplies of goods to buyers in other States (the place of supply of goods which are moved for delivery to the buyer is the location at which the movement terminates, under Section 10(1)(a) of the IGST Act, and the supplies are therefore inter-State supplies under Section 7(1)(a) of that Act).
2. **Section 24(ix) of the CGST Act, 2017** - persons who supply goods through an electronic commerce operator who is required to collect tax at source under Section 52 are required to be registered, irrespective of turnover. The exemption notification for supplies through an ECO (Notification No.65/2017-Central Tax) covers only suppliers of *services*; no exemption is available to a supplier of goods. The Rs.40 lakh limit for suppliers of goods (Notification No.10/2019-Central Tax) is likewise not available to persons who are required to be registered under Section 24.
3. **Section 25(1) of the CGST Act, 2017** - failure to apply for registration within thirty days of becoming liable to registration; as there is no threshold for a person under Section 24, the Noticee became liable on the first supply, i.e. 06.04.2025.
4. **Section 9(1) of the CGST Act, 2017 and Section 5(1) of the IGST Act, 2017** - non-payment of Central, State and integrated tax on the outward supplies of goods.
5. **Section 31(1) of the CGST Act, 2017 read with Rule 46** - failure to issue tax invoices; **Sections 37(1) and 39(1)** - failure to furnish FORM GSTR-1 and FORM GSTR-3B for the tax periods from April 2025; **Section 35(1) read with Rule 56** - failure to maintain accounts and records.

Note: Section 122(1B) *(ECO that allows a supply by an unregistered person other than a person exempted from registration) is considered but is not for this notice: it is a separate liability of M/s AAA, which accepted the Noticee on the platform without a GSTIN, and it should be examined in the ECO's own case (the ECO is not a noticee here).* ***Section 52*** *does not shift liability to the ECO for the tax on the supply; the ECO's collection of tax at source is a credit to the supplier.* ***Section 122(1)(xv)*** *(suppression of turnover) is not invoked: the Noticee did not suppress any turnover from any return, because he filed none, and his sales were all made visibly on a platform. The case is one of failure to register, for which clause (xi) is the proper clause.*

B. CONSEQUENCES OF CONTRAVENTION OF LEGAL PROVISIONS

The contraventions at (A) above expose M/s XXX/Mr. Z to the following action under the CGST Act, 2017 (read with the corresponding provisions of the RGST Act, 2017 and the IGST Act, 2017):

1. Registration - under **Section 25(8) of the CGST Act, 2017 read with Rule 16 of the CGST Rules, 2017** the proper officer may register the person liable to take registration but who has failed to apply. The temporary registration (FORM GST REG-12) is effective from the date of that order [Rule 16(2)], not from the date the Noticee became liable; the Noticee must apply for registration in the normal manner within ninety days [Rule 16(3)]. The liability to tax arises from 06.04.2025 and is demanded below.
2. Determination and recovery of tax - under **Section 74A(1) of the CGST Act, 2017** (and the RGST Act) for Central and State tax, and under **Section 74A(1) read with Section 20 of the IGST Act, 2017** for integrated tax. FY 2025-26 is within Section 74A [Section 74A(12); Notification No.17/2024-Central Tax

dated 27.09.2024]. The notice may be issued within forty-two months from the due date of furnishing the annual return for FY 2025-26 (31.12.2026) [Section 74A(2)] and the order must be passed within twelve months of the notice [Section 74A(7)]. Since an unregistered person has no annual return, the statutory due date is used to count the period.

3. Section 63 considered and not adopted - Section 63 permits assessment, to the best of judgment, of a taxable person who fails to obtain registration even though liable to do so, within five years from the due date of the annual return, after a hearing; the notice is in FORM GST ASMT-14 and the order in ASMT-15 (Rule 100(2)). It is not used here because there is nothing to estimate: the ECO ledger gives the actual price on each order and it reconciles with the bank statement and with the Noticee's own admission. Section 63 also carries no penalty or concession machinery of its own, and the wording of its opening words (which name Sections 73 and 74) was not confirmed to include Section 74A; the Section 74A route is therefore preferred. Section 63 would be the right tool if the Noticee had not co-operated and no third-party record of the sales had been available.

4. Computation - the price paid by customers is, on the seller-terms and on the Noticee's statement, a final price inclusive of applicable taxes, and no tax was shown separately. The tax is therefore carved out of the price under **Rule 35 of the CGST Rules, 2017** (value of supply inclusive of taxes): tax = price x rate / (100 + sum of rates), i.e. 18/118 for integrated tax, and 9/118 each for Central and State tax. Net sales (after returns and cancellations) of Rs.1,69,00,000/- give integrated tax of Rs.21,92,034/- on inter-State sales of Rs.1,43,70,000/-, and Central tax of Rs.1,92,965/- and State tax of Rs.1,92,965/- on intra-State sales to buyers in Rajasthan of Rs.25,30,000/-. The commission and fees of the ECO are not deducted: the taxable value is the price paid by the customer, not the amount remitted to the seller.

5. Interest - under **Section 50(1)** at 18% per annum on the tax so determined, from the day after the due date of payment for each tax period (20th of the following month), till the date of payment.

6. Penalty - fraud or not? Penalty is proposed under **Section 74A(5)(i)** (non-fraud): ten per cent of the tax due, i.e. Rs.19,297/- (Central), Rs.19,297/- (State) and Rs.2,19,203/- (integrated tax), total Rs.2,57,797/-, each being above the floor of Rs.10,000/-. The Noticee dealt openly through a platform, using his own PAN and bank account, the sales were visible to the ECO, he produced everything on summons and admitted the ledger. His onboarding declaration ('GSTIN not available') was, on the facts, a statement of fact (he had no GSTIN) in a platform form, not a declaration required to be made in a return, statement or document furnished under the Act; it is not 'suppression' within Explanation 2 to Section 74A. No intent to evade is shown. The concession under **Section 74A(8)** is available: no penalty if tax and interest are paid before the notice [clause (i)] or within sixty days of issue of the notice [clause (ii)].

7. Penalty for failure to register - **Section 122(1)(xi)** (a taxable person liable to be registered who fails to obtain registration). Section 122(2) is not the penalty provision for this default, because it applies only to registered persons. Since a penalty is proposed under Section 74A(5)(i), Section 122(1)(xi) is proposed in the alternative and without prejudice, subject to the bar on double penalty for the same act or omission [Section 75(13)] and to Section 126.

8. ITC and TCS - no input tax credit is allowed on the purchases from the Jaipur manufacturers, because the Noticee was not a registered person; Section 18(1)(a) (credit on stock) is available only to a person who applies for registration within thirty days of becoming liable, which the Noticee did not. Any tax collected at source by the ECO on his supplies and reflected in the ECO's statement under Section 52 would be creditable to the Noticee's electronic cash ledger on registration [Section 52(7)]; whether the ECO collected any tax from the Noticee is to be checked from the ECO's statements before the order.

9. Prosecution and recovery - Section 132 is considered and not proposed: the tax involved is below the monetary limit of Section 132(1) and no evasion by fraud is made out. Unpaid amounts are recoverable under Sections 78 and 79.

Illustrative working of the tax proposed to be demanded (tax carved out of the price inclusive of tax, Rule 35; the intra-State and inter-State split is per the ship-to State in the ECO ledger):

Month	Net sales to Rajasthan buyers (Rs.)	CGST @9/118 (Rs.)	RGST @9/118 (Rs.)	Net sales to buyers in other States (Rs.)	IGST @18/118 (Rs.)	Total tax (Rs.)
Apr 2025 (from 06.04.2025)	3,00,000	22,881	22,881	17,00,000	2,59,322	3,05,084
May 2025	4,00,000	30,508	30,508	22,00,000	3,35,593	3,96,609
Jun 2025	4,50,000	34,322	34,322	25,50,000	3,88,983	4,57,627
Jul 2025	5,40,000	41,186	41,186	30,60,000	4,66,780	5,49,152
Aug 2025	6,00,000	45,763	45,763	35,00,000	5,33,898	6,25,424
Sep 2025 (up to 15.09.2025)	2,40,000	18,305	18,305	13,60,000	2,07,458	2,44,068
TOTAL	**25,30,000**	**1,92,965**	**1,92,965**	**1,43,70,000**	**21,92,034**	**25,77,964**

Basis: *Taxable value (price less tax): intra-State Rs.21,44,070/-; inter-State Rs.1,21,77,966/-; total Rs.1,43,22,036/-. Tax: Central Rs.1,92,965/-, State Rs.1,92,965/-, integrated Rs.21,92,034/- = Rs.25,77,964/-; Central tax plus integrated tax Rs.23,84,999/-; penalty Rs.2,57,797/-. The month-wise figures are rounded to the rupee and added; if the order is made by applying the formula to the totals, the figures may differ by a few rupees.*

C. CHARGING PARAGRAPH OF THE SHOW CAUSE NOTICE

[The following is the operative charging paragraph proposed for incorporation in the Show Cause Notice at Part D below.]

Now, therefore, M/s XXX, a proprietary concern of Mr. Z, situated at YYYY, Jaipur, Rajasthan, and Mr. Z, Proprietor of M/s XXX, in his personal capacity as the 'person' and 'taxable person' constituting the said proprietary concern (M/s XXX and Mr. Z being one and the same person in law), are hereby called upon to show cause in writing to the Deputy/Assistant Commissioner, CGST Division - [•], Jaipur CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) *the supplies of goods (plastic household articles, HSN 3924) of the aggregate price of Rs.1,69,00,000/- (net of returns) made by them from 06.04.2025 to 15.09.2025 through the electronic commerce operator M/s AAA, to buyers in Rajasthan (Rs.25,30,000/-) and in other States (Rs.1,43,70,000/-), should not be held to be taxable supplies made in contravention of Section 24(i), Section 24(ix) and Section 25(1) of the CGST Act, 2017/RGST Act, 2017, without obtaining registration;*

(ii) *they should not be registered under Section 25(8) of the CGST Act, 2017 read with Rule 16 of the CGST Rules, 2017;*

(iii) *an amount of Rs.1,92,965/- (Central tax), Rs.1,92,965/- (Rajasthan State tax) and Rs.21,92,034/- (integrated tax), total Rs.25,77,964/- (Rupees Twenty-Five Lakh Seventy-Seven Thousand Nine Hundred Sixty-Four only), being tax not paid on the taxable value of Rs.1,43,22,036/- (after carving out tax from the price under Rule 35 of the CGST Rules, 2017) as detailed in Annexure-A to this notice, should not be demanded and recovered from them under Section 74A(1) of the CGST Act, 2017, the corresponding provisions of the RGST Act, 2017, and Section 20 of the IGST Act, 2017;*

(iv) *interest at the applicable rate under Section 50(1) of the CGST Act, 2017/RGST Act, 2017/IGST Act, 2017 should not be charged and recovered on the tax at (iii) above, from the respective due dates till the date of payment;*

(v) *a penalty of Rs.19,297/- (Central tax), Rs.19,297/- (State tax) and Rs.2,19,203/- (integrated tax), total Rs.2,57,797/-, being ten per cent of the tax due, should not be imposed on them under Section 74A(5)(i) of the CGST Act, 2017/RGST Act, 2017/IGST Act, 2017 (without prejudice to the*

benefit of nil penalty to which they may become entitled under Section 74A(8) on payment of tax and interest within the time therein specified);

(vi) *penalty should not separately be imposed on them under Section 122(1)(xi) of the CGST Act, 2017/RGST Act, 2017, without prejudice to (v) above and subject to Section 75(13) and Section 126 of the CGST Act, 2017.*

D. DRAFT SHOW CAUSE NOTICE

F. No. GEXCOM/ADJN/SCN/[•]/2026-JAIPUR

DIN: [Document Identification Number to be auto-generated on issue]

Office of the Deputy/Assistant Commissioner, CGST Division - [•], Jaipur CGST Commissionerate, Rajasthan

Date: [•].11.2026

SHOW CAUSE NOTICE

(Issued under Section 74A of the Central Goods and Services Tax Act, 2017 read with Section 74A of the Rajasthan Goods and Services Tax Act, 2017 and Section 20 of the Integrated Goods and Services Tax Act, 2017)

To,
Mr. Z,
Proprietor, M/s XXX,
YYYY, Jaipur, Rajasthan.

(hereinafter referred to as 'the Noticee', which expression shall, unless the context otherwise requires, include M/s XXX and Mr. Z, the two being one and the same 'person' within the meaning of Section 2(84) of the CGST Act, 2017)

WHEREAS, on a notice under Section 70 of the CGST Act, 2017 dated 13.07.2026 calling for details of sellers who sold goods through its platform without a GSTIN during FY 2025-26, M/s AAA, an electronic commerce operator, furnished on 24.07.2026 a list in which M/s XXX, of Mr. Z, YYYY, Jaipur showed the highest sales (RUD-1). Verification on the common portal on 28.07.2026 showed that no registration exists against the PAN of Mr. Z (RUD-2);

2. AND WHEREAS the nodal officer of M/s AAA, on summons under Section 70 dated 03.08.2026, furnished on 12.08.2026 the seller-onboarding record of M/s XXX (dated 01.04.2025), the order-wise sales ledger from 06.04.2025 to 15.09.2025, the seller-terms, which provide that the listed price is the final price payable by the customer inclusive of applicable taxes, and the settlement statement, with a certificate of correctness of the data (RUD-3 to RUD-6);

3. AND WHEREAS Mr. Z appeared on 22.09.2026 on a summons dated 25.08.2026 and produced purchase invoices, his bank statement and dashboard downloads from the ECO's portal, but no sales register, invoice book or books of account (RUD-7 and RUD-8), and in his statement of the same date under Section 70 (RUD-9), inter alia, admitted and stated that:

- he began selling plastic household articles through the platform on 06.04.2025 and made all his sales through it;
- the listed prices were fixed by reference to the retail market price, no GST was charged or shown separately, and he kept no accounts;
- he did not obtain registration as he believed it was needed only for a turnover above Rs.40 lakh, and he did not know that a person selling goods across States through an e-commerce platform must register;
- the ECO ledger correctly reflected his sales; and
- he was ready to obtain registration and pay the tax found due;

4. AND WHEREAS reconciliation of the ECO ledger with the settlement statement and the bank statement shows that the ledger is accurate: net sales value (after returns and cancellations) was Rs.1,69,00,000/-, the ECO deducted commission and fees of Rs.23,66,000/-, and Rs.1,45,34,000/- was remitted to the

Noticee's bank account. Of the net sales, Rs.25,30,000/- was to buyers within Rajasthan and Rs.1,43,70,000/- to buyers in other States;

5. AND WHEREAS the Noticee made inter-State taxable supplies of goods and supplied goods through an electronic commerce operator which is required to collect tax at source under Section 52, and was therefore required to be registered under Section 24(i) and Section 24(ix) of the CGST Act, 2017, irrespective of the threshold under Section 22(1). He became liable to registration on the date of his first supply, 06.04.2025, and was required to apply for registration within thirty days under Section 25(1) but failed to do so. He supplied taxable goods on which no tax was paid, no tax invoice was issued, and no return was filed;

6. AND WHEREAS, as the price listed on the platform is the final price inclusive of taxes, the tax has been worked out under Rule 35 of the CGST Rules, 2017 at 18% (CGST 9% + RGST 9% on supplies within Rajasthan, and IGST 18% on supplies to other States) as under (basis explained in Annexure-A, which forms part of this notice):

Head	Net price paid by customers (Rs.)	Tax carved out under Rule 35 (Rs.)	Taxable value (Rs.)
CGST	25,30,000	1,92,965	21,44,070
RGST	25,30,000	1,92,965	21,44,070
IGST	1,43,70,000	21,92,034	1,21,77,966
TOTAL TAX		**25,77,964**	

7. AND WHEREAS the Noticee dealt openly through the ECO using his own PAN and bank account, the ECO's ledger is accurate, he produced his documents on summons and admitted the sales. His declaration that he had no GSTIN at the time of onboarding was a correct statement of fact in the platform's form and not a declaration required in a return, statement, report or document furnished under the Act. No evidence has been found to show that the non-payment of tax was by reason of fraud, wilful misstatement or suppression of facts to evade tax. The non-payment of tax is appearing to be a case other than fraud etc., attracting penalty under Section 74A(5)(i) of the CGST Act, 2017/RGST Act, 2017/IGST Act, 2017;

8. AND WHEREAS, it thus appears that the Noticee has contravened the following provisions of the CGST Act, 2017 (and the corresponding provisions of the RGST Act, 2017 and the IGST Act, 2017):

- Section 24(i) and Section 24(ix) - failure to obtain registration, being required to be registered irrespective of turnover;
- Section 25(1) - failure to apply for registration within thirty days of becoming liable;
- Section 9(1) of the CGST Act and Section 5(1) of the IGST Act - non-payment of tax on outward supplies of goods;
- Section 31(1) read with Rule 46 - failure to issue tax invoices;
- Sections 37(1) and 39(1) - failure to furnish GSTR-1 and GSTR-3B for the tax periods from April 2025;
- Section 35(1) read with Rule 56 - failure to maintain accounts and records;

9. AND WHEREAS the aforesaid acts and omissions of the Noticee render him liable to:

(a) registration under Section 25(8) of the CGST Act, 2017 read with Rule 16 of the CGST Rules, 2017;

(b) demand and recovery of tax under Section 74A of the CGST Act, 2017/RGST Act, 2017 and Section 20 of the IGST Act, 2017;

(c) interest under Section 50(1);

(d) penalty under Section 74A(5)(i) of the CGST Act, 2017/RGST Act, 2017/IGST Act, 2017; and

(e) penalty under Section 122(1)(xi) of the CGST Act, 2017/RGST Act, 2017 (without prejudice to, and subject to Section 75(13) in relation to, the penalty at (d) above);

NOW, THEREFORE

M/s XXX, a proprietary concern of Mr. Z, situated at YYYY, Jaipur, Rajasthan, and Mr. Z, Proprietor of M/s XXX, are hereby called upon to show cause in writing to the Deputy/Assistant Commissioner, CGST Division - [•], Jaipur CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) the supplies of goods (plastic household articles, HSN 3924) of the aggregate price of Rs.1,69,00,000/- (net of returns) made by them from 06.04.2025 to 15.09.2025 through the electronic commerce operator M/s AAA, to buyers in Rajasthan (Rs.25,30,000/-) and in other States (Rs.1,43,70,000/-), should not be held to be taxable supplies made in contravention of Section 24(i), Section 24(ix) and Section 25(1) of the CGST Act, 2017/RGST Act, 2017, without obtaining registration;

(ii) they should not be registered under Section 25(8) of the CGST Act, 2017 read with Rule 16 of the CGST Rules, 2017;

(iii) an amount of Rs.1,92,965/- (Central tax), Rs.1,92,965/- (Rajasthan State tax) and Rs.21,92,034/- (integrated tax), total Rs.25,77,964/- (Rupees Twenty-Five Lakh Seventy-Seven Thousand Nine Hundred Sixty-Four only), being tax not paid on the taxable value of Rs.1,43,22,036/- (after carving out tax from the price under Rule 35 of the CGST Rules, 2017) as detailed in Annexure-A to this notice, should not be demanded and recovered from them under Section 74A(1) of the CGST Act, 2017, the corresponding provisions of the RGST Act, 2017, and Section 20 of the IGST Act, 2017;

(iv) interest at the applicable rate under Section 50(1) of the CGST Act, 2017/RGST Act, 2017/IGST Act, 2017 should not be charged and recovered on the tax at (iii) above, from the respective due dates till the date of payment;

(v) a penalty of Rs.19,297/- (Central tax), Rs.19,297/- (State tax) and Rs.2,19,203/- (integrated tax), total Rs.2,57,797/-, being ten per cent of the tax due, should not be imposed on them under Section 74A(5)(i) of the CGST Act, 2017/RGST Act, 2017/IGST Act, 2017 (without prejudice to the benefit of nil penalty to which they may become entitled under Section 74A(8) on payment of tax and interest within the time therein specified);

(vi) penalty should not separately be imposed on them under Section 122(1)(xi) of the CGST Act, 2017/RGST Act, 2017, without prejudice to (v) above and subject to Section 75(13) and Section 126 of the CGST Act, 2017.

10. The Noticee is further informed that:

- a written reply to this notice, along with all documents relied upon, must be furnished within thirty (30) days of receipt of this notice, failing which the case will be decided ex parte on the basis of available records, on merits;
- an opportunity of personal hearing will be granted before adjudication, on a date to be separately intimated, and the Noticee (or an authorised representative) may appear in person or through counsel;
- attention is drawn to the benefit available under Section 74A(8) of the CGST Act, 2017/RGST Act, 2017/IGST Act, 2017, whereby, if the tax at (iii) above and the interest at (iv) above are paid before the issue of this notice, no notice shall be served in respect of the said tax; and if they are paid within sixty (60) days of the issue of this notice, no penalty shall be payable and all proceedings in respect of the said notice shall be deemed to be concluded;

- this notice is issued without prejudice to any other action that may be taken against the Noticee or any other person (including the electronic commerce operator) under the CGST Act, 2017/RGST Act, 2017/IGST Act, 2017, or any other law for the time being in force.

List of Relied Upon Documents (RUDs):

RUD-1: Notice dated 13.07.2026 under Section 70 to M/s AAA and its reply dated 24.07.2026 with the list of sellers without GSTIN;

RUD-2: Portal verification report dated 28.07.2026 (no registration against PAN of Mr. Z);

RUD-3: Summons dated 03.08.2026 to the nodal officer of M/s AAA, and his appearance record dated 12.08.2026;

RUD-4: Seller-onboarding record of M/s XXX dated 01.04.2025;

RUD-5: Order-wise sales ledger of M/s XXX from 06.04.2025 to 15.09.2025 with the ECO's certificate of correctness, and seller-terms;

RUD-6: Settlement statement of M/s AAA in respect of M/s XXX;

RUD-7: Summons dated 25.08.2026 issued to Mr. Z under Section 70, with proof of service;

RUD-8: Purchase invoices, bank statement and dashboard downloads produced by Mr. Z on 22.09.2026;

RUD-9: Statement of Mr. Z recorded under Section 70 on 22.09.2026;

Annexure-A: Month-wise statement of sales and tax calculation (April 2025 to 15.09.2025) [as per the working in Part B].

(_____)
Deputy/Assistant Commissioner, CGST
Division - [•], Jaipur CGST Commissionerate

Copy to: The Joint/Additional Commissioner, Jaipur CGST Commissionerate, for information.

Drafting note (not part of the notice):

- *The addressee, jurisdictional range/officer, F. No./DIN and dates shown in square brackets/blanks are illustrative placeholders and must be completed with the correct particulars before issue.*
- *The tax, interest and penalty figures are worked out on the reasoned basis explained in Part B and remain subject to reconciliation with the seized/recorded documents.*
- ***Section 74A or Section 63?*** *The facts permit either; the choice must be reasoned. The draft uses Section 74A because the ECO ledger removes any need to estimate and because Section 74A carries the penalty and concessions needed. Section 63 (ASMT-14, 15 days to reply under Rule 100(2), then ASMT-15) is the better route when the seller co-operates neither in records nor in appearance and there is no third-party data. Whether the opening words of Section 63 now name Section 74A could not be confirmed: one reproduction shows the words 'section 73 or section 74' only; another suggests an insertion of 'or section 74A' by the Finance (No.2) Act, 2024 (UNCERTAIN).*
- ***ECO data as evidence.*** *The ECO's ledger, seller-terms and settlement statement were obtained on a summons under Section 70. They should be accompanied by a certificate of correctness by the ECO's nodal officer and by the electronic-evidence certificate required by the Act (Section 145 of the CGST Act, 2017; not verified in this build), and the nodal officer's statement should be recorded to confirm the process of generation of the data. The ECO's own conduct is for a separate proceeding (Section 122(1B)).*

- ***Cum-tax.*** *The draft treats the price paid by the customer as inclusive of tax and carves the tax out under Rule 35. This rests on a fact (the seller-terms say that the price is the final price inclusive of taxes; the Noticee admitted that he charged no separate tax) and not on any rule that deems every price to be cum-tax. If the facts had shown that tax would be added over and above the listed price, the tax would be on the listed price. Contrast Exercises 2 and 29, where the value of bills raised is treated as exclusive of tax. Rule 35 was read from the reproduction of the CGST Rules at comtax.wb.gov.in; the heading is 'Value of supply inclusive of integrated tax, central tax, State tax, Union territory tax'. The conclusion that the price is inclusive of tax is open to argument and is flagged (UNCERTAIN).*
- ***Rate.*** *The 18% rate on household articles of plastics (HSN 3924) under Notification No.1/2017-Central Tax (Rate) and No.1/2017-Integrated Tax (Rate), as in force from April to 15.09.2025, was stated from memory and could not be re-verified against the rate schedule in this build; it must be checked before issue (UNCERTAIN). The period of supply was kept before 22.09.2025 deliberately, so that the rate rationalisation of that date does not enter the computation.*
- ***Rule 16.*** *The temporary registration is effective from the date of the REG-12 order; it does not cover the earlier period. The liability for the earlier period is demanded here under Section 74A, not by the registration.*
- ***TCS.*** *If the ECO has collected tax at source from the Noticee's sales and reported it in its GSTR-8 under the Noticee's identification, the Noticee may claim credit in his electronic cash ledger on registration [Section 52(7)] and the amount may be adjusted at the time of payment. The GSTR-8 data should be checked; no amount is assumed here.*
- ***Penalty clause.*** *The penalty under Section 122(1)(xi) is Rs.10,000/- or the tax evaded, whichever is higher, so that in an alternative proposal it could exceed the 10% penalty under Section 74A(5)(i). That is the reason it is only proposed in the alternative and is not quantified. Only one penalty can finally be imposed for the same act (Section 75(13), as read in the house style of Exercise 1; whether it names Section 74A could not be confirmed (UNCERTAIN)).*
- ***Authority.*** *The Central tax (Rs.1,92,965/-) plus integrated tax (Rs.21,92,034/-) is Rs.23,84,999/-, i.e. above Rs.20 lakh and below Rs.2 crore, so the notice is issued by the Deputy/Assistant Commissioner. The draft should be settled by the jurisdictional Range/Division before issue (DRC-01), including verification of the monetary-limit-based issuing/adjudicating authority under Circular No. 31/05/2018-GST dated 09.02.2018 (Superintendent: central tax up to Rs.10 lakh; Deputy/Assistant Commissioner: above Rs.10 lakh up to Rs.1 crore; Additional/Joint Commissioner: above Rs.1 crore).*
- *Return of non-RUDs (Non-Relied Upon Documents): When the SCN is issued to the taxpayer in the form of DRC-01 (uploaded on the portal if registered, as well as delivered as per the provisions of law), non-RUDs must be returned to the noticee under due acknowledgement within seven days of issuance of the SCN.*

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Exercise 32

Non-maintenance and non-production of books, non-compliance with summons and obstruction of inspection; tax determined from third-party data

Exercise 32: Non-maintenance and non-production of books, non-compliance with summons and obstruction of inspection; tax determined from third-party data

Situation in Brief:

1. M/s XXX Pvt. Ltd., Visakhapatnam, Andhra Pradesh (GSTIN [•]), of which Mr. Z is the Managing Director in charge of its day-to-day business, supplies manpower and housekeeping services (SAC 9985) to Central and State Government establishments, public sector undertakings and a local authority in and around Visakhapatnam, as well as to a few private customers. For FY 2024-25 it filed FORM GSTR-1 and FORM GSTR-3B regularly, declaring outward taxable supplies of Rs.3,12,00,000/- at the rate of 18% (tax paid: Rs.56,16,000/-).

2. During return scrutiny under Section 61 for FY 2024-25 the officer compared the Noticee's returns with the FORM GSTR-7 returns filed by seven deductors, who are persons required to deduct tax at source under Section 51 of the CGST Act, 2017 on payments under contracts exceeding Rs.2.5 lakh. The GSTR-7 data show the amounts paid or credited to the Noticee under seven contracts, excluding tax, as under (the value is taken under Section 51(1) excluding tax):

Deductor (under Section 51)	Contract value paid to the Noticee in FY 2024-25, excluding tax (Rs.)
Deductor-1 (Central PSU, Visakhapatnam)	1,12,00,000
Deductor-2 (State Government department)	96,00,000
Deductor-3 (Central PSU)	84,00,000
Deductor-4 (State Government department)	78,00,000
Deductor-5 (Central Government establishment)	74,00,000
Deductor-6 (State PSU)	76,00,000
Deductor-7 (Local authority)	66,00,000
TOTAL (as per FORM GSTR-7 data)	**5,86,00,000**

3. The seven contracts alone thus total Rs.5,86,00,000/-, against Rs.3,12,00,000/- shown as the Noticee's total outward taxable supplies to all customers. A notice in FORM GST ASMT-10 dated 12.05.2026 was issued to the Noticee; there was no reply.

4. On 05.06.2026 the Deputy Commissioner wrote to the Noticee asking it, within ten days, to furnish for FY 2024-25 (a) the ledgers and trial balance, (b) the sales invoices and the seven contract copies, (c) the bank statements and (d) a reconciliation of the GSTR-7 data with its returns. A reminder was sent on 22.06.2026. Nothing was furnished. In the meantime, on a summons under Section 70 to the Bank Manager on 24.07.2026, the bank statement of the Noticee for FY 2024-25 was received; the credits from the seven deductors total Rs.6,79,76,000/-, which agrees with the contract values at item 2 after adding 18% GST and deducting 2% tax deducted at source. The seven deductors confirmed the contracts and payments in writing, and the nodal officers of two of them, whose statements were recorded on 14.07.2026 and 16.07.2026 under Section 70, confirmed that the services were rendered by the Noticee in full during the year.

5. Summonses under Section 70 were issued to Mr. Z on 02.07.2026 (to appear on 14.07.2026), 20.07.2026 (to appear on 31.07.2026) and 05.08.2026 (to appear on 14.08.2026), calling for the books of account and records. He did not appear on any date. On the first date, the Company wrote seeking four weeks. On the second date, the accounts executive, Mr. A, attended with a letter stating that the books were with the statutory auditor, and produced nothing. On the third date nobody attended, and no intimation was sent. The statement of Mr. A, recorded on 31.07.2026 under Section 70, stated that

the books are maintained in Tally on a server at the head office, that the returns were filed as instructed by Mr. Z, and that the seven contracts were executed by the company and the payments were received in its bank account.

6. On 18.08.2026 the Joint Commissioner authorised an officer under Section 71(1) to have access to the Noticee's place of business at YYYY, Visakhapatnam, to inspect the books of account, documents, computers and software, for verification of the correctness of the turnover. On 20.08.2026 the officer (accompanied by two witnesses) visited the premises and demanded the books, records and access to the server. The office manager, Mr. M, kept the officer waiting at the gate for over three hours and refused entry to the accounts room and the server room, stating that he had telephonic instructions from Mr. Z that 'nobody is to be allowed'. The office manager refused to sign the panchnama but its contents were recorded on video. No record was made available within the period specified in the demand, which expired on 10.09.2026.

7. By a letter dated 12.09.2026 the Noticee's counsel stated that the books of FY 2024-25 were 'misplaced during shifting of the office in March 2026' and that the Tally data was 'corrupted'; no police complaint, insurance claim, or backup record was furnished, though the Noticee continued to file returns for FY 2025-26 from the same Tally data.

8. Now in the light of the above, -

(i) Identify the provision(s) of GST law contravened by M/s XXX Pvt. Ltd (under heading **Contravention**).

(ii) Identify the provision(s) of GST law under which action is to be taken against M/s XXX Pvt. Ltd (under heading **Consequences of Contravention of legal Provisions**).

(iii) Draft the **Charging Paragraph** of the Show Cause Notice proposed to be issued to M/s XXX Pvt. Ltd, calling upon M/s XXX Pvt. Ltd. and its Managing Director Mr. Z to show cause as to why action should not be taken against them, while listing the proposed action to be taken against M/s XXX Pvt. Ltd. and its Managing Director Mr. Z.

(iv) Also prepare the **draft Show Cause Notice** for issuance to M/s XXX Pvt. Ltd.

***

SUGGESTED SOLUTION

(Scrutiny, Summons, Inspection under Section 71, Determination of Tax Liability under Section 74A on third-party data, and Draft Show Cause Notice - M/s XXX Pvt. Ltd. and Mr. Z, Visakhapatnam CGST Commissionerate)

A. CONTRAVENTION

On the facts as recorded, the following provisions of law stand contravened (in each case read with the corresponding provisions of the Andhra Pradesh Goods and Services Tax Act, 2017 [APGST Act] and the Rules made under the two Acts):

1. **Section 9(1) and Section 39(7) of the CGST Act, 2017** - non-payment of tax on outward supplies of services of Rs.2,74,00,000/- (the excess of the contract values over the turnover declared), and **Sections 37(1) and 39(1)** - furnishing of statements and returns for FY 2024-25 which do not disclose the turnover.
2. **Section 35(1) of the CGST Act, 2017 read with Rule 56, and Section 36** - failure to keep and maintain the accounts and records, and to retain them for seventy-two months from the due date of the annual return for the year; the plea that the books of FY 2024-25 were 'misplaced' does not discharge the obligation, as the period of retention has not expired.
3. **Section 70(1A) of the CGST Act, 2017** - a person summoned is bound to attend, in person or through an authorised representative, and to produce the documents or things required; Mr. Z, for the Company, attended none of the three summonses.
4. **Section 71(2) of the CGST Act, 2017** - the person in charge of the place of business must, on demand, make available to the officer authorised under Section 71(1) the records required for verification of the turnover within the time allowed; no record was made available and access was refused.

***Note:* Section 62** *(best-judgment assessment of a registered person who fails to furnish returns even after a notice under Section 46) cannot be used: the Noticee filed returns for every period, so there was no failure to furnish returns.* **Section 63** *is for unregistered persons.* **Section 74A** *contains no power of best-judgment assessment: the proper officer must show, on evidence, that tax has not been paid or short paid. The third-party data is such evidence, and the Noticee remains free to rebut it by producing its books.* **Section 122(1)(xx)** *(tampering with or destroying material evidence) is not invoked, because there is no evidence that the books were destroyed, as distinct from not produced.* **Section 137** *speaks of a person being 'punished' for an 'offence' and is not used to levy a penalty on the Managing Director for the Company's liability; Mr. Z is charged in his own right for his own default (non-appearance).*

B. CONSEQUENCES OF CONTRAVENTION OF LEGAL PROVISIONS

The contraventions at (A) above expose M/s XXX Pvt. Ltd. and Mr. Z to the following action under the CGST Act, 2017 (read with the corresponding provisions of the APGST Act, 2017):

1. Determination and recovery of tax - under **Section 74A(1) of the CGST Act, 2017** (and the APGST Act). FY 2024-25 is within Section 74A [Section 74A(12); Notification No.17/2024-Central Tax dated 27.09.2024]. The notice may be issued within forty-two months from the due date of the annual return for FY 2024-25 (31.12.2025) [Section 74A(2)], and the order must be passed within twelve months of the notice [Section 74A(7)].
2. Basis of the demand - since the books have been withheld, the turnover is determined on the best *evidence* available, not by estimate. The value of the seven contracts as per the GSTR-7 data (excluding tax) is Rs.5,86,00,000/-. Giving the Noticee the benefit of the whole of its declared turnover of Rs.3,12,00,000/- against this figure (although the declared turnover includes private customers, and any private business would only increase the shortfall), the short-declared turnover is Rs.2,74,00,000/-

and the tax at 18% (9% CGST + 9% APGST) is Rs.49,32,000/- (Rs.24,66,000/- each). Two weaknesses of the data must be recognised in the notice: (a) GSTR-7 records the amount *paid or credited* in the year, which may include payments for services supplied in an earlier year (and exclude services of this year paid later), so that the tax point is not the same as the payment point; (b) the data covers only seven customers. The Noticee is invited to rebut either point with its books, and the demand may be recomputed accordingly in adjudication.

3. Interest - under **Section 50(1)** at 18% per annum on the tax so determined, from the day after the due date of payment for each tax period up to the date of actual payment; since the monthly breakup is not available, the interest will be worked out by the adjudicating authority on the basis of the periods to which the services relate as the books or the contracts show.

4. Penalty on the tax - fraud or not? Penalty is proposed under **Section 74A(5)(ii)**, equal to the tax due, i.e. Rs.49,32,000/- (Rs.24,66,000/- each of Central and State tax). Two things support it. First, the declared turnover is about 53% of the value of seven contracts alone, which is not an error of the kind that arises from a timing difference. Second, the Noticee has not furnished any of the information that the proper officer asked for in writing on 05.06.2026 and 22.06.2026, which is 'suppression' by the definition in Explanation 2 to Section 74A (failure to furnish any information on being asked for in writing by the proper officer). The definition is of 'suppression'; the notice must still allege, and the order find, that the suppression was *to evade tax*. The draft pleads this from the gap between the declared and the contracted turnover, and from the refusal to produce the books. If the Noticee produces books and satisfies the authority that the case is not of fraud etc., the penalty is redetermined under Section 74A(5)(i) [Section 75(2A)]. The concession under Section 74A(9) is available: 15% of the tax if paid with interest before the notice, 25% within sixty days of the notice, and 50% within sixty days of the order.

5. Penalties for the defaults in books, information and access (Company) - **Section 122(1)(xvi)** (failure to keep, maintain or retain books of account and other documents), **Section 122(1)(xvii)** (failure to furnish information or documents called for by an officer) and **Section 122(1)(xiii)** (obstructing or preventing an officer in the discharge of duties). The penalty under each is Rs.10,000/- or the tax evaded, whichever is higher; as no tax evaded is attributable separately to these defaults, the fixed Rs.10,000/- is proposed under each Act for each default. They are different acts from the short payment and are not covered by the penalty at item 4. **Section 122(1)(xv)** (suppression of turnover) is proposed only in the alternative to item 4, subject to Section 75(13), because both are for the same act.

6. Penalty on Mr. Z - under **Section 122(3)(d)** (failure to appear before the officer when summoned to give evidence or produce a document), which may extend to Rs.25,000/-; Rs.25,000/- under each Act is proposed, for failing to appear on three summonses without a valid reason.

7. Prosecution - Section 132 considered and not proposed at this stage. The tax involved (Rs.49,32,000/-) is below the first monetary tier of Section 132(1), and the offence of obstructing an officer, which was clause (g) of Section 132(1), is no longer an offence under that section (clauses (g), (j) and (k) were omitted by the Finance Act, 2023 w.e.f. 01.10.2023). Recovery of the amount confirmed will be under Sections 78 and 79, and provisional attachment under Section 83 may be considered if the Noticee disposes of assets.

Illustrative working of the tax proposed to be demanded, and plan of penalties:

Particulars	Value (Rs.)	CGST @9% (Rs.)	APGST @9% (Rs.)
A. Value of seven contracts per GSTR-7 data of the deductors (excluding tax)	5,86,00,000		
B. Outward taxable supplies declared in GSTR-3B for FY 2024-25 (all customers; set off in full against A)	3,12,00,000	28,08,000	28,08,000
C. Turnover short-declared (A - B)	2,74,00,000	24,66,000	24,66,000

Tax demanded (on C)	**2,74,00,000**	**24,66,000**	**24,66,000**

Noticee	Provision	CGST Act (Rs.)	APGST Act (Rs.)	Total (Rs.)
M/s XXX Pvt. Ltd.	Section 74A(5)(ii) (equal to tax due)	24,66,000	24,66,000	49,32,000
M/s XXX Pvt. Ltd.	Section 122(1)(xvi) - books	10,000	10,000	20,000
M/s XXX Pvt. Ltd.	Section 122(1)(xvii) - information/ documents	10,000	10,000	20,000
M/s XXX Pvt. Ltd.	Section 122(1)(xiii) - obstruction	10,000	10,000	20,000
Mr. Z	Section 122(3)(d) - non-appearance on summons	25,000	25,000	50,000
TOTAL		**25,21,000**	**25,21,000**	**50,42,000**

Basis: *Tax Rs.49,32,000/- + penalties Rs.50,42,000/- = Rs.99,74,000/-, exclusive of interest. Central tax is Rs.24,66,000/- (above Rs.10 lakh and up to Rs.1 crore, so the notice is issued by the Deputy/Assistant Commissioner).*

C. CHARGING PARAGRAPH OF THE SHOW CAUSE NOTICE

[The following is the operative charging paragraph proposed for incorporation in the Show Cause Notice at Part D below.]

Now, therefore, (1) M/s XXX Pvt. Ltd. (hereinafter 'the Company'), a company registered at YYYY, Visakhapatnam, Andhra Pradesh, through its Managing Director Mr. Z, and (2) Mr. Z, Managing Director of the Company (in his personal capacity as regards item (vii)), are hereby called upon to show cause in writing to the Deputy/Assistant Commissioner, CGST Division - [•], Visakhapatnam CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) *the services of the value of Rs.2,74,00,000/- supplied by the Company during FY 2024-25 in excess of the value of Rs.3,12,00,000/- shown in its GSTR-3B returns should not be held to be taxable supplies on which tax has not been paid, in contravention of Section 9(1), Section 37(1) and Section 39(1) and (7) of the CGST Act, 2017/APGST Act, 2017;*

(ii) *an amount of Rs.24,66,000/- (Central tax) and Rs.24,66,000/- (Andhra Pradesh State tax), total Rs.49,32,000/- (Rupees Forty-Nine Lakh Thirty-Two Thousand only), being tax not paid on the value of Rs.2,74,00,000/- as detailed in Annexure-A to this notice, should not be demanded and recovered from the Company under Section 74A(1) of the CGST Act, 2017 and the corresponding provisions of the APGST Act, 2017;*

(iii) *interest at the applicable rate under Section 50(1) of the CGST Act, 2017/APGST Act, 2017 should not be charged and recovered from the Company on the tax at (ii) above, from the respective due dates till the date of payment;*

(iv) *a penalty of Rs.24,66,000/- (Central tax) and Rs.24,66,000/- (State tax), total Rs.49,32,000/-, equal to the tax at (ii) above, should not be imposed on the Company under Section 74A(5)(ii) of the CGST Act, 2017/APGST Act, 2017, for suppression of facts to evade tax (and, if the Company succeeds in showing that the case is not one of fraud etc., penalty should not be redetermined under Section 74A(5)(i) read with Section 75(2A) of the CGST Act, 2017) (without prejudice to the benefit of reduced penalty under Section 74A(9) on payment in the time and manner therein specified);*

(v) *a penalty of Rs.30,000/- under the CGST Act, 2017 and Rs.30,000/- under the APGST Act, 2017 (Rs.10,000/- each under Sections 122(1)(xvi), 122(1)(xvii) and 122(1)(xiii)), total Rs.60,000/-, should not be imposed on the Company for failing to keep, maintain or retain books of account,*

for failing to furnish information and documents called for, and for obstructing the officer in the discharge of his duties;

(vi) *a penalty of Rs.49,32,000/- under Section 122(1)(xv) of the CGST Act, 2017/APGST Act, 2017 should not be imposed on the Company in the alternative to (iv) above and without prejudice to it, and subject to Section 75(13) and Section 126 of the CGST Act, 2017;*

(vii) *a penalty of Rs.25,000/- under Section 122(3)(d) of the CGST Act, 2017 and Rs.25,000/- under the corresponding provision of the APGST Act, 2017, total Rs.50,000/-, should not be imposed on Mr. Z for failing to appear before the proper officer on being summoned to give evidence and produce documents.*

D. DRAFT SHOW CAUSE NOTICE

F. No. GEXCOM/ADJN/SCN/[•]/2026-VISAKHAPATNAM

DIN: [Document Identification Number to be auto-generated on issue]

Office of the Deputy/Assistant Commissioner, CGST Division - [•], Visakhapatnam CGST Commissionerate, Andhra Pradesh

Date: [•].11.2026

SHOW CAUSE NOTICE

(Issued under Section 74A of the Central Goods and Services Tax Act, 2017 read with Section 74A of the Andhra Pradesh Goods and Services Tax Act, 2017, and Section 122 thereof)

To,
(1) M/s XXX Pvt. Ltd. (GSTIN: [•]), through its Managing Director, YYYY, Visakhapatnam, Andhra Pradesh; and
(2) Mr. Z, Managing Director, M/s XXX Pvt. Ltd., YYYY, Visakhapatnam, Andhra Pradesh.

(M/s XXX Pvt. Ltd. is hereinafter referred to as 'the Company' and Mr. Z as 'Noticee-2'; the Company and Mr. Z are together referred to as 'the Noticees')

WHEREAS the Company, registered under the CGST Act, 2017/APGST Act, 2017, supplies manpower and housekeeping services (SAC 9985) to Government establishments, public sector undertakings and a local authority, among others, and filed returns for FY 2024-25 declaring outward taxable supplies of Rs.3,12,00,000/- (RUD-1). Mr. Z is its Managing Director and is in charge of its day-to-day business;

2. AND WHEREAS, on scrutiny under Section 61, the amounts paid or credited to the Company by seven deductors under Section 51 of the CGST Act, 2017, reported in their FORM GSTR-7 returns (RUD-2), total Rs.5,86,00,000/- (excluding tax) for FY 2024-25 under seven contracts, as against the declared turnover of Rs.3,12,00,000/- from all customers. A notice in FORM GST ASMT-10 dated 12.05.2026 was not replied to (RUD-3). The bank statement of the Company for FY 2024-25, obtained under Section 70 (RUD-4), shows credits from the seven deductors of Rs.6,79,76,000/-, which agrees with the contract values after adding GST at 18% and deducting tax at source at 2%; the seven deductors confirmed the contracts and the payments in writing and the nodal officers of two of them confirmed in their statements under Section 70 that the services were rendered (RUD-5 and RUD-6);

3. AND WHEREAS the Company was asked in writing on 05.06.2026 and again on 22.06.2026 to furnish its ledgers, trial balance, invoices, contracts, bank statements, and a reconciliation of the GSTR-7 data (RUD-7), but furnished nothing; three summonses under Section 70 dated 02.07.2026, 20.07.2026 and 05.08.2026 (RUD-8) to Mr. Z were not attended, the Company's accounts executive, Mr. A, who attended on 31.07.2026 produced nothing, and in his statement (RUD-9) stated that the books are maintained in Tally on a server at the head office, that returns were filed as instructed by Mr. Z, and that the seven contracts were executed by the Company and the payments were received in its bank account;

4. AND WHEREAS, on an authorisation of the Joint Commissioner under Section 71(1) (RUD-10), the officer visited the premises on 20.08.2026 and demanded the books and access to the server; the office manager, Mr. M, kept the officer waiting for over three hours and refused access to the accounts room and the server, saying that he had telephonic instructions from Mr. Z that nobody was to be allowed in (panchnama and video, RUD-11), and no record was made available within the period allowed, which expired on 10.09.2026;

5. AND WHEREAS, by a letter dated 12.09.2026 (RUD-12), the Company stated that the books for FY 2024-25 were 'misplaced in the shifting of the office in March 2026' and the Tally data was 'corrupted', but furnished no police complaint, insurance claim or backup; the Company continued to file returns for FY 2025-26 from the same data. Section 36 of the CGST Act, 2017 requires the books to be retained for seventy-two months from the due date of the annual return for the year;

6. AND WHEREAS the tax has been worked out on the evidence available, in the absence of the books, by giving the Company the benefit of its whole declared turnover against the value of the seven contracts, as under (basis explained in Annexure-A, which forms part of this notice):

Particulars	Value (Rs.)	CGST @9% (Rs.)	APGST @9% (Rs.)
Value of seven contracts per GSTR-7 (excluding tax)	5,86,00,000		
Less: turnover declared in GSTR-3B	3,12,00,000		
Short-declared turnover and tax thereon	**2,74,00,000**	**24,66,000**	**24,66,000**

7. AND WHEREAS the declared turnover is only about 53% of the value of seven contracts alone, which cannot be explained by a mere difference of timing; the Company has not furnished any of the information which the proper officer asked for in writing, and has refused access to the books and the server. The non-declaration of the facts and information and the failure to furnish the information asked for in writing by the proper officer is 'suppression' as defined in Explanation 2 to Section 74A, and it appears to have been done with intent to evade tax, attracting penalty under Section 74A(5)(ii) of the CGST Act, 2017/APGST Act, 2017. The Company is at liberty to produce its books and reconcile the data; the demand will be recomputed on the basis of the books, and, if the Company establishes that the case is not one of fraud etc., penalty will be redetermined under Section 74A(5)(i) in accordance with Section 75(2A);

8. AND WHEREAS, it thus appears that the Noticees have contravened the following provisions of the CGST Act, 2017 (and the corresponding provisions of the APGST Act, 2017):

- Section 9(1), Section 37(1) and Section 39(1) and (7) - non-payment of tax and non-disclosure of the turnover in the statements and returns;
- Section 35(1) read with Rule 56, and Section 36 - failure to keep, maintain and retain books of account and records;
- Section 70(1A) - failure of Mr. Z to attend the summonses (Noticee-2);
- Section 71(2) - failure to make records available on demand, and refusal of access;

9. AND WHEREAS the aforesaid acts and omissions of the Noticees render them liable to:

(a) demand and recovery of tax under Section 74A(1) of the CGST Act, 2017/APGST Act, 2017, with interest under Section 50(1);

(b) penalty under Section 74A(5)(ii) of the CGST Act, 2017/APGST Act, 2017 (the Company);

(c) penalty under Sections 122(1)(xvi), 122(1)(xvii), 122(1)(xiii), and, in the alternative to (b), 122(1)(xv) (the Company); and

(d) penalty under Section 122(3)(d) (Mr. Z), of the CGST Act, 2017/APGST Act, 2017;

NOW, THEREFORE

(1) M/s XXX Pvt. Ltd., through its Managing Director, and (2) Mr. Z, Managing Director, are hereby called upon to show cause in writing to the Deputy/Assistant Commissioner, CGST Division - [•], Visakhapatnam CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) the services of the value of Rs.2,74,00,000/- supplied by the Company during FY 2024-25 in excess of the value of Rs.3,12,00,000/- shown in its GSTR-3B returns should not be held to be taxable supplies on which tax has not been paid, in contravention of Section 9(1), Section 37(1) and Section 39(1) and (7) of the CGST Act, 2017/APGST Act, 2017;

(ii) an amount of Rs.24,66,000/- (Central tax) and Rs.24,66,000/- (Andhra Pradesh State tax), total Rs.49,32,000/- (Rupees Forty-Nine Lakh Thirty-Two Thousand only), being tax not paid on the value of Rs.2,74,00,000/- as detailed in Annexure-A to this notice, should not be demanded and recovered from the Company under Section 74A(1) of the CGST Act, 2017 and the corresponding provisions of the APGST Act, 2017;

(iii) interest at the applicable rate under Section 50(1) of the CGST Act, 2017/APGST Act, 2017 should not be charged and recovered from the Company on the tax at (ii) above, from the respective due dates till the date of payment;

(iv) a penalty of Rs.24,66,000/- (Central tax) and Rs.24,66,000/- (State tax), total Rs.49,32,000/-, equal to the tax at (ii) above, should not be imposed on the Company under Section 74A(5)(ii) of the CGST Act, 2017/APGST Act, 2017, for suppression of facts to evade tax (and, if the Company succeeds in showing that the case is not one of fraud etc., penalty should not be redetermined under Section 74A(5)(i) read with Section 75(2A) of the CGST Act, 2017) (without prejudice to the benefit of reduced penalty under Section 74A(9) on payment in the time and manner therein specified);

(v) a penalty of Rs.30,000/- under the CGST Act, 2017 and Rs.30,000/- under the APGST Act, 2017 (Rs.10,000/- each under Sections 122(1)(xvi), 122(1)(xvii) and 122(1)(xiii)), total Rs.60,000/-, should not be imposed on the Company for failing to keep, maintain or retain books of account, for failing to furnish information and documents called for, and for obstructing the officer in the discharge of his duties;

(vi) a penalty of Rs.49,32,000/- under Section 122(1)(xv) of the CGST Act, 2017/APGST Act, 2017 should not be imposed on the Company in the alternative to (iv) above and without prejudice to it, and subject to Section 75(13) and Section 126 of the CGST Act, 2017;

(vii) a penalty of Rs.25,000/- under Section 122(3)(d) of the CGST Act, 2017 and Rs.25,000/- under the corresponding provision of the APGST Act, 2017, total Rs.50,000/-, should not be imposed on Mr. Z for failing to appear before the proper officer on being summoned to give evidence and produce documents.

10. The Noticees are further informed that:

- a written reply to this notice, along with all documents relied upon (including the books of account for FY 2024-25 and a reconciliation of the GSTR-7 data), must be furnished within thirty (30) days of receipt of this notice, failing which the case will be decided ex parte on the basis of available records, on merits;
- an opportunity of personal hearing will be granted before adjudication, on a date to be separately intimated, and the Noticees (or their authorised representatives) may appear in person or through counsel;
- attention is drawn to the benefit available under Section 74A(9) of the CGST Act, 2017/APGST Act, 2017, whereby, in a case of fraud, wilful misstatement or suppression, if the tax at (ii) above and interest are paid with a penalty of fifteen per cent of the tax before the issue of this notice, or twenty-five per cent within sixty (60) days of the issue of this notice, or fifty per cent within sixty (60) days of the communication of the order, all proceedings in respect of the said notice (other than under Section 132) shall be deemed to be concluded, and where the main person's proceedings are

concluded, the proceedings under Sections 122 and 125 in the same notice against the other persons are also deemed to be concluded [Explanation 1 to Section 74A];

- this notice is issued without prejudice to any other action that may be taken against the Noticees or any other person under the CGST Act, 2017/APGST Act, 2017, or any other law for the time being in force.

List of Relied Upon Documents (RUDs):

RUD-1: GSTR-1 and GSTR-3B of the Company for FY 2024-25 (portal extracts);

RUD-2: GSTR-7 data of the seven deductors in respect of the Company for FY 2024-25 (system-generated report with certificate);

RUD-3: ASMT-10 notice dated 12.05.2026;

RUD-4: Summons to the Bank Manager dated [•].07.2026 and the bank statement of the Company for FY 2024-25 received on 24.07.2026;

RUD-5: Written confirmations from the seven deductors;

RUD-6: Statements of the nodal officers of two deductors recorded on 14.07.2026 and 16.07.2026 under Section 70;

RUD-7: Letters dated 05.06.2026 and 22.06.2026 calling for information;

RUD-8: Summonses dated 02.07.2026, 20.07.2026 and 05.08.2026 with proof of service, and the Company's letters in response;

RUD-9: Statement of Mr. A recorded under Section 70 on 31.07.2026;

RUD-10: Authorisation dated 18.08.2026 under Section 71(1);

RUD-11: Panchnama of 20.08.2026 with the video recording;

RUD-12: Letter dated 12.09.2026 of the Company's counsel;

Annexure-A: Working of short-declared turnover and tax thereon [as per the working in Part B].

(_____)
Deputy/Assistant Commissioner, CGST
Division - [•], Visakhapatnam CGST Commissionerate

Copy to: The Joint/Additional Commissioner, Visakhapatnam CGST Commissionerate, for information.

Drafting note (not part of the notice):

- *The addressee, jurisdictional range/officer, F. No./DIN and dates shown in square brackets/blanks are illustrative placeholders and must be completed with the correct particulars before issue.*
- *The tax, interest and penalty figures are worked out on the reasoned basis explained in Part B and remain subject to reconciliation with the seized/recorded documents.*
- ***No best-judgment power under Section 74A.** Best-judgment assessment exists only in Sections 62 (non-filers, after a Section 46 notice), 63 (unregistered persons) and 64 (summary assessment). A registered person who files returns but hides books is therefore dealt with under Section 74A on evidence; the quantification must rest on documents (here, third-party data and bank credits), not on the officer's estimate. The draft says so in terms and invites rebuttal. Do not describe the working as an 'assessment to the best of judgment' in the notice.*

- ***Failure to furnish information is 'suppression'.*** *Explanation 2 to Section 74A makes failure to furnish information on being asked in writing a form of suppression. That is why the written requests of 05.06.2026 and 22.06.2026 must be on record and served (RUD-7); summonses alone may not do. Note that the intent to evade tax is still to be shown. If it is not established, Section 75(2A) re-determines the penalty at 10% (Section 74A(5)(i)), which is why the charging paragraph includes this alternative.*
- ***Data limitations.*** *GSTR-7 data record payments; the tax point for services is governed by the time of supply. A part of the Rs.5,86,00,000/- may relate to services supplied in FY 2023-24, and some FY 2024-25 services may have been paid in FY 2025-26. The draft sets the entire declared turnover off against the data to be conservative and invites reconciliation. The officer should also consider obtaining the GSTR-7 data for the preceding and following years to net out the timing effect before the notice is issued. Where possible, include the invoices from the deductors.*
- ***Penalties for defaults.*** *The amounts under Section 122(1)(xiii), (xvi) and (xvii) are the fixed sum (Rs.10,000/- or the tax evaded, whichever is higher) because no tax evaded is attributable specifically to them. Whether to quantify them at a higher amount by reference to the tax short paid would duplicate the penalty at Section 74A(5)(ii) (Section 75(13), as read in the house style of Exercise 1; whether it names Section 74A could not be confirmed - UNCERTAIN). Section 126 does not apply where the Act fixes a penalty as a fixed sum or percentage, so there is no discretion to reduce it.*
- ***Managing Director.*** *The Company is the taxable person liable for the tax and for penalty; Mr. Z personally attracts Section 122(3)(d) only. Section 137 speaks of an 'offence' and of 'punishment' and was not used. Section 122(3)(a) (aiding or abetting the obstruction) was considered for Mr. Z on the basis of the telephonic instruction to the office manager but is not proposed, because the Company's obstruction is already penalised under Section 122(1)(xiii) and Mr. Z's own default is penalised under clause (d); the call records may be added to the file if the officer wishes to propose it.*
- ***Authority/ section 71.*** *The authorisation under Section 71(1) must be by an officer not below the rank of Joint Commissioner (read from the Act as reproduced at cggst.com); the 15-working-days time to make records available under Section 71(2) was also read from that source and should be confirmed. The Section 71 inspection is distinct from search under Section 67. Section 70(1A) (duty to attend), inserted by the Finance (No.2) Act, 2024 w.e.f. 01.11.2024, applies to summonses issued after that date.*
- ***Rate.*** *The 18% rate on the Noticee's own supplies is as declared in its GSTR-1/3B and was accepted for the purpose of the demand. The entry in Notification No.11/2017-Central Tax (Rate) for support services of heading 9985 could not be re-verified in this build; the officer should confirm the rate for each of the seven contracts before issue, including any exemption for services to a local authority (UNCERTAIN). Section 51(1) was read as at knowyourgst.com: tax is deducted on the contract value excluding tax; the deduction rate (taken as 2% in the bank reconciliation, 1% Central plus 1% State) was not independently confirmed from the notification (UNCERTAIN).*
- ***Authority.*** *The draft should be settled by the jurisdictional Range/Division before issue (DRC-01), including verification of the monetary-limit-based issuing/adjudicating authority under Circular No. 31/05/2018-GST dated 09.02.2018 (Superintendent: central tax up to Rs.10 lakh; Deputy/Assistant Commissioner: above Rs.10 lakh up to Rs.1 crore; Additional/Joint Commissioner: above Rs.1 crore). Here the Central tax is Rs.24,66,000/-, above Rs.10 lakh and up to Rs.1 crore; hence the Deputy/Assistant Commissioner issues the notice.*
- *Return of non-RUDs (Non-Relied Upon Documents): When the SCN is issued to the taxpayer in the form of DRC-01 (uploaded on the portal if registered, as well as delivered as per the provisions of law), non-RUDs must be returned to the noticee under due acknowledgement within seven days of issuance of the SCN.*

***

Exercise 33

Tax collected from customers but not paid to the Government - GSTR-1 shows the tax, GSTR-3B does not

Exercise 33: Tax collected from customers but not paid to the Government - GSTR-1 shows the tax, GSTR-3B does not

Situation in Brief:

1. M/s XXX Foods Pvt. Ltd. (hereinafter 'M/s XXX'), having its registered office and warehouse at YYYY, Raipur, Chhattisgarh, is a registered person (monthly return filer) engaged in wholesale distribution of chocolates and sugar confectionery (invoiced at 18% GST) and, as a side activity, in the supply of loose fresh vegetables procured from the Raipur mandi to hotels and restaurant chains. Mr. Z is its Managing Director and looks after finance and banking; Mr. Q is its Accounts Manager who uploads the returns on the GST portal.

2. During scrutiny of returns for FY 2024-25 by the jurisdictional Range Officer, a mismatch was noticed between the outward supplies reported in FORM GSTR-1 and those declared in FORM GSTR-3B for the six tax periods October 2024 to March 2025. FORM GST ASMT-10 dated 12.02.2026 was issued under Rule 99 of the CGST Rules, 2017. M/s XXX replied on 05.03.2026 that the difference was a 'timing difference' that would be adjusted in later returns. No such adjustment was found in any FORM GSTR-3B up to August 2026 (the latest return filed), and the reply was therefore not accepted. The month-wise taxable value of the taxable (18%) supplies as per the two returns is as follows:

Tax period	Taxable value per GSTR-1 (Rs.)	Taxable value per GSTR-3B (Rs.)	Difference (Rs.)	GSTR-3B due date
Oct-2024	62,00,000	54,00,000	8,00,000	20.11.2024
Nov-2024	69,00,000	57,00,000	12,00,000	20.12.2024
Dec-2024	78,00,000	58,00,000	20,00,000	20.01.2025
Jan-2025	71,00,000	56,00,000	15,00,000	20.02.2025
Feb-2025	66,00,000	48,00,000	18,00,000	20.03.2025
Mar-2025	90,00,000	61,00,000	29,00,000	20.04.2025
TOTAL	**4,36,00,000**	**3,34,00,000**	**1,02,00,000**	

Facts: *The invoices raised for the difference value carried central tax at 9% and Chhattisgarh State tax at 9%. GSTR-1 was filed by the due date for every month; the tax shown in it was neither reported as liability in GSTR-3B nor paid.*

3. A summons dated 02.07.2026 under Section 70 of the CGST Act, 2017 was issued to M/s XXX, calling for the sales register, Tally data (backup), the ledger of 'GST Output Payable', bank statements and sales invoices. The documents were produced on 10.07.2026 by Mr. Q. Scrutiny of the Tally data showed that every invoice of the six months, including the invoices forming the difference at para 2, was booked in the sales register with the GST credited to the 'GST Output Payable' ledger, and that the unpaid balance was carried forward in that ledger without any debit or reversal. The bank statements of the current account show that the customers' payments (invoice value including GST) were received within the same month as the invoice.

4. Five principal customers of the confectionery stream (M/s AAA, M/s BBB and three others) confirmed in writing on 20.07.2026 that they had paid the full invoice value including GST on the invoices in question; the invoices are reflected in their FORM GSTR-2B for the respective months, and they have availed input tax credit on them.

5. In the vegetable stream, the billing software of M/s XXX had a default tax rate of 5% in the item master, because of which 5% GST (2.5% central and 2.5% State) was charged on 41 invoices issued to a restaurant chain, M/s CCC, during the same six months for the supply of fresh vegetables. The value of these invoices was Rs.11,40,000/-. The tax so collected appeared in FORM GSTR-1 but was shown as

'exempt/nil rated' in FORM GSTR-3B and was not paid. Fresh vegetables (headings 0701 to 0709) are exempt from central tax under Notification No. 2/2017-Central Tax (Rate) (Sl. Nos. 35 to 43) and from State tax under the corresponding State notification.

6. The statement of Mr. Q was recorded on 15.07.2026 under Section 70, wherein he stated that the GSTR-3B was prepared every month from a sheet titled 'payable after adjustment' handed over by Mr. Z; that he had been instructed by Mr. Z to declare only the lower value; that he was told the balance would be 'paid when cash flow improves'; and that he had never filed any amendment. The statement of Mr. Z was recorded on 16.07.2026 under Section 70, wherein he stated that the tax had been collected from the customers as part of the invoice value; that, owing to a liquidity crunch, the funds were used for repayment of an unsecured loan taken for the company's cold-storage project and for working capital; that he gave the instructions to file the lower figures; that the 5% charged on vegetables was a software default noticed only after the summons; and that he is ready to pay whatever is determined but requested instalments. He confirmed that nothing has been paid to the Government against these amounts.

7. No part of the amount has been deposited through FORM GST DRC-03 or otherwise, and every amount has remained unpaid for more than three months beyond the due date of the return for the respective month.

8. Now in the light of the above, -

(i) Identify the provision(s) of GST law contravened by M/s XXX Foods Pvt. Ltd. (under heading **Contravention**).

(ii) Identify the provision(s) of GST law under which action is to be taken against M/s XXX Foods Pvt. Ltd. (under heading **Consequences of Contravention of legal Provisions**).

(iii) Draft the **Charging Paragraph** of the Show Cause Notice proposed to be issued to M/s XXX Foods Pvt. Ltd., calling upon M/s XXX Foods Pvt. Ltd. and its Managing Director Mr. Z to show cause as to why action should not be taken against them, while listing the proposed action to be taken against M/s XXX Foods Pvt. Ltd. and its Managing Director Mr. Z.

(iv) Also prepare the **draft Show Cause Notice** for issuance to M/s XXX Foods Pvt. Ltd..

***

SUGGESTED SOLUTION

(Scrutiny of returns, Statements under Section 70, Determination of Amount Collected as Tax under Section 76, and Draft Show Cause Notice - M/s XXX Foods Pvt. Ltd. and its Managing Director Mr. Z, Raipur CGST Commissionerate)

A. CONTRAVENTION

On the facts as recorded, the following provisions stand contravened (in each case read with the corresponding provisions of the Chhattisgarh Goods and Services Tax Act, 2017 [CGGST Act] and the Rules made under the two Acts):

1. **Section 76(1) of the CGST Act, 2017** - M/s XXX collected from its customers amounts representing central tax and State tax (Rs.18,93,000/- in all) and has not paid them to the Government; the section requires the amount to be paid forthwith, irrespective of whether the supplies in respect of which it was collected are taxable or not - which is why the vegetable stream (exempt supplies) is brought within the same provision.
2. **Section 39(1) and Section 39(7) read with Section 37(1) of the CGST Act, 2017** - the FORM GSTR-3B for October 2024 to March 2025 declared and paid less tax than was shown in GSTR-1 and charged in the invoices; Section 39(7) requires the tax payable as per the return to be paid not later than the last date for furnishing the return.
3. **Section 9(1) read with Section 31(1) of the CGST Act, 2017** - tax is payable on the outward taxable supplies in stream (a); the tax invoices were issued and the tax was collected.
4. **Section 122(1)(iii) of the CGST Act, 2017** (collection of tax in accordance with the Act and failure to pay beyond three months from the date payment became due) for stream (a), and **Section 122(1)(iv)** (collection of tax in contravention of the Act, i.e. on exempt supplies, and failure to pay beyond three months) for stream (b).

Note: Why Section 76 and not Section 74A as the main charge? *Section 74A deals with tax 'not paid or short paid'. Where the supplier has actually collected the tax, Section 76 is the specific provision: it fixes the liability on the fact of collection (not on taxability), carries interest from the date of collection [Section 76(4)] and provides for a penalty equal to the amount. It is also the only provision that reaches stream (b), because on exempt supplies no tax is 'due' under Section 9 and nothing can be 'short paid' under Section 74A. To avoid duplicate demand, the same amount is not demanded under both sections.*

Note: Why not Section 75(12)? *Section 75(12) (recovery under Section 79 without a notice) is confined to 'self-assessed tax' shown in a return under Section 39 but not paid. The tax in question was shown only in GSTR-1; it was not self-assessed in GSTR-3B. The short-declared amount therefore needs a notice. Section 132(1)(d) is considered in Part B and not proposed.*

B. CONSEQUENCES OF CONTRAVENTION OF LEGAL PROVISIONS

The contraventions at (A) above expose M/s XXX and Mr. Z to the following action under the CGST Act, 2017 (read with the corresponding provisions of the CGGST Act, 2017):

1. Payment of the amount collected - under **Sections 76(1) and 76(3)**: Rs.18,93,000/- (central tax Rs.9,46,500/- and State tax Rs.9,46,500/-) is to be paid forthwith to the Government; the notice under **Section 76(2)** calls for cause why it should not be so determined and paid. Section 76 prescribes no period for issue of the notice, but the order must be passed within one year from the date of the notice [Section 76(6)], and the Noticee is entitled to a hearing on a written request [Section 76(5)]. The amount is payable whether or not the supplies were taxable.
2. Interest - under **Section 76(4)**, at the rate specified under Section 50 (18% per annum, Notification No. 13/2017-Central Tax), from the date of collection (not the due date of the return) to the date of

payment. The working below is illustrative: the date of collection is taken as the last day of each month (the bank statements show receipt within the month) and the date of payment as 30.11.2026.

3. Penalty - under **Section 76(2)**, a penalty equal to the amount collected and not paid, i.e. Rs.18,93,000/- (Rs.9,46,500/- under each Act). The same default is also covered by Section 122(1)(iii) and (iv); penalty under those clauses is proposed only in the alternative, and the adjudicating authority will impose one penalty for the one default, not two. Section 76 contains no concession for payment before the notice or within a fixed period of the notice; the options of Section 74A(8) and (9) are not available because the demand is not made under Section 74A.

4. Co-noticee - Mr. Z is proposed to be penalised under **Section 122(3)(a)** (aiding or abetting an offence under Section 122(1)(iii)/(iv)) up to Rs.25,000/- under each Act, because his own statement shows that he took the decision to withhold the amounts and directed the filing of the lower figures. Mr. Q, who acted on instructions and derived no benefit, is not proposed to be penalised (see drafting notes). **Section 137** (offences by companies) bears on prosecution and is not the source of the civil penalty.

5. Prosecution - Section 132(1)(d) (collecting tax and not paying it to the Government beyond three months from the date it became payable) is attracted in principle, but the punishment tiers of Section 132(1)(i) to (iii) are engaged only where the amount exceeds Rs.1 crore (Rs.100 lakh). The total here (central and State tax together) is Rs.18,93,000/-. Prosecution is therefore not proposed; this is to be reviewed if other periods are found to have the same default and the aggregate crosses that limit (sanction rests with the Commissioner under Section 132(6)).

6. Recovery and proper officer - under Sections 78 and 79 of the CGST Act, 2017, if the amount determined is not paid in the time allowed. The central tax component being Rs.9,46,500/-, not above Rs.10 lakh, the notice may be issued and adjudicated by the Superintendent, CGST (Circular No. 31/05/2018-GST dated 09.02.2018, applied here by analogy to a Section 76 notice).

Illustrative working of the amount collected and not paid (Section 76(1)):

Head	Taxable value (Rs.)	Central tax collected (Rs.)	State tax collected (Rs.)	Total (Rs.)
(a) Taxable supplies - tax collected at 18% on invoices, not declared/paid in GSTR-3B	1,02,00,000	9,18,000	9,18,000	18,36,000
(b) Exempt supplies (fresh vegetables) - tax collected at 5% on invoices, not paid	11,40,000	28,500	28,500	57,000
TOTAL under Section 76(1)	**1,13,40,000**	**9,46,500**	**9,46,500**	**18,93,000**

Illustrative working of interest under Section 76(4) (18% per annum, simple, up to 30.11.2026):

Month of collection	Date of collection (assumed)	Central tax (Rs.)	State tax (Rs.)	Days to 30.11.2026	Interest - central (Rs.)	Interest - State (Rs.)
Oct-2024	31.10.2024	76,500	76,500	760	28,672	28,672
Nov-2024	30.11.2024	1,13,000	1,13,000	730	40,680	40,680
Dec-2024	31.12.2024	1,85,500	1,85,500	699	63,944	63,944
Jan-2025	31.01.2025	1,39,750	1,39,750	668	46,037	46,037
Feb-2025	28.02.2025	1,66,250	1,66,250	640	52,471	52,471
Mar-2025	31.03.2025	2,65,500	2,65,500	609	79,737	79,737
TOTAL		**9,46,500**	**9,46,500**		**3,11,541**	**3,11,541**

Basis: *Taxable stream: 18% of Rs.1,02,00,000/- = Rs.18,36,000/-; vegetable stream: 5% of Rs.11,40,000/- = Rs.57,000/-. Interest (central Rs.3,11,541/- + State Rs.3,11,541/-) = Rs.6,23,082/-, to be recomputed to the actual date of payment and on the actual dates of receipt of the customers' payments.*

C. CHARGING PARAGRAPH OF THE SHOW CAUSE NOTICE

[The following is the operative charging paragraph proposed for incorporation in the Show Cause Notice at Part D below.]

Now, therefore, M/s XXX Foods Pvt. Ltd., through its Managing Director, having its registered office at YYYY, Raipur, Chhattisgarh, and Mr. Z, Managing Director of M/s XXX Foods Pvt. Ltd., are hereby called upon to show cause in writing to the Superintendent, CGST Range - [•], Raipur CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) *the amount of Rs.9,46,500/- (Central tax) and Rs.9,46,500/- (Chhattisgarh State tax), total Rs.18,93,000/- (Rupees Eighteen Lakh Ninety-Three Thousand only), collected by them from their customers as representing tax during October 2024 to March 2025 (Rs.18,36,000/- on taxable supplies and Rs.57,000/- on fresh vegetables, which are exempt), details of which are given in Annexure-A to this notice, and not paid to the Government, should not be determined and paid by them to the Central Government and the Government of Chhattisgarh under Sections 76(1) and 76(3) of the CGST Act, 2017 and the corresponding provisions of the CGGST Act, 2017, irrespective of whether the supplies are taxable;*

(ii) *interest at the rate specified under Section 50 of the CGST Act, 2017/CGGST Act, 2017 should not be charged and recovered from them on the amount at (i) above from the respective dates of collection till the date of payment, in terms of Section 76(4);*

(iii) *a penalty equal to the amount at (i) above, i.e. Rs.9,46,500/- (Central tax) and Rs.9,46,500/- (State tax), total Rs.18,93,000/-, should not be imposed on M/s XXX under Section 76(2) of the CGST Act, 2017/CGGST Act, 2017;*

(iv) *in the alternative to (iii) and without prejudice to it, a penalty under Section 122(1)(iii) (for the tax collected on taxable supplies) and Section 122(1)(iv) (for the tax collected on exempt supplies) of the CGST Act, 2017/CGGST Act, 2017 should not be imposed on M/s XXX, the total of the penalties under (iii) and (iv) not to exceed a penalty equal to the amount at (i);*

(v) *a penalty under Section 122(3)(a) of the CGST Act, 2017/CGGST Act, 2017 should not be imposed on Mr. Z for aiding and abetting the offences under Section 122(1)(iii) and (iv), not exceeding Rs.25,000/- under each Act.*

D. DRAFT SHOW CAUSE NOTICE

F. No. GEXCOM/ADJN/SCN/[•]/2026-RAIPUR

DIN: [Document Identification Number to be auto-generated on issue]

Office of the Superintendent, CGST Range - [•], Division - [•], Raipur CGST Commissionerate, Chhattisgarh

Date: [•].11.2026

SHOW CAUSE NOTICE

(Issued under Section 76(2) of the Central Goods and Services Tax Act, 2017 read with Section 76(2) of the Chhattisgarh Goods and Services Tax Act, 2017)

To,
1. M/s XXX Foods Pvt. Ltd., (through its Managing Director), YYYY, Raipur, Chhattisgarh.
2. Mr. Z, Managing Director, M/s XXX Foods Pvt. Ltd., YYYY, Raipur, Chhattisgarh.

(hereinafter referred to as 'M/s XXX' and 'Mr. Z' respectively, and collectively as 'the Noticees')

1. WHEREAS M/s XXX Foods Pvt. Ltd., Raipur, is a registered person engaged in wholesale distribution of chocolates and sugar confectionery and in the supply of loose fresh vegetables, and Mr. Z is its Managing Director in charge of finance and banking. In the scrutiny of returns for FY 2024-25, a mismatch was noticed between the outward supplies reported in FORM GSTR-1 and FORM GSTR-3B for October 2024 to March 2025. FORM GST ASMT-10 dated 12.02.2026 was issued under Rule 99 of the CGST Rules, 2017 (RUD-1), and the reply dated 05.03.2026, that the difference was a timing difference to be adjusted later, was not found acceptable since no adjustment was made in any return up to August 2026 (RUD-2);

2. AND WHEREAS a summons dated 02.07.2026 under Section 70 of the CGST Act, 2017 (RUD-3) was issued to M/s XXX, in response to which the sales register, Tally backup, ledger of 'GST Output Payable', bank statements and sales invoices were produced on 10.07.2026 by Mr. Q, Accounts Manager (RUD-4). Examination of the Tally data showed that each invoice of the six months was booked with GST credited to 'GST Output Payable' and that the unpaid portion was carried forward in that ledger without any debit; the bank statements showed that the customers' payments (invoice value including GST) were received in the same month (RUD-5);

3. AND WHEREAS the taxable value of the taxable supplies for the six months was Rs.4,36,00,000/- per FORM GSTR-1 but only Rs.3,34,00,000/- was declared in FORM GSTR-3B, a difference of Rs.1,02,00,000/- on which central tax at 9% (Rs.9,18,000/-) and State tax at 9% (Rs.9,18,000/-) had been charged in the invoices and collected from the customers, as shown month-wise in Annexure-A. Five principal customers confirmed in writing on 20.07.2026 that they had paid the invoices in full including GST and had availed input tax credit on them (RUD-6);

4. AND WHEREAS in the same period M/s XXX issued 41 invoices of total value Rs.11,40,000/- to M/s CCC for the supply of fresh vegetables, which are exempt from central tax under Notification No. 2/2017-Central Tax (Rate) (Sl. Nos. 35 to 43) and from State tax under the corresponding State notification, but charged GST at 5% (2.5% central and 2.5% State) thereon, collecting central tax of Rs.28,500/- and State tax of Rs.28,500/-. This tax was shown in FORM GSTR-1, was shown as exempt in FORM GSTR-3B, and was not paid (RUD-7);

5. AND WHEREAS Mr. Q, in his statement dated 15.07.2026 under Section 70 (RUD-8), stated that the GSTR-3B was prepared from a sheet titled 'payable after adjustment' given by Mr. Z, that he was instructed by Mr. Z to declare the lower values, and that he was told the balance would be paid 'when cash flow improves'; and Mr. Z, in his statement dated 16.07.2026 under Section 70 (RUD-9), admitted

that the tax had been collected from customers as part of the invoice value; that the funds were used for repayment of an unsecured loan and for working capital; that he gave the instructions to file the lower figures; that the 5% GST on vegetables was a software default noticed only after the summons; that nothing has been paid to the Government; and that he was ready to pay in instalments;

6. AND WHEREAS the amount collected and not paid is computed as under (details in Annexure-A):

Head	Taxable value (Rs.)	Central tax collected (Rs.)	State tax collected (Rs.)	Total (Rs.)
(a) Taxable supplies - tax collected at 18% on invoices, not declared/paid in GSTR-3B	1,02,00,000	9,18,000	9,18,000	18,36,000
(b) Exempt supplies (fresh vegetables) - tax collected at 5% on invoices, not paid	11,40,000	28,500	28,500	57,000
TOTAL under Section 76(1)	**1,13,40,000**	**9,46,500**	**9,46,500**	**18,93,000**

7. AND WHEREAS Section 76(1) of the CGST Act, 2017 requires every person who has collected from any other person any amount as representing tax to pay it forthwith to the Government irrespective of whether the supplies in respect of which such amount was collected are taxable or not; it thus appears that M/s XXX is liable to pay Rs.18,93,000/- (central tax Rs.9,46,500/- and State tax Rs.9,46,500/-) with interest under Section 76(4), and a penalty equal to the amount under Section 76(2). Since the amount was collected and not paid for more than three months after the due dates, it also appears that M/s XXX has committed the acts specified in Section 122(1)(iii) (taxable supplies) and Section 122(1)(iv) (exempt supplies), for which a penalty is leviable in the alternative to the penalty under Section 76(2), only one of the two being imposed;

8. AND WHEREAS Mr. Z, being the Managing Director who took the decision not to pay the amounts and instructed the filing of the lower figures, appears to have aided and abetted the said acts and has thereby rendered himself liable to a penalty under Section 122(3)(a) of the CGST Act, 2017/CGGST Act, 2017;

9. AND WHEREAS it thus appears that the Noticees have contravened the following provisions of the CGST Act, 2017 (and the corresponding provisions of the CGGST Act, 2017):

- Section 76(1) - non-payment of the amount collected as representing tax, whether or not the supply is taxable;
- Sections 39(1) and 39(7) read with Section 37(1) - understating the liability in FORM GSTR-3B and non-payment of the tax by the due date;
- Section 122(1)(iii) and 122(1)(iv) - collection of tax and non-payment beyond three months of the due date; and
- Section 122(3)(a) - aiding and abetting (Mr. Z);

10. AND WHEREAS the aforesaid acts and omissions render the Noticees liable to:

(a) determination and payment of the amount at (i) below with interest, under Section 76 of the CGST Act, 2017/CGGST Act, 2017;

(b) penalty equal to the amount under Section 76(2) of the CGST Act, 2017/CGGST Act, 2017 (M/s XXX); in the alternative, penalty under Section 122(1)(iii) and (iv) (M/s XXX); and penalty under Section 122(3)(a) (Mr. Z) - each without prejudice to the others and subject to the principle that a single default is not penalised twice;

NOW, THEREFORE

M/s XXX Foods Pvt. Ltd., through its Managing Director, having its registered office at YYYY, Raipur, Chhattisgarh, and Mr. Z, Managing Director of M/s XXX Foods Pvt. Ltd., are hereby called upon to show cause

in writing to the Superintendent, CGST Range - [•], Raipur CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) the amount of Rs.9,46,500/- (Central tax) and Rs.9,46,500/- (Chhattisgarh State tax), total Rs.18,93,000/- (Rupees Eighteen Lakh Ninety-Three Thousand only), collected by them from their customers as representing tax during October 2024 to March 2025 (Rs.18,36,000/- on taxable supplies and Rs.57,000/- on fresh vegetables, which are exempt), details of which are given in Annexure-A to this notice, and not paid to the Government, should not be determined and paid by them to the Central Government and the Government of Chhattisgarh under Sections 76(1) and 76(3) of the CGST Act, 2017 and the corresponding provisions of the CGGST Act, 2017, irrespective of whether the supplies are taxable;

(ii) interest at the rate specified under Section 50 of the CGST Act, 2017/CGGST Act, 2017 should not be charged and recovered from them on the amount at (i) above from the respective dates of collection till the date of payment, in terms of Section 76(4);

(iii) a penalty equal to the amount at (i) above, i.e. Rs.9,46,500/- (Central tax) and Rs.9,46,500/- (State tax), total Rs.18,93,000/-, should not be imposed on M/s XXX under Section 76(2) of the CGST Act, 2017/CGGST Act, 2017;

(iv) in the alternative to (iii) and without prejudice to it, a penalty under Section 122(1)(iii) (for the tax collected on taxable supplies) and Section 122(1)(iv) (for the tax collected on exempt supplies) of the CGST Act, 2017/CGGST Act, 2017 should not be imposed on M/s XXX, the total of the penalties under (iii) and (iv) not to exceed a penalty equal to the amount at (i);

(v) a penalty under Section 122(3)(a) of the CGST Act, 2017/CGGST Act, 2017 should not be imposed on Mr. Z for aiding and abetting the offences under Section 122(1)(iii) and (iv), not exceeding Rs.25,000/- under each Act.

11. The Noticees are further informed that:

- a written reply to this notice, along with all documents relied upon, must be furnished within thirty (30) days of receipt of this notice, failing which the case will be decided ex parte on the basis of available records, on merits;
- an opportunity of personal hearing will be granted before adjudication, on a date to be separately intimated, and they may appear in person or through an authorised representative;
- the amount collected as tax is payable forthwith under Section 76(1); it may be paid through FORM GST DRC-03 with interest under Section 76(4) at any time before the order, and the payment will be taken into account at the time of determination. Section 76 does not contain provisions corresponding to Section 74A(8) and (9) for concluding the proceedings on such payment, and the penalty under Section 76(2) will be decided by the adjudicating authority in accordance with law;
- this notice is issued without prejudice to any other action that may be taken against the Noticees or any other person under the CGST Act, 2017/CGGST Act, 2017 or any other law for the time being in force, including action for tax periods not covered by this notice.

List of Relied Upon Documents (RUDs):

RUD-1: FORM GST ASMT-10 dated 12.02.2026 (Rule 99) with the scrutiny worksheet;

RUD-2: Reply dated 05.03.2026 of M/s XXX;

RUD-3: Summons dated 02.07.2026 under Section 70 with proof of service;

RUD-4: Sales register, Tally backup, ledger of 'GST Output Payable' and sales invoices produced on 10.07.2026;

RUD-5: Bank statements of the current account of M/s XXX for October 2024 to March 2025;

RUD-6: Written confirmations dated 20.07.2026 of five principal customers, with their FORM GSTR-2B extracts;

RUD-7: 41 invoices issued to M/s CCC for supply of fresh vegetables, with FORM GSTR-1 and FORM GSTR-3B extracts;

RUD-8: Statement of Mr. Q recorded under Section 70 on 15.07.2026;

RUD-9: Statement of Mr. Z recorded under Section 70 on 16.07.2026;

Annexure-A: Month-wise statement of tax collected and not paid, and interest working [as per the working in Part B].

(_____)
Superintendent, CGST
Range - [•], Division - [•], Raipur CGST Commissionerate

Copy to: The Deputy/Assistant Commissioner, CGST Division, Raipur, for information.

Drafting note (not part of the notice):

- *The addressee, jurisdictional range/officer, F. No./DIN and dates shown in square brackets/blanks are illustrative placeholders and must be completed with the correct particulars before issue.*
- ***Why Section 76 (twist).*** *The footing of Section 76 is the fact of collection, not the taxability of the supply. That is the only way to recover the tax collected on the exempt vegetables (stream (b)). For stream (a), Section 74A(1) would also have been available (tax short paid); Section 76 is chosen deliberately because interest runs from the date of collection and the penalty is fixed at the amount collected. Never demand the same amount under both sections.*
- ***Penalty - Section 76(2) vs Section 122(1)(iii)/(iv).*** *The penalty under Section 76(2) and the penalty under Section 122(1)(iii)/(iv) (Rs.10,000 or the tax not deposited, whichever is higher) overlap on these facts. The express bar on double penalty in Section 75(13) is worded for penalties under Sections 73 and 74, and whether it extends to Section 76 could not be confirmed (UNCERTAIN); the draft therefore proposes the Section 122 penalty only in the alternative, and the adjudicating authority should impose one of them. Section 76 has no pre-notice or 60-day concession like Section 74A(8)/(9), and the notice says so.*
- ***Why Mr. Q is not a noticee.*** *A salaried employee acting on the director's instructions, with no personal benefit, is normally not penalised under Section 122(3)(a); the penalty is directed at the person who took the decision. Section 137 relates to prosecution of the persons in charge of a company; it is not the source of the civil penalty on Mr. Z.*
- ***Interest.*** *Section 76(4) runs from the date of collection (the date the customer paid), not from the due date of the return. The month-end date used in the working is a simplification; the bank statements must be used for the final computation. The 18% rate is the rate notified for Section 50(1) by Notification No. 13/2017-Central Tax.*
- ***Prosecution.*** *The sources consulted state the punishment tiers of Section 132(1) and the Finance Act 2023 changes differently so far as the lowest tier (Rs.1 crore to Rs.2 crore) is concerned (UNCERTAIN whether it is confined to a particular clause). Since the amount here is below Rs.1 crore, no tier is engaged on either reading; if the amount is revised upward, re-verify the clause-wise wording of Section 132(1) before proposing prosecution.*
- ***Exempt vegetables.*** *The exemption relied on is Notification No. 2/2017-Central Tax (Rate), Sl. Nos. 35 to 43 (fresh or chilled vegetables, headings 0701 to 0709, no brand or packing condition). The State*

exemption is stated as the corresponding State notification; its number should be inserted from the State notification before issue.

- *The draft should be settled by the jurisdictional Range/Division before issue (DRC-01), including verification of the monetary-limit-based issuing/adjudicating authority under Circular No. 31/05/2018-GST dated 09.02.2018 (Superintendent: central tax up to Rs.10 lakh; Deputy/Assistant Commissioner: above Rs.10 lakh up to Rs.1 crore; Additional/Joint Commissioner: above Rs.1 crore). Circular No. 31/05/2018-GST addresses the adjudication of notices under Sections 73 and 74 and the penal provisions; it is applied here by analogy to the Section 76 notice. The central tax is Rs.9,46,500/-, within the Superintendent's limit; the State tax is of an equal amount and is covered by cross-empowerment.*
- *Return of non-RUDs (Non-Relied Upon Documents): When the SCN is issued to the taxpayer in the form of DRC-01 (uploaded on the portal if registered, as well as delivered as per the provisions of law), non-RUDs must be returned to the noticee under due acknowledgement within seven days of issuance of the SCN.*

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Exercise 34

Fraudulent refund of IGST on exports - shipping bills for goods not exported and for inflated values

Exercise 34: Fraudulent refund of IGST on exports - shipping bills for goods not exported and for inflated values

Situation in Brief:

1. M/s XXX Exports Pvt. Ltd. (hereinafter 'M/s XXX'), registered at YYYY, Coimbatore, Tamil Nadu, is shown as a manufacturer-exporter of copper kitchenware (heading 7418). Mr. Z is its Director and controls all banking and export transactions. Mr. P is the proprietor of M/s PPP Logistics, a freight forwarder and customs broker at Tuticorin who handled the shipping formalities. Between May and August 2025, M/s XXX filed seven shipping bills for export of copper kitchenware to a single consignee, M/s AAA FZE, Sharjah, UAE, on payment of IGST (the option available under Section 16(4) of the IGST Act, 2017 read with Notification No. 01/2023-Integrated Tax, as amended). The IGST paid, at 12%, was debited to the electronic credit ledger, and refunded by credit to the bank account of M/s XXX under Rule 96(3) of the CGST Rules, 2017 on the basis of the Customs confirmation of export. The details are:

Shipping Bill	SB date	Declared FOB value (Rs.)	IGST paid at 12% and refunded (Rs.)	Refund credited on
SB-1	12.05.2025	4,20,00,000	50,40,000	21.05.2025
SB-2	02.06.2025	3,80,00,000	45,60,000	12.06.2025
SB-3	20.06.2025	5,00,00,000	60,00,000	30.06.2025
SB-4	12.07.2025	2,00,00,000	24,00,000	24.07.2025
SB-5	28.07.2025	2,20,00,000	26,40,000	08.08.2025
SB-6	14.08.2025	2,40,00,000	28,80,000	25.08.2025
SB-7	30.08.2025	2,60,00,000	31,20,000	12.09.2025
TOTAL		**22,20,00,000**	**2,66,40,000**	

2. Risk analysis of the refund data by the Directorate of Revenue Intelligence (Coimbatore Regional Unit) flagged the following: M/s XXX was a new exporter whose IGST refunds had risen from nil to Rs.2.66 crore in four months; the declared quantities were out of all proportion to the installed capacity of the factory; the single consignee had no trade history; and the export proceeds were received from third parties, not from the consignee. Two further shipping bills of September 2025 (SB-8 and SB-9, declared FOB Rs.2.40 crore and Rs.2.80 crore) were still awaiting refund. The container of SB-9 was held back at Tuticorin Port for examination on 18.09.2025 under a Customs alert. The Customs examination found copper kitchenware weighing about 1,100 kg, valued at about Rs.31 lakh, against the declared 9,800 kg valued at Rs.2.80 crore. The refund claims for SB-8 and SB-9 were withheld by the Customs officer under Rule 96(4)(b) of the CGST Rules, 2017, and are not covered by this notice.

3. A search under Section 67(1) of the CGST Act, 2017, jointly with DRI officers, was conducted on 12.02.2026 at the factory premises of M/s XXX at Coimbatore on the authorisation of the Joint Commissioner. The factory had three small polishing machines and no melting or rolling unit; the monthly electricity consumption (as per the EB bills) was about 1,900 units; only six workers were on the roll; and no stock of raw material or finished goods was found. Seized under the panchnama of 12.02.2026 were the export documents for SB-1 to SB-9, purchase invoices of five suppliers found non-existent at their addresses, blank letterheads and stamps of M/s AAA FZE, signed cheque books, and the mobile phone of Mr. Z whose WhatsApp chats with Mr. P use the expressions 'paper shipment' and 'refund share'.

4. Investigation at the container freight station (CFS) at Tuticorin showed that the gross weights recorded at the weighbridge for the containers of SB-1, SB-2 and SB-3 were 2,100 kg, 1,950 kg and 2,400 kg, against the declared net weights of 14,000 kg, 12,600 kg and 16,500 kg of copper kitchenware; the

stuffing tally sheets and the statement of the CFS stuffing supervisor recorded on 25.02.2026 indicate that the containers were stuffed with empty cartons and packing waste only. For SB-4 to SB-7, the CFS tally and dispatch records of the transporter indicate that small quantities of genuine copper kitchenware, of the values shown in the table below, were stuffed. These values are consistent with the Customs valuation of the SB-9 consignment.

Shipping Bill	Declared FOB (Rs.)	Value of goods actually exported, as established (Rs.)
SB-1	4,20,00,000	Nil
SB-2	3,80,00,000	Nil
SB-3	5,00,00,000	Nil
SB-4	2,00,00,000	30,00,000
SB-5	2,20,00,000	28,00,000
SB-6	2,40,00,000	35,00,000
SB-7	2,60,00,000	37,00,000

5. The statement of Mr. P was recorded on 19.02.2026 under Section 70 of the CGST Act, 2017 wherein he stated that he had been paid 3% of the IGST refund by Mr. Z for arranging 'paper shipments'; that on Mr. Z's instructions he got the containers stuffed with packing waste (SB-1 to SB-3) or with a small quantity of kitchenware (SB-4 to SB-9); that the shipping bill values and descriptions were fixed by Mr. Z; and that the foreign consignee was a name provided by Mr. Z. The statement of Mr. Z was recorded on 20.02.2026 under Section 70, wherein he admitted that there was no manufacturing of the quantity exported; that the export invoices of SB-1 to SB-3 were raised without any real goods; that the values for SB-4 to SB-7 were inflated; that the sale proceeds shown as received were routed back by arrangement with M/s AAA FZE through third-party remittances; and that the IGST refunds were transferred to accounts of his relatives and associates. On 02.04.2026 Mr. Z retracted his statement by a letter alleging pressure, without any particulars of the alleged pressure; the contents of the statement are, however, corroborated by the CFS records, weighment slips, WhatsApp chats and bank trail described here.

6. Analysis of the bank statements of M/s XXX shows that, within three days of each credit of IGST refund, between 80% and 100% of the amount was transferred to five accounts, including accounts of Mr. Z's wife and brother, and a part was withdrawn in cash. The IGST so paid had been discharged by utilising input tax credit availed on the purchase invoices of the five non-existent suppliers; that credit is the subject of a separate notice under Section 74A and is not covered here.

7. Now in the light of the above, -

(i) Identify the provision(s) of GST law contravened by M/s XXX Exports Pvt. Ltd. (under heading **Contravention**).

(ii) Identify the provision(s) of GST law under which action is to be taken against M/s XXX Exports Pvt. Ltd. (under heading **Consequences of Contravention of legal Provisions**).

(iii) Draft the **Charging Paragraph** of the Show Cause Notice proposed to be issued to M/s XXX Exports Pvt. Ltd., calling upon M/s XXX Exports Pvt. Ltd., its Director Mr. Z and Mr. P to show cause as to why action should not be taken against them, while listing the proposed action to be taken against M/s XXX Exports Pvt. Ltd., its Director Mr. Z and Mr. P.

(iv) Also prepare the **draft Show Cause Notice** for issuance to M/s XXX Exports Pvt. Ltd..

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SUGGESTED SOLUTION

(Inquiry, Search and Statements, Recovery of Erroneous Refund under Section 74A, and Draft Show Cause Notice - M/s XXX Exports Pvt. Ltd., its Director Mr. Z and Customs Broker Mr. P, Coimbatore CGST Commissionerate)

A. CONTRAVENTION

On the facts as recorded, the following provisions of law stand contravened (in each case read with the corresponding provisions of the Tamil Nadu Goods and Services Tax Act, 2017 [TNGST Act] and the Rules made thereunder):

1. **Sections 16(1), 16(3)/16(4) of the IGST Act, 2017 read with Section 2(5) thereof and Rule 96 of the CGST Rules, 2017** - a refund of IGST is admissible only on the supply of goods that are exported, i.e. 'taking goods out of India to a place outside India'. For SB-1 to SB-3 no such goods were exported; for SB-4 to SB-7 goods of far lower value than the declared FOB were exported. IGST paid on a supply that does not exist, or on value that does not exist, was not refundable.
2. **Section 31(1) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017** - the export invoices for SB-1 to SB-3 were issued without any supply of goods, and the invoices for SB-4 to SB-7 carried values not corresponding to the supply actually made; they are false or incorrect invoices issued to support the refund.
3. **Section 54 of the CGST Act, 2017 read with Rule 96(1) and (3)** - the refund of IGST was obtained on the strength of the shipping bills and GSTR-3B/GSTR-1 data containing false particulars of value and of export.
4. **Section 122(1)(viii) and 122(1)(ii), 122(1)(x) of the CGST Act, 2017** - fraudulently obtaining a refund; issuing invoices without supply (SB-1 to SB-3) and issuing false invoices (SB-4 to SB-7); and producing false documents/furnishing false information with intent to evade tax.

***Note:* Provisions considered and not invoked.** *(a) Rule 96B (non-realisation of export proceeds) - the proceeds were round-tripped, and the case is fraud on the export itself. (b) Section 122(1A) (penalty equal to the tax evaded on the person who retains the benefit of a transaction under clauses (i), (ii), (vii) or (ix) of Section 122(1) and at whose instance it is conducted) is considered for Mr. Z, but the benefit he retained is a refund, which falls under clause (viii) - a clause not named in Section 122(1A) - and the quantum prescribed in Section 122(1A) is tied to tax evaded or ITC availed/passed on, not to a refund; the penalty on Mr. Z is therefore proposed under Section 122(3)(a). (Whether Section 122(1A) can be invoked for the SB-1 to SB-3 invoices, which are clause (ii) transactions, is arguable and is left to the trainer's discussion.) (c) Section 54(11) and Rule 96(4)(a) (withholding at the Commissioner's request) apply to refunds still to be paid, not to the amounts already credited.*

***Note:* Correct route - recovery, not 'withdrawal'.** *The refund in this case was credited by the Customs system under Rule 96(3) on the basis of the shipping bill and return data; there is no refund provision in the Act under which a credited refund may be recalled by a mere letter. The amount is 'erroneously refunded' and must be recovered through a notice under Section 74A(1) (read with Section 20 of the IGST Act), with the opportunity of hearing. The pending claims (SB-8, SB-9), by contrast, are withheld claims and are to be dealt with in the refund channel under Rule 96(5B) and (5C) read with Rule 89, not in this notice.*

B. CONSEQUENCES OF CONTRAVENTION OF LEGAL PROVISIONS

The contraventions at (A) above expose M/s XXX Exports Pvt. Ltd., Mr. Z and Mr. P to the following action under the CGST Act, 2017 read with the IGST Act, 2017 and the corresponding provisions of the TNGST Act, 2017:

1. Recovery of the erroneous refund - **Section 74A(1) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017** (the section covers tax 'erroneously refunded' and the notice is to be issued to the

person to whom the refund has been made). The refunds credited from May to September 2025 fall within FY 2025-26, to which Section 74A applies by Section 74A(12) (Notification No. 17/2024-Central Tax dated 27.09.2024). The notice can be issued within forty-two months from the date of the erroneous refund [Section 74A(2)] and the order has to be passed within twelve months from the date of the notice, extendable by six months in the manner provided [Section 74A(7)]. The demand is of IGST only: Rs.2,50,80,000/-.

2. Quantum - restraint in the demand - the demand is restricted to the refund that has no basis: the whole IGST for SB-1 to SB-3 (Rs.1,56,00,000/-) and, for SB-4 to SB-7, the IGST on the inflated portion of the value (Rs.94,80,000/-). The IGST on the value of goods actually exported (Rs.15,60,000/-) is not demanded in this notice, as goods were in fact taken out of India to that extent; the question whether the credit used to pay that IGST was eligible is part of the separate notice for the input tax credit.

3. Interest - **Section 50(1)** at 18% per annum (Notification No. 13/2017-Central Tax) on the amount refunded erroneously, from the date of the refund to the date of payment. (The date from which interest runs on an erroneous refund is not spelt out in Section 50 or Rule 88B; the departmental position, adopted here, is the date of the refund - see drafting notes.)

4. Penalty - why Section 74A(5)(ii) - the refund was obtained by fraud (invoices without supply, false values, round-tripped export proceeds, diversion of the refund), and the facts are not a case of mere error; the penalty on M/s XXX is therefore equal to the tax due under **Section 74A(5)(ii)**, i.e. Rs.2,50,80,000/-. The benefit of Section 74A(9) is available: on payment of the tax, interest and penalty of 15% (Rs.37,62,000/-) before the notice, 25% (Rs.62,70,000/-) within sixty days of the issue of the notice, or 50% (Rs.1,25,40,000/-) within sixty days of the communication of the order, the proceedings are concluded; and under Explanation 1 to Section 74A the proceedings under Sections 122 and 125 against the other noticees in the same notice are then deemed to be concluded - Section 132 is not covered.

5. Specific-offence penalties - Section 122(1)(viii) (fraudulently obtaining refund), Section 122(1)(ii) (invoices without supply) and Section 122(1)(x) (false documents/information to evade tax) are charged on M/s XXX without prejudice to the penalty under Section 74A(5)(ii) and subject to Section 75(13) and Section 126 (no double penalty for the same act). **Section 122(3)(a)** (aiding or abetting) is charged on Mr. Z (director, who planned the exports, fixed the values and diverted the refund) and on Mr. P (who arranged the stuffing and received 3% of the refund), up to Rs.25,000/- each. Section 137 (offences by companies) bears on prosecution, not on the civil penalty.

6. Prosecution - Section 132(1)(b) (invoice without supply leading to wrongful refund) and Section 132(1)(e) (fraudulently obtaining a refund) are attracted. The refund wrongly taken (Rs.2,50,80,000/-) exceeds Rs.200 lakh but does not exceed Rs.500 lakh, so the punishment is imprisonment up to three years and fine [Section 132(1)(ii)], with a minimum of six months unless the court records reasons [Section 132(3)]. The offence is non-cognizable and bailable [Section 132(4)], as only offences under clauses (a) to (d) punishable under the highest tier (above Rs.500 lakh) are cognizable and non-bailable [Section 132(5)]. Prosecution is recommended to the Commissioner, whose previous sanction is required [Section 132(6)], and is to be pursued separately from this notice; provisional attachment of the bank accounts into which the refund was diverted may be considered by the Commissioner under Section 83.

7. Registration - cancellation of the registration under Section 29(2) is to be considered by the proper officer separately. Issuing authority - the demand being IGST of more than Rs.2 crore, the notice is to be issued by the Additional/Joint Commissioner (Circular No. 31/05/2018-GST dated 09.02.2018).

Illustrative working of the erroneous refund (IGST rate 12%):

SB	Declared FOB (Rs.)	Actual value (Rs.)	IGST refunded (Rs.)	IGST admissible on actual value (Rs.)	Erroneous refund (Rs.)	Refund date
SB-1	4,20,00,000	Nil	50,40,000	Nil	50,40,000	21.05.2025
SB-2	3,80,00,000	Nil	45,60,000	Nil	45,60,000	12.06.2025
SB-3	5,00,00,000	Nil	60,00,000	Nil	60,00,000	30.06.2025
SB-4	2,00,00,000	30,00,000	24,00,000	3,60,000	20,40,000	24.07.2025
SB-5	2,20,00,000	28,00,000	26,40,000	3,36,000	23,04,000	08.08.2025
SB-6	2,40,00,000	35,00,000	28,80,000	4,20,000	24,60,000	25.08.2025
SB-7	2,60,00,000	37,00,000	31,20,000	4,44,000	26,76,000	12.09.2025
TOTAL	**22,20,00,000**	**1,30,00,000**	**2,66,40,000**	**15,60,000**	**2,50,80,000**	

Illustrative working of interest under Section 50(1) (18% per annum, simple, from the date of refund to 30.11.2026):

SB	Erroneous refund (Rs.)	Date of refund	Days to 30.11.2026	Interest at 18% (Rs.)
SB-1	50,40,000	21.05.2025	558	13,86,898
SB-2	45,60,000	12.06.2025	536	12,05,339
SB-3	60,00,000	30.06.2025	518	15,32,712
SB-4	20,40,000	24.07.2025	494	4,96,978
SB-5	23,04,000	08.08.2025	479	5,44,249
SB-6	24,60,000	25.08.2025	462	5,60,476
SB-7	26,76,000	12.09.2025	444	5,85,934
TOTAL	**2,50,80,000**			**63,12,586**

Basis: *IGST refunded Rs.2,66,40,000/-, less IGST on goods actually exported Rs.15,60,000/-, equals erroneous refund of Rs.2,50,80,000/- (A: Rs.1,56,00,000/-, B: Rs.94,80,000/-). Interest Rs.63,12,586/- is to be recomputed to the date of actual payment.*

C. CHARGING PARAGRAPH OF THE SHOW CAUSE NOTICE

[The following is the operative charging paragraph proposed for incorporation in the Show Cause Notice at Part D below.]

Now, therefore, (1) M/s XXX Exports Pvt. Ltd., through its Director, YYYY, Coimbatore, Tamil Nadu, (2) Mr. Z, Director of M/s XXX Exports Pvt. Ltd., and (3) Mr. P, Proprietor of M/s PPP Logistics, Tuticorin, are hereby called upon to show cause in writing to the Additional Commissioner, Coimbatore CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) *the exports covered by Shipping Bills SB-1 to SB-3 of declared FOB value Rs.13,00,00,000/-, and, in respect of Shipping Bills SB-4 to SB-7, the part of the declared FOB value in excess of the value of goods actually exported (Rs.7,90,00,000/-), should not be held not to be exports of goods, i.e. not zero-rated supplies, within the meaning of Sections 2(5) and 16 of the IGST Act, 2017, and the export invoices relating thereto not be held to be invoices issued without supply/false invoices;*

(ii) *the IGST of Rs.2,50,80,000/- (Rupees Two Crore Fifty Lakh Eighty Thousand only) erroneously refunded to M/s XXX Exports Pvt. Ltd. between 21.05.2025 and 12.09.2025, as detailed in Annexure-A, should not be demanded and recovered from them under Section 74A(1) of the CGST*

Act, 2017 read with Section 20 of the IGST Act, 2017 and the corresponding provisions of the TNGST Act, 2017;

(iii) *interest at the applicable rate under Section 50 of the CGST Act, 2017 (read with Section 20 of the IGST Act, 2017) should not be charged and recovered on the amount at (ii) above from the respective dates of refund till the date of payment;*

(iv) *a penalty of Rs.2,50,80,000/- equal to the tax due should not be imposed on M/s XXX Exports Pvt. Ltd. under Section 74A(5)(ii) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017;*

(v) *a penalty should not separately be imposed on M/s XXX Exports Pvt. Ltd. under Sections 122(1)(viii), 122(1)(ii) and 122(1)(x) of the CGST Act, 2017, without prejudice to (iv) above and subject to Sections 75(13) and 126;*

(vi) *a penalty under Section 122(3)(a) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017 should not be imposed on Mr. Z, and on Mr. P, for aiding and abetting the offences at (v) above, up to Rs.25,000/- each.*

D. DRAFT SHOW CAUSE NOTICE

F. No. GEXCOM/ADJN/SCN/[•]/2026-COIMBATORE

DIN: [Document Identification Number to be auto-generated on issue]

Office of the Additional Commissioner, Coimbatore CGST Commissionerate, Coimbatore, Tamil Nadu

Date: [•].11.2026

SHOW CAUSE NOTICE

(Issued under Section 74A of the Central Goods and Services Tax Act, 2017 read with Section 20 of the Integrated Goods and Services Tax Act, 2017 and Section 74A of the Tamil Nadu Goods and Services Tax Act, 2017)

To,
1. M/s XXX Exports Pvt. Ltd., (through its Director), YYYY, Coimbatore, Tamil Nadu.
2. Mr. Z, Director, M/s XXX Exports Pvt. Ltd., YYYY, Coimbatore, Tamil Nadu.
3. Mr. P, Proprietor, M/s PPP Logistics, YYYY, Tuticorin, Tamil Nadu.

(hereinafter referred to as 'M/s XXX', 'Mr. Z' and 'Mr. P' respectively, and collectively as 'the Noticees')

1. WHEREAS M/s XXX Exports Pvt. Ltd., Coimbatore, a registered person, filed seven shipping bills (SB-1 to SB-7) between 12.05.2025 and 30.08.2025 for export of copper kitchenware of declared FOB value Rs.22,20,00,000/- to M/s AAA FZE, Sharjah, on payment of IGST at 12% under Section 16(4) of the IGST Act, 2017, and received refund of IGST of Rs.2,66,40,000/- by credit to its bank account under Rule 96(3) of the CGST Rules, 2017 between 21.05.2025 and 12.09.2025 (RUD-1). Mr. Z is its Director; Mr. P is the proprietor of M/s PPP Logistics, the customs broker and freight forwarder for these shipments;

2. AND WHEREAS risk analysis by the DRI, Coimbatore Regional Unit, showed an abnormal rise of refund to Rs.2.66 crore in four months by a new exporter, declared quantities out of proportion to the factory's capacity, a single consignee without trade history and receipt of proceeds from third parties (RUD-2). The container of SB-9 (declared FOB Rs.2.80 crore) was held at Tuticorin Port on 18.09.2025 and examined by Customs: it contained about 1,100 kg of copper kitchenware valued at about Rs.31 lakh against a declared 9,800 kg valued at Rs.2.80 crore (RUD-3). The refund claims for SB-8 and SB-9 were withheld under Rule 96(4)(b) and are not the subject of this notice;

3. AND WHEREAS a search under Section 67(1) of the CGST Act, 2017 was conducted on 12.02.2026 at the factory of M/s XXX on the authorisation of the Joint Commissioner. The factory had three small polishing machines, no melting or rolling unit, six workers, monthly consumption of about 1,900 units of electricity, and no raw material or finished goods. The documents seized under the panchnama of 12.02.2026 included the export documents for SB-1 to SB-9, purchase invoices of five non-existent suppliers, blank letterheads and stamps of M/s AAA FZE, signed cheque books and the mobile phone of Mr. Z (RUD-4), whose WhatsApp chats with Mr. P use the expressions 'paper shipment' and 'refund share' (RUD-5);

4. AND WHEREAS at the CFS, Tuticorin, the weighbridge gross weights of the containers of SB-1, SB-2 and SB-3 were 2,100 kg, 1,950 kg and 2,400 kg against declared net weights of 14,000 kg, 12,600 kg and 16,500 kg, and the stuffing tally sheets and the statement of the CFS stuffing supervisor dated 25.02.2026 (RUD-6 and RUD-7) show that the containers contained empty cartons and packing waste only. For SB-4 to SB-7, the CFS tally and the transporter's dispatch records (RUD-8) show that goods valued at Rs.1,30,00,000/- in all were stuffed against declared FOB of Rs.9,20,00,000/-;

5. AND WHEREAS Mr. P, in his statement dated 19.02.2026 under Section 70 (RUD-9), stated that he was paid 3% of the IGST refund by Mr. Z for arranging 'paper shipments'; that on Mr. Z's instructions the

containers were stuffed with packing waste (SB-1 to SB-3) or with small quantities of kitchenware (SB-4 to SB-9); and that the values, the descriptions and the foreign consignee were supplied by Mr. Z; and Mr. Z, in his statement dated 20.02.2026 under Section 70 (RUD-10), admitted that there was no manufacturing of the quantity exported, that the invoices for SB-1 to SB-3 were raised without any real goods, that the values for SB-4 to SB-7 were inflated, that the sale proceeds were routed back through third-party remittances by arrangement with the consignee, and that the IGST refunds were transferred to accounts of his relatives and associates. His letter dated 02.04.2026 retracting the statement (RUD-11) alleges pressure without giving any particulars, and does not displace the statement, which is corroborated by the independent evidence at RUD-3 to RUD-8 and RUD-12;

6. AND WHEREAS the bank statements of M/s XXX (RUD-12) show that within three days of every credit of IGST refund, between 80% and 100% of it was transferred to five accounts, including those of the wife and brother of Mr. Z, and a part was withdrawn in cash;

7. AND WHEREAS it thus appears that no goods were exported under SB-1 to SB-3, and that under SB-4 to SB-7 goods of value Rs.1,30,00,000/- only were exported, and that the IGST refund has been obtained in excess of the entitlement to the extent shown below (Annexure-A):

SB	Declared FOB (Rs.)	Actual value (Rs.)	IGST refunded (Rs.)	Erroneous refund (Rs.)
SB-1	4,20,00,000	Nil	50,40,000	50,40,000
SB-2	3,80,00,000	Nil	45,60,000	45,60,000
SB-3	5,00,00,000	Nil	60,00,000	60,00,000
SB-4	2,00,00,000	30,00,000	24,00,000	20,40,000
SB-5	2,20,00,000	28,00,000	26,40,000	23,04,000
SB-6	2,40,00,000	35,00,000	28,80,000	24,60,000
SB-7	2,60,00,000	37,00,000	31,20,000	26,76,000
TOTAL	**22,20,00,000**	**1,30,00,000**	**2,66,40,000**	**2,50,80,000**

8. AND WHEREAS Section 74A(1) of the CGST Act, 2017 provides for a notice for tax erroneously refunded, with interest under Section 50 and penalty. The refund of Rs.2,50,80,000/- was obtained on the basis of declared export values which the Noticees knew to be false, and by raising invoices without supply, with the object of encashing the credit availed on non-existent invoices. The facts of fraud and wilful misstatement are evident from the statements, the physical evidence at the CFS and Customs, the WhatsApp chats and the bank trail; the penalty equal to the tax due under Section 74A(5)(ii) is therefore proposed;

9. AND WHEREAS it appears that M/s XXX has contravened Sections 16(1), 16(3)/(4) read with Section 2(5) of the IGST Act, 2017, Section 31(1) read with Section 20 of the IGST Act, 2017, and Section 54 read with Rule 96 of the CGST Rules, 2017, and has committed the acts specified in Sections 122(1)(viii), 122(1)(ii) and 122(1)(x) of the CGST Act, 2017, and that Mr. Z and Mr. P have aided and abetted the said acts, and have rendered themselves liable to penalty under Section 122(3)(a);

10. AND WHEREAS the aforesaid acts and omissions render the Noticees liable to the following action:

(a) recovery of the erroneous refund of IGST with interest under Sections 74A(1) and 50 of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017/TNGST Act, 2017 (M/s XXX);

(b) penalty under Section 74A(5)(ii) (M/s XXX), without prejudice to penalty under Sections 122(1)(viii), 122(1)(ii) and 122(1)(x) and subject to Section 75(13); and

(c) penalty under Section 122(3)(a) (Mr. Z and Mr. P);

NOW, THEREFORE

(1) M/s XXX Exports Pvt. Ltd., through its Director, YYYY, Coimbatore, Tamil Nadu, (2) Mr. Z, Director of M/s XXX Exports Pvt. Ltd., and (3) Mr. P, Proprietor of M/s PPP Logistics, Tuticorin, are hereby called upon to show cause in writing to the Additional Commissioner, Coimbatore CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) the exports covered by Shipping Bills SB-1 to SB-3 of declared FOB value Rs.13,00,00,000/-, and, in respect of Shipping Bills SB-4 to SB-7, the part of the declared FOB value in excess of the value of goods actually exported (Rs.7,90,00,000/-), should not be held not to be exports of goods, i.e. not zero-rated supplies, within the meaning of Sections 2(5) and 16 of the IGST Act, 2017, and the export invoices relating thereto not be held to be invoices issued without supply/false invoices;

(ii) the IGST of Rs.2,50,80,000/- (Rupees Two Crore Fifty Lakh Eighty Thousand only) erroneously refunded to M/s XXX Exports Pvt. Ltd. between 21.05.2025 and 12.09.2025, as detailed in Annexure-A, should not be demanded and recovered from them under Section 74A(1) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017 and the corresponding provisions of the TNGST Act, 2017;

(iii) interest at the applicable rate under Section 50 of the CGST Act, 2017 (read with Section 20 of the IGST Act, 2017) should not be charged and recovered on the amount at (ii) above from the respective dates of refund till the date of payment;

(iv) a penalty of Rs.2,50,80,000/- equal to the tax due should not be imposed on M/s XXX Exports Pvt. Ltd. under Section 74A(5)(ii) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017;

(v) a penalty should not separately be imposed on M/s XXX Exports Pvt. Ltd. under Sections 122(1)(viii), 122(1)(ii) and 122(1)(x) of the CGST Act, 2017, without prejudice to (iv) above and subject to Sections 75(13) and 126;

(vi) a penalty under Section 122(3)(a) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017 should not be imposed on Mr. Z, and on Mr. P, for aiding and abetting the offences at (v) above, up to Rs.25,000/- each.

11. The Noticees are further informed that:

- a written reply to this notice, along with all documents relied upon, must be furnished within thirty (30) days of receipt of this notice, failing which the case will be decided ex parte on the basis of available records, on merits;
- an opportunity of personal hearing will be granted before adjudication, on a date to be separately intimated, and the Noticees may appear in person or through an authorised representative;
- attention is drawn to the benefit available to M/s XXX under Section 74A(9) of the CGST Act, 2017: if the tax, interest and a penalty of 15% of the tax (Rs.37,62,000/-) are paid before the issue of this notice, or if the tax, interest and a penalty of 25% of the tax (Rs.62,70,000/-) are paid within sixty (60) days of its issue, or if the tax, interest and a penalty of 50% of the tax (Rs.1,25,40,000/-) are paid within sixty (60) days of the communication of the order, all proceedings in respect of the said notice shall be deemed to be concluded, including the proceedings under Sections 122 and 125 against the other Noticees named in this notice (Section 132 being excluded);
- this notice is issued without prejudice to any other action, including prosecution, that may be taken against the Noticees or any other person under the CGST Act, 2017/TNGST Act, 2017, the IGST Act, 2017, the Customs Act, 1962 or any other law for the time being in force; and the pending refund claims for SB-8 and SB-9 shall be dealt with separately.

List of Relied Upon Documents (RUDs):

RUD-1: Shipping bills SB-1 to SB-7, export invoices, GSTR-1/GSTR-3B extracts and refund credit particulars;

RUD-2: DRI risk analysis report;

RUD-3: Customs examination report dated 18.09.2025 for SB-9;

RUD-4: Search authorisation and panchnama dated 12.02.2026 with inventory of seized documents;

RUD-5: WhatsApp chats extracted from the mobile phone of Mr. Z, with certificate of extraction;

RUD-6: CFS weighbridge slips and stuffing tally sheets for SB-1 to SB-7;

RUD-7: Statement of the CFS stuffing supervisor dated 25.02.2026;

RUD-8: Transporter's dispatch records for SB-4 to SB-7;

RUD-9: Statement of Mr. P dated 19.02.2026;

RUD-10: Statement of Mr. Z dated 20.02.2026;

RUD-11: Retraction letter of Mr. Z dated 02.04.2026;

RUD-12: Bank statements of M/s XXX and of the accounts receiving the refunds;

Annexure-A: Statement of erroneous refund and interest, shipping bill-wise [as per the workings in Part B].

(_____)
Additional Commissioner
Coimbatore CGST Commissionerate, Coimbatore

Copy to: The Commissioner, CGST Coimbatore, for information and for consideration of sanction for prosecution under Section 132(6); the Principal Additional Director General, DRI, for information.

Drafting note (not part of the notice):

- *The addressee, jurisdictional range/officer, F. No./DIN and dates shown in square brackets/blanks are illustrative placeholders and must be completed with the correct particulars before issue.*
- ***Route and twist.*** *Once credited, an IGST refund cannot be 'withdrawn' by letter; recovery lies through a notice under Section 74A(1) (tax 'erroneously refunded'). Refund claims still pending (here SB-8 and SB-9, withheld under Rule 96(4)(b) and processed through Rule 96(5B)/(5C) and Rule 89) must be handled in the refund channel, not in this notice. If the refund was sanctioned by an order, the same Section 74A remedy is available; whether departmental review of that order must also be considered is a point to check locally (UNCERTAIN).*
- ***Do not over-charge.*** *For the inflated shipments (SB-4 to SB-7) the demand is restricted to the IGST on the inflated portion; IGST on the value of goods actually exported was a valid refund as far as the export is concerned. The separate issue of the ITC used to pay that IGST belongs to the ITC notice.*
- ***Interest on erroneous refund.*** *Section 73(1)/74A(1) require interest 'under Section 50', but Section 50 and Rule 88B do not state the starting date for an erroneous refund, and the point is contested. The draft adopts the date of refund; if the adjudicating authority takes a different view, only the interest working changes (UNCERTAIN).*
- ***Retracted statement.*** *The draft records the retraction and relies on independent corroboration (CFS records, weighment slips, chats, bank trail). The charge should never stand on the statement alone. No case law is cited.*

- ***Penalties.*** *Penalty under Section 74A(5)(ii) is the main penalty; Section 122(1)(viii), (ii) and (x) are charged without prejudice and subject to Section 75(13) (whose express reference to Section 74A could not be confirmed - UNCERTAIN; hence the house-style wording). Section 122(1A) is not available for the refund benefit (see Part A). Payment under Section 74A(9) by M/s XXX concludes the proceedings under Sections 122 and 125 against the others in the same notice (Explanation 1 to Section 74A) - not Section 132.*
- ***Rates.*** *The IGST rate of 12% on copper household articles is derived from the CGST Rate Schedule II entry (6%) of Notification No. 1/2017-Central Tax (Rate) for heading 7418; the matching IGST notification was not separately fetched, and the rate is in any event the rate actually paid on the shipping bills (UNCERTAIN to the extent of any later rate amendment before May 2025 - to be verified before issue).*
- ***Prosecution.*** *Section 83 (provisional attachment) and Section 69 (arrest) are matters for the Commissioner and are not part of the SCN; the conditions of Section 69 were not verified for this exercise (UNCERTAIN) and arrest is not recommended here. The tiers of Section 132(1) cited (above Rs.200 lakh up to Rs.500 lakh: three years) agree in all sources consulted.*
- *The draft should be settled by the jurisdictional Range/Division before issue (DRC-01), including verification of the monetary-limit-based issuing/adjudicating authority under Circular No. 31/05/2018-GST dated 09.02.2018 (Superintendent: central tax up to Rs.10 lakh; Deputy/Assistant Commissioner: above Rs.10 lakh up to Rs.1 crore; Additional/Joint Commissioner: above Rs.1 crore). Here the IGST demand is more than Rs.2 crore, so the notice is issued by the Additional/Joint Commissioner.*
- *Return of non-RUDs (Non-Relied Upon Documents): When the SCN is issued to the taxpayer in the form of DRC-01 (uploaded on the portal if registered, as well as delivered as per the provisions of law), non-RUDs must be returned to the noticee under due acknowledgement within seven days of issuance of the SCN.*

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Exercise 35

Goods exported but sale proceeds not realised within the FEMA period - recovery of refund under Rule 96B

Exercise 35: Goods exported but sale proceeds not realised within the FEMA period - recovery of refund under Rule 96B

Situation in Brief:

1. M/s XXX Plast Industries Pvt. Ltd. (hereinafter 'M/s XXX'), YYYY, Nashik, Maharashtra, manufactures plastic household articles (heading 3924) and exports them. During FY 2024-25 it exported goods through eight shipping bills: five on payment of IGST (the IGST being refunded by Customs under Rule 96(3) of the CGST Rules, 2017 within days of each export) and three under a Letter of Undertaking (LUT), for which a refund of unutilised input tax credit of Rs.9,60,000/- (entirely IGST credit on inter-State purchases) was sanctioned under Section 54(3)(i) by order in FORM GST RFD-06 dated 20.11.2024 for the quarter July-September 2024 (apportioned among the three shipping bills in proportion to their FOB). A ninth shipment (SB-9, FOB Rs.28,00,000/-, January 2025) was also made under LUT; no refund was claimed for it. Mr. Z is the Director.

2. The shipments, the dates of export, the value realised so far and the refund received are as follows (all export proceeds were to be received from M/s AAA Trading LLC, Dubai, and its associates):

SB	Route	Date of export	FOB (Rs.)	Realised (Rs.)	Refund received (Rs.)	Refund date
SB-1	IGST paid	10.04.2024	62,00,000	62,00,000	11,16,000	18.04.2024
SB-2	IGST paid	24.04.2024	48,00,000	14,40,000	8,64,000	02.05.2024
SB-3	IGST paid	12.05.2024	55,00,000	55,00,000	9,90,000	20.05.2024
SB-4	IGST paid	07.06.2024	40,00,000	Nil	7,20,000	14.06.2024
SB-5	IGST paid	27.06.2024	36,00,000	Nil	6,48,000	05.07.2024
SB-6	LUT + ITC refund	12.07.2024	30,00,000	30,00,000	2,88,000	20.11.2024
SB-7	LUT + ITC refund	20.08.2024	45,00,000	18,00,000	4,32,000	20.11.2024
SB-8	LUT + ITC refund	11.09.2024	25,00,000	Nil	2,40,000	20.11.2024
TOTAL			**3,41,00,000**	**1,79,40,000**	**52,98,000**	

3. In June 2026, the Refund Monitoring Cell of the Nashik CGST Commissionerate obtained from Customs the outstanding-export-bill data for FY 2024-25 and called for the e-BRC/FIRC particulars of the shipping bills of M/s XXX by letter dated 08.07.2026. M/s XXX replied on 24.07.2026 that goods under all the shipping bills were physically exported (the bills of lading and the Customs EGM particulars were submitted and tally); that the buyer M/s AAA Trading LLC had run into payment difficulty and did not pay for the unrealised bills; that a claim had been lodged with the export credit insurer; that no application for write-off had been made to the AD bank; and that an extension of the realisation period up to 31.03.2027 had been granted by the AD bank only for SB-4. The statement of Mr. Z recorded under Section 70 on 04.08.2026 confirmed these facts and added that the Noticee was not aware of the requirement to deposit the refund on non-realisation.

4. An intimation in FORM GST DRC-01A dated 14.09.2026 under Rule 142(1A) of the CGST Rules, 2017 was issued to M/s XXX, calling upon it to pay the refund relating to the unrealised proceeds with interest. No payment was made, and the Noticee replied on 28.09.2026 that the delay in realisation was beyond its control. It is on record that the business and the exports are genuine, that all the export documents are in order, and that the invoices were correctly reported in GSTR-1 and GSTR-3B. No input tax credit or refund issue other than non-realisation of the export proceeds is involved.

5. Now in the light of the above, -

(i) Identify the provision(s) of GST law contravened by M/s XXX Plast Industries Pvt. Ltd. (under heading **Contravention**).

(ii) Identify the provision(s) of GST law under which action is to be taken against M/s XXX Plast Industries Pvt. Ltd. (under heading **Consequences of Contravention of legal Provisions**).

(iii) Draft the **Charging Paragraph** of the Show Cause Notice proposed to be issued to M/s XXX Plast Industries Pvt. Ltd., calling upon M/s XXX Plast Industries Pvt. Ltd. to show cause as to why action should not be taken against them, while listing the proposed action to be taken against M/s XXX Plast Industries Pvt. Ltd..

(iv) Also prepare the **draft Show Cause Notice** for issuance to M/s XXX Plast Industries Pvt. Ltd..

***

SUGGESTED SOLUTION

(Refund Monitoring, Intimation under Rule 142(1A), Recovery of Refund under Rule 96B/Section 74A, and Draft Show Cause Notice - M/s XXX Plast Industries Pvt. Ltd., Nashik CGST Commissionerate)

A. CONTRAVENTION

On the facts as recorded, the following provisions stand contravened (in each case read with the corresponding provisions of the Maharashtra Goods and Services Tax Act, 2017 [MGST Act], the Integrated Goods and Services Tax Act, 2017 and the Rules made thereunder):

1. **Rule 96B(1) of the CGST Rules, 2017** - the Noticee received refund of IGST paid on export of goods (SB-2, SB-5) but did not realise the sale proceeds in India within the period allowed under the Foreign Exchange Management Act, 1999 (including any extension), and did not deposit the refund relating to the unrealised portion with the applicable interest within thirty days after the expiry of that period.
2. **Proviso to Section 16(3) of the IGST Act, 2017 read with Rule 96B** - the Noticee received refund of unutilised input tax credit on zero-rated supplies made under LUT (SB-7, SB-8) and did not deposit the refund relating to the unrealised proceeds, with interest under Section 50 of the CGST Act, 2017, within thirty days after the expiry of the period prescribed under FEMA.
3. **Section 74A(1) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017** - the refund so retained is, under Rule 96B(1), recoverable as erroneously refunded and is the amount in respect of which the notice is to be issued.

***Note:* Considered and not invoked.** *(a) Shipments fully realised (SB-1, SB-3, SB-6): nothing to deposit. (b) SB-4: the AD bank has extended the period to 31.03.2027, so the FEMA period has not expired; the unrealised portion of its refund (Rs.7,20,000/-) is not demanded now and is to be tracked [Rule 96B(1) refers to the period 'including any extension']. (c) SB-9 (LUT shipment, no refund claimed, proceeds unrealised): Rule 96B operates only where a refund 'has been paid'. On the text of Rule 96A, the LUT undertaking for goods concerns failure to export within the time allowed, not non-realisation, so no recovery is proposed for SB-9 (see drafting notes). (d) Fraud: the exports are genuine and the default arises from the buyer's non-payment; no fraud, wilful misstatement or suppression is alleged.*

B. CONSEQUENCES OF CONTRAVENTION OF LEGAL PROVISIONS

The contraventions at (A) above expose M/s XXX to the following action under the CGST Act, 2017 read with the IGST Act, 2017 and the corresponding provisions of the MGST Act, 2017:

1. Deposit/recovery of the refund - under **Rule 96B(1)**, the exporter has to deposit the refund relating to the unrealised portion with the applicable interest within thirty days after the expiry of the FEMA period; failing which the amount is to be recovered, as an erroneous refund, in accordance with the provisions of Section 73, Section 74 or Section 74A as the case may be, with interest under Section 50. As the refunds were made in FY 2024-25 (the first year of Section 74A, Section 74A(12) and Notification No. 17/2024-Central Tax dated 27.09.2024), the notice is under **Section 74A(1) read with Section 20 of the IGST Act**. The amount to be deposited is the refund in proportion to the unrealised value: refund x (unrealised FOB / FOB), i.e. Rs.17,52,000/- (IGST route Rs.12,52,800/- and ITC route Rs.4,99,200/-).
2. Limitation - the notice may be issued within forty-two months from the date of the erroneous refund [Section 74A(2)]; the order is to be passed within twelve months of the notice, extendable by six months [Section 74A(7)]. The earliest relevant refund is dated 02.05.2024, so the notice is well within time.
3. Interest - **Section 50(1)** at 18% per annum (Notification No. 13/2017-Central Tax), which Rule 96B(1) and the proviso to Section 16(3) of the IGST Act call 'applicable interest'. Because the exporter was entitled to the refund until the FEMA period expired and the thirty-day deposit period ran, interest is

computed in this draft from the day after the last date for deposit (the point at which the amount was payable and not paid). The working below is illustrative (payment assumed on 30.11.2026).

4. Penalty - the default arises from the buyer's non-payment and is a case other than fraud, wilful misstatement or suppression. The penalty is therefore under **Section 74A(5)(i)** - ten per cent of the tax due or Rs.10,000/-, whichever is higher - i.e. Rs.1,75,200/-. Under **Section 74A(8)**, if the refund and interest are paid before the notice, no notice is to be issued; if they are paid within sixty days of the notice, no penalty is payable and the proceedings stand concluded. Section 74A(11) is not engaged. Section 126 cannot be used to reduce the penalty, as the percentage is fixed by the Act. Section 122(2)(a) (penalty on a registered person for tax erroneously refunded) overlaps with Section 74A(5)(i) and is not separately invoked, as the same default cannot be penalised twice [Section 75(13) read with the house style].

5. Offences/prosecution - none. There is no invoice, ITC or refund fraud, and Section 132 is not attracted. Re-refund - if the proceeds are realised later within the extended period permitted by the RBI and the Noticee furnishes evidence within three months of realisation, the proper officer will refund the amount recovered to the extent of realisation [Rule 96B(2)]. Issuing authority - the IGST demand being Rs.17,52,000/-, not above Rs.20 lakh, the notice is issued by the Superintendent (Circular No. 31/05/2018-GST dated 09.02.2018).

Illustrative working of the refund to be deposited under Rule 96B(1):

SB	Unrealised FOB (Rs.)	Refund (Rs.)	FEMA period ends	Deposit due by	Refund to be deposited (Rs.)	Remark
SB-1	Nil	11,16,000	10.01.2025	09.02.2025	Nil	Fully realised - nil
SB-2	33,60,000	8,64,000	24.01.2025	23.02.2025	6,04,800	Part-realised
SB-3	Nil	9,90,000	12.02.2025	14.03.2025	Nil	Fully realised - nil
SB-4	40,00,000	7,20,000	31.03.2027	30.04.2027	Nil	AD-bank extension to 31.03.2027 - not due
SB-5	36,00,000	6,48,000	27.03.2025	26.04.2025	6,48,000	Not realised
SB-6	Nil	2,88,000	12.04.2025	12.05.2025	Nil	Fully realised - nil
SB-7	27,00,000	4,32,000	20.05.2025	19.06.2025	2,59,200	Part-realised
SB-8	25,00,000	2,40,000	11.06.2025	11.07.2025	2,40,000	Not realised
TOTAL		**52,98,000**			**17,52,000**	

Illustrative working of interest under Section 50(1) (18% per annum, simple, to 30.11.2026):

SB	Amount (Rs.)	Interest runs from	Days to 30.11.2026	Interest at 18% (Rs.)
SB-2	6,04,800	24.02.2025	645	1,92,376
SB-5	6,48,000	27.04.2025	583	1,86,304
SB-7	2,59,200	20.06.2025	529	67,619
SB-8	2,40,000	12.07.2025	507	60,007
TOTAL	**17,52,000**			**5,06,306**

Basis: *FEMA period taken as nine months from the date of export; deposit due thirty days thereafter. SB-2: refund Rs.8,64,000/- x unrealised Rs.33,60,000/- / FOB Rs.48,00,000/- = Rs.6,04,800/-. ITC refund of Rs.9,60,000/- is apportioned to SB-6, SB-7 and SB-8 in proportion to FOB (Rs.30 lakh, Rs.45 lakh, Rs.25 lakh). Interest Rs.5,06,306/- is to be recomputed to the date of actual payment.*

C. CHARGING PARAGRAPH OF THE SHOW CAUSE NOTICE

[The following is the operative charging paragraph proposed for incorporation in the Show Cause Notice at Part D below.]

Now, therefore, M/s XXX Plast Industries Pvt. Ltd., through its Director, situated at YYYY, Nashik, Maharashtra, is hereby called upon to show cause in writing to the Superintendent, CGST Range - [•], Nashik CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) *the sale proceeds of the goods exported under Shipping Bills SB-2, SB-5, SB-7 and SB-8, to the extent of Rs.1,21,60,000/- (FOB), not having been realised in India within the period allowed under the Foreign Exchange Management Act, 1999, should not be held to be in contravention of Rule 96B(1) of the CGST Rules, 2017 and the proviso to Section 16(3) of the IGST Act, 2017;*

(ii) *the amount of Rs.17,52,000/- (Rupees Seventeen Lakh Fifty-Two Thousand only), being the refund of IGST/unutilised input tax credit relating to the unrealised proceeds (IGST route Rs.12,52,800/- ; ITC route Rs.4,99,200/-), as detailed in Annexure-A to this notice, should not be demanded and recovered from them under Section 74A(1) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017, Rule 96B of the CGST Rules, 2017, and the corresponding provisions of the MGST Act, 2017;*

(iii) *interest at the applicable rate under Section 50 of the CGST Act, 2017 (read with Section 20 of the IGST Act, 2017) should not be charged and recovered on the amount at (ii) above, from the day following the last date for deposit till the date of payment;*

(iv) *a penalty of Rs.1,75,200/-, being ten per cent of the tax due, should not be imposed on them under Section 74A(5)(i) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017 (without prejudice to the benefit of nil penalty under Section 74A(8) on payment of the tax and interest within the time therein specified).*

D. DRAFT SHOW CAUSE NOTICE

F. No. GEXCOM/ADJN/SCN/[•]/2026-NASHIK

DIN: [Document Identification Number to be auto-generated on issue]

Office of the Superintendent, CGST Range - [•], Division - [•], Nashik CGST Commissionerate, Maharashtra

Date: [•].11.2026

SHOW CAUSE NOTICE

(Issued under Section 74A of the Central Goods and Services Tax Act, 2017 read with Section 20 of the Integrated Goods and Services Tax Act, 2017, Rule 96B of the CGST Rules, 2017 and Section 74A of the Maharashtra Goods and Services Tax Act, 2017)

To,
M/s XXX Plast Industries Pvt. Ltd.,
(through its Director Mr. Z), YYYY, Nashik, Maharashtra.

(hereinafter referred to as 'the Noticee')

1. WHEREAS M/s XXX Plast Industries Pvt. Ltd., Nashik, a registered person, exported plastic household articles in FY 2024-25 through nine shipping bills, five of them on payment of IGST (refunded by Customs under Rule 96(3) of the CGST Rules, 2017) and four under LUT, for three of which a refund of unutilised input tax credit of Rs.9,60,000/- was sanctioned under Section 54(3)(i) in FORM GST RFD-06 dated 20.11.2024 for July-September 2024 (RUD-1 and RUD-2);

2. AND WHEREAS the Refund Monitoring Cell obtained from Customs the data of outstanding export bills for FY 2024-25 (RUD-3) and, by letter dated 08.07.2026, called for the e-BRC/FIRC particulars (RUD-4). The Noticee replied on 24.07.2026 (RUD-5) that goods were actually exported; that the buyer had defaulted on payment; that a claim had been lodged with the export credit insurer; that no write-off had been sought from the AD bank; and that the AD bank had extended the realisation period up to 31.03.2027 for SB-4 only (RUD-6). Mr. Z confirmed the same in his statement dated 04.08.2026 under Section 70 of the CGST Act, 2017 (RUD-7);

3. AND WHEREAS the shipment-wise position of the sale proceeds, as per the AD bank certificates and the Customs data (RUD-3 and RUD-6), is that SB-1, SB-3 and SB-6 are fully realised; SB-2 is realised to the extent of Rs.14,40,000/- out of Rs.48,00,000/-; SB-5 and SB-8 are wholly unrealised; SB-7 is realised to the extent of Rs.18,00,000/- out of Rs.45,00,000/-; and in each of these four cases the period allowed under FEMA, being nine months from the date of export, has expired, and the further thirty days for deposit of the refund have also expired (the last of them on 11.07.2025);

4. AND WHEREAS FORM GST DRC-01A dated 14.09.2026 under Rule 142(1A) was issued to the Noticee (RUD-8), but no payment was made and the reply dated 28.09.2026 (RUD-9) only states that the delay in realisation was beyond the Noticee's control. Rule 96B(1) of the CGST Rules, 2017 (and the proviso to Section 16(3) of the IGST Act, 2017) require the exporter, whose sale proceeds are not realised within the period allowed under FEMA including any extension, to deposit the refund received, with applicable interest, within thirty days after expiry of that period, failing which it is to be recovered as erroneous refund under Section 73, 74 or 74A, as applicable, with interest under Section 50;

5. AND WHEREAS the refund to be deposited is worked out, in proportion to the unrealised value, as follows (details in Annexure-A):

SB	Unrealised FOB (Rs.)	Refund (Rs.)	FEMA period ends	Deposit due by	Refund to be deposited (Rs.)	Remark
SB-1	Nil	11,16,000	10.01.2025	09.02.2025	Nil	Fully realised - nil

SB-2	33,60,000	8,64,000	24.01.2025	23.02.2025	6,04,800	Part-realised
SB-3	Nil	9,90,000	12.02.2025	14.03.2025	Nil	Fully realised - nil
SB-4	40,00,000	7,20,000	31.03.2027	30.04.2027	Nil	AD-bank extension to 31.03.2027 - not due
SB-5	36,00,000	6,48,000	27.03.2025	26.04.2025	6,48,000	Not realised
SB-6	Nil	2,88,000	12.04.2025	12.05.2025	Nil	Fully realised - nil
SB-7	27,00,000	4,32,000	20.05.2025	19.06.2025	2,59,200	Part-realised
SB-8	25,00,000	2,40,000	11.06.2025	11.07.2025	2,40,000	Not realised
TOTAL		**52,98,000**			**17,52,000**	

6. AND WHEREAS the default is on account of the buyer's non-payment, the exports being otherwise genuine and duly reported, and there is no evidence of fraud, wilful misstatement or suppression of facts to evade tax. The penalty proposed is accordingly under Section 74A(5)(i) of the CGST Act, 2017, and the benefit of Section 74A(8) is available;

7. AND WHEREAS it thus appears that the Noticee has contravened Rule 96B(1) of the CGST Rules, 2017 and the proviso to Section 16(3) of the IGST Act, 2017, in respect of which the refund of Rs.17,52,000/- is recoverable under Section 74A(1) with interest under Section 50 and penalty under Section 74A(5)(i);

NOW, THEREFORE

M/s XXX Plast Industries Pvt. Ltd., through its Director, situated at YYYY, Nashik, Maharashtra, is hereby called upon to show cause in writing to the Superintendent, CGST Range - [•], Nashik CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) the sale proceeds of the goods exported under Shipping Bills SB-2, SB-5, SB-7 and SB-8, to the extent of Rs.1,21,60,000/- (FOB), not having been realised in India within the period allowed under the Foreign Exchange Management Act, 1999, should not be held to be in contravention of Rule 96B(1) of the CGST Rules, 2017 and the proviso to Section 16(3) of the IGST Act, 2017;

(ii) the amount of Rs.17,52,000/- (Rupees Seventeen Lakh Fifty-Two Thousand only), being the refund of IGST/unutilised input tax credit relating to the unrealised proceeds (IGST route Rs.12,52,800/-; ITC route Rs.4,99,200/-), as detailed in Annexure-A to this notice, should not be demanded and recovered from them under Section 74A(1) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017, Rule 96B of the CGST Rules, 2017, and the corresponding provisions of the MGST Act, 2017;

(iii) interest at the applicable rate under Section 50 of the CGST Act, 2017 (read with Section 20 of the IGST Act, 2017) should not be charged and recovered on the amount at (ii) above, from the day following the last date for deposit till the date of payment;

(iv) a penalty of Rs.1,75,200/-, being ten per cent of the tax due, should not be imposed on them under Section 74A(5)(i) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017 (without prejudice to the benefit of nil penalty under Section 74A(8) on payment of the tax and interest within the time therein specified).

8. The Noticee is further informed that:

- a written reply to this notice, along with all documents relied upon, must be furnished within thirty (30) days of receipt of this notice, failing which the case will be decided ex parte on the basis of available records, on merits;
- an opportunity of personal hearing will be granted before adjudication, on a date to be separately intimated, and the Noticee may appear in person or through an authorised representative;

- attention is drawn to Section 74A(8) of the CGST Act, 2017/MGST Act, 2017: if the refund at (ii) above and the interest at (iii) above are paid within sixty (60) days of the issue of this notice, no penalty shall be payable and all proceedings in respect of the said notice shall be deemed to be concluded; and to Rule 96B(2), under which the amount recovered will be refunded to the extent the sale proceeds are realised within the extended period permitted by the Reserve Bank of India, on evidence being furnished within three months of the realisation;
- this notice is issued without prejudice to any other action that may be taken against the Noticee or any other person under the CGST Act, 2017/MGST Act, 2017 or any other law for the time being in force, and the shipment SB-4 shall be reviewed on the expiry of the extended period.

List of Relied Upon Documents (RUDs):

RUD-1: Shipping bills SB-1 to SB-9, invoices and GSTR-1/GSTR-3B particulars;

RUD-2: Refund particulars: Customs credit advices under Rule 96(3) and RFD-06 dated 20.11.2024 with Statement 3;

RUD-3: Outstanding export bill data for FY 2024-25 obtained from Customs;

RUD-4: Letter dated 08.07.2026 calling for e-BRC/FIRC particulars;

RUD-5: Reply dated 24.07.2026 of the Noticee;

RUD-6: AD bank certificates of realisation and the extension letter for SB-4;

RUD-7: Statement of Mr. Z recorded under Section 70 on 04.08.2026;

RUD-8: FORM GST DRC-01A dated 14.09.2026;

RUD-9: Reply dated 28.09.2026 of the Noticee;

Annexure-A: Shipment-wise statement of refund to be deposited and interest [as per the workings in Part B].

(_____)
Superintendent, CGST
Range - [•], Division - [•], Nashik CGST Commissionerate

Copy to: The Deputy/Assistant Commissioner, CGST Division, Nashik, for information.

Drafting note (not part of the notice):

- *The addressee, jurisdictional range/officer, F. No./DIN and dates shown in square brackets/blanks are illustrative placeholders and must be completed with the correct particulars before issue.*
- ***Twist - only the unrealised portion; time of the default.*** *Rule 96B bites only on the refund attributable to the unrealised part of the proceeds (pro rata), and only after the FEMA period (with any extension) and the further thirty days have run. Shipments that are fully realised or within an extension are left out and noted; shipments never refunded (SB-9, LUT without refund) are outside Rule 96B.*
- ***FEMA period (UNCERTAIN).*** *The draft takes nine months from the date of export, the period applicable to exports of April-September 2024. Press/professional reports state that the period was raised to fifteen months by an RBI amendment dated 13.11.2025 and restored to nine months on 05.06.2026, and that new regulations are scheduled from 01.10.2026; the sources do not agree on transition, and the primary RBI notifications were not read. The exports here were made, and the nine-month period expired, before those changes, so they should not affect the working; but the period (and any extension actually allowed by the AD bank/RBI) must be verified from the AD bank's certificate and the RBI regulations in force on the date of each export before issue.*

- ***Interest start-date (UNCERTAIN).*** *Rule 96B and the proviso to Section 16(3) speak only of 'applicable interest'. This draft runs interest from the day after the last date for deposit. A more aggressive view runs it from the date of refund; the working changes only in the interest column.*
- ***Section 74A named in Rule 96B.*** *The text of Rule 96B as reproduced on one site (older) mentions only Sections 73 and 74, whereas a later reproduction (after Notification No. 20/2024-Central Tax dated 08.10.2024, effective 01.11.2024) and a professional article cite 74A as well; the draft relies on the latter and on Section 74A(12) in any case.*
- ***SB-9 and Rule 96A (UNCERTAIN).*** *Rule 96A, as reproduced in the sources read, deals with non-export of goods within the time allowed (and, for services, non-receipt of payment within one year); it contains no realisation test for goods. Whether the department can recover tax on LUT exports of goods where no refund was paid but proceeds are unrealised was not settled from the sources and is left outside the notice.*
- ***No penalty by waiver.*** *Section 126 does not help here because the penalty percentage is fixed by Section 74A(5)(i); the practical way to avoid penalty is payment within the Section 74A(8) window, and the notice says so. Rule 96B(2) gives a route for re-refund on later realisation.*
- ***Why not a fraud case.*** *Compare Exercise-34 (fictitious exports): here the goods were exported and reported correctly; the buyer defaulted.*
- *The draft should be settled by the jurisdictional Range/Division before issue (DRC-01), including verification of the monetary-limit-based issuing/adjudicating authority under Circular No. 31/05/2018-GST dated 09.02.2018 (Superintendent: central tax up to Rs.10 lakh; Deputy/Assistant Commissioner: above Rs.10 lakh up to Rs.1 crore; Additional/Joint Commissioner: above Rs.1 crore). Here the IGST demand is Rs.17,52,000/-, within the Superintendent's limit for IGST/combined demand (Rs.20 lakh).*
- *Return of non-RUDs (Non-Relied Upon Documents): When the SCN is issued to the taxpayer in the form of DRC-01 (uploaded on the portal if registered, as well as delivered as per the provisions of law), non-RUDs must be returned to the noticee under due acknowledgement within seven days of issuance of the SCN.*

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Exercise 36

Excess refund under inverted duty structure - input services and capital goods wrongly included in Net ITC

Exercise 36: Excess refund under inverted duty structure - input services and capital goods wrongly included in Net ITC

Situation in Brief:

1. M/s XXX Steelware Pvt. Ltd. (hereinafter 'M/s XXX'), YYYY, Kochi, Kerala, manufactures stainless steel kitchen utensils (heading 7323), on which output tax is 12% (6% central + 6% State), from stainless steel coils and sheets purchased from suppliers in Gujarat (IGST at 18% on the invoices), and also sells a small quantity of cut stainless steel sheets at 18%. All the input tax credit in question is of IGST on inter-State purchases. It made no exempt, nil-rated or zero-rated supplies. Mr. Z is the Director (Finance).

2. M/s XXX filed two refund claims in FORM GST RFD-01 under Section 54(3)(ii) of the CGST Act, 2017 on account of inverted duty structure, for the quarters July-September 2024 and October-December 2024. The Statement of invoices, the computation under Rule 89(5) and the CA certificate were uploaded along with each claim. The refunds were sanctioned in full by the Assistant Commissioner and paid to the bank account. The particulars are as follows:

Particulars (Rs.)	July-Sep 2024	Oct-Dec 2024
Turnover - stainless steel utensils (output tax 12%)	6,00,00,000	6,75,00,000
Turnover - cut stainless steel sheets (output tax 18%)	1,50,00,000	2,70,00,000
ITC availed on inputs (stainless steel coils/sheets etc.)	1,01,25,000	1,14,00,000
ITC availed on input services	11,25,000	12,60,000
ITC availed on capital goods	30,00,000	24,00,000
Refund claimed in FORM GST RFD-01 (filed on)	43,50,000 (18.10.2024)	21,00,000 (17.01.2025)
Refund sanctioned (RFD-06) and paid on	02.12.2024 / 05.12.2024	28.02.2025 / 04.03.2025

3. In the audit of the records of M/s XXX for FY 2024-25 (including the refunds sanctioned to it), taken up by the Audit Wing of the Cochin CGST Commissionerate under Section 65 of the CGST Act, 2017 (FORM GST ADT-01 dated 05.06.2026), it was observed that the computation under Rule 89(5) in both claims (a) took as 'Net ITC' the whole of the credit availed on inputs, input services and capital goods; (b) took as 'turnover of inverted rated supply' the entire turnover, including the sales of cut stainless steel sheets, on which the output tax rate (18%) is the same as the rate on the inputs and which are therefore not inverted rated supplies; and (c) used the same total credit as the denominator in the second term of the formula. The Final Audit Report in FORM GST ADT-02 was issued on 14.08.2026 and was replied to on 29.08.2026 by M/s XXX, which stated that the computation had been made as per the software utility, that the CA certificate had been obtained, and that all details had been disclosed in the claim.

4. The statement of Mr. Z was recorded on 03.09.2026 under Section 70, wherein he stated that the finance team had followed the refund utility of their ERP, which takes total ITC for the period; that the break-up of ITC on inputs, input services and capital goods and of the turnover of the two products was shown in the statements uploaded with each claim; that the department raised no query before sanctioning; that he was not aware that input services and capital goods were excluded from Net ITC and that the sheet sales should not be in the inverted turnover; and that the company is willing to pay the excess refund with interest if it is so determined. Ledger and invoice scrutiny confirmed the figures in the table above.

5. An intimation in FORM GST DRC-01A dated 21.09.2026 under Rule 142(1A) was issued to M/s XXX proposing the recovery of the excess refund with interest; no payment has been made so far. The jurisdictional proper officer is the Deputy Commissioner of the Division.

6. Now in the light of the above, -

(i) Identify the provision(s) of GST law contravened by M/s XXX Steelware Pvt. Ltd. (under heading **Contravention**).

(ii) Identify the provision(s) of GST law under which action is to be taken against M/s XXX Steelware Pvt. Ltd. (under heading **Consequences of Contravention of legal Provisions**).

(iii) Draft the **Charging Paragraph** of the Show Cause Notice proposed to be issued to M/s XXX Steelware Pvt. Ltd., calling upon M/s XXX Steelware Pvt. Ltd. to show cause as to why action should not be taken against them, while listing the proposed action to be taken against M/s XXX Steelware Pvt. Ltd..

(iv) Also prepare the **draft Show Cause Notice** for issuance to M/s XXX Steelware Pvt. Ltd..

***

SUGGESTED SOLUTION

(Audit of Refunds, Recomputation under Rule 89(5), Recovery of Erroneous Refund under Section 74A, and Draft Show Cause Notice - M/s XXX Steelware Pvt. Ltd., Cochin CGST Commissionerate)

A. CONTRAVENTION

On the facts as recorded, the following provisions stand contravened (in each case read with the corresponding provisions of the Kerala Goods and Services Tax Act, 2017 [KeGST Act] and the Integrated Goods and Services Tax Act, 2017):

1. **Section 54(3)(ii) of the CGST Act, 2017 read with Rule 89(5) of the CGST Rules, 2017** - refund of unutilised ITC on account of inverted duty structure is admissible only up to the Maximum Refund Amount worked out by the prescribed formula, in which 'Net ITC' means the input tax credit availed on inputs (goods) during the relevant period, and only the turnover of inverted rated supplies is taken into the formula. The Noticee claimed Rs.64,50,000/- against the admissible Rs.24,69,018/-.
2. **Section 54(3)(ii) (condition of inversion)** - cut stainless steel sheets are supplied at 18%, the same rate as the inputs, so there is no accumulation 'on account of rate of tax on inputs being higher than the rate of tax on output supplies' in respect of that turnover.
3. **Section 74A(1) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017** - the excess refund of IGST-credit of Rs.39,80,982/- is a sum 'erroneously refunded' and is the subject of this notice.

Note: Considered and not invoked. *(a) Section 122(1)(viii) (fraudulent refund) and Section 74A(5)(ii): not invoked because the break-up of credit and turnover was disclosed in the statements filed with the claims, the claim was accompanied by a CA certificate and was scrutinised and sanctioned by the Assistant Commissioner; there is no concealment, so no 'suppression' within Explanation 2 to Section 74A. (b) Section 122(2)(a) overlaps Section 74A(5)(i) for the same default and is not separately charged. (c) The pre-05.07.2022 formula does not apply: the claims were filed in 2024-25, after the substitution of the second term by Notification No. 14/2022-Central Tax, which applies to applications filed on or after 05.07.2022 (Circular No. 181/13/2022-GST dated 10.11.2022). (d) Section 132: not attracted.*

B. CONSEQUENCES OF CONTRAVENTION OF LEGAL PROVISIONS

The contraventions at (A) above expose M/s XXX to the following action under the CGST Act, 2017 read with the IGST Act, 2017 and the corresponding provisions of the KeGST Act, 2017:

1. Recovery of the excess refund - under **Section 74A(1) read with Section 20 of the IGST Act** (for tax 'erroneously refunded'). The refunds were paid on 05.12.2024 and 04.03.2025, in FY 2024-25, to which Section 74A applies by Section 74A(12) (Notification No. 17/2024-Central Tax dated 27.09.2024). The notice may be issued within forty-two months from the date of the erroneous refund [Section 74A(2)], i.e. in respect of the first refund up to 05.06.2028; the order must be passed within twelve months of the notice, extendable by six months [Section 74A(7)]. The refund orders (RFD-06) are not required to be set aside first; the recovery of an erroneous refund is by notice under this section.
2. Quantum - the Maximum Refund Amount is recomputed as: (turnover of inverted rated supply x Net ITC / adjusted total turnover) less (tax payable on such inverted rated supply x Net ITC / ITC availed on inputs and input services). Only the credit on *inputs* is 'Net ITC' (input services and capital goods are excluded), whereas the denominator of the second term takes the credit on inputs and input services together. The working is given below; the excess for the two claims is Rs.27,30,000/- and Rs.12,50,982/-, total Rs.39,80,982/-.
3. Interest - **Section 50(1)** at 18% per annum (Notification No. 13/2017-Central Tax), from the date of the erroneous refund till the date of payment (date adopted is the departmental position; see drafting notes). Illustrative working to 30.11.2026 is given below.

4. Penalty - **Section 74A(5)(i)**: ten per cent of the tax due or Rs.10,000/-, whichever is higher, i.e. Rs.3,98,098/-. The error arises from a misapplication of the formula by the claimant and an oversight at sanction; the details were disclosed; there is no fraud, wilful misstatement or suppression. The benefit of **Section 74A(8)** is available: on payment of tax and interest before the notice no notice is to be issued, and on payment within sixty days of the notice no penalty is payable and the proceedings stand concluded. Section 74A(11) is not engaged.

5. Re-credit of the amount paid - on the Noticee depositing the excess refund with interest (and penalty, if any) through FORM GST DRC-03, an amount equivalent to the erroneous refund deposited is re-credited to its electronic credit ledger on the order of the proper officer in FORM GST PMT-03A [Rule 86(4B)]. The credit so restored, which is on capital goods and input services and is otherwise valid, remains available for payment of output tax, subject to Sections 16 and 17; the Government's monetary gain on recovery is thus limited to the interest and penalty, which should be explained to the Noticee.

6. Other noticees; prosecution - none; Mr. Z is not charged because no personal fraudulent role is disclosed. Issuing authority - the IGST demand of Rs.39,80,982/- being above Rs.20 lakh and up to Rs.2 crore, the notice is issued by the Deputy/Assistant Commissioner (Circular No. 31/05/2018-GST dated 09.02.2018).

Illustrative working of the Maximum Refund Amount under Rule 89(5):

Element of Rule 89(5) (Rs.)	Q2 as claimed	Q2 correct	Q3 as claimed	Q3 correct
(1) Turnover of inverted rated supply	7,50,00,000	6,00,00,000	9,45,00,000	6,75,00,000
(2) Net ITC (inputs only is correct)	1,42,50,000	1,01,25,000	1,50,60,000	1,14,00,000
(3) Adjusted total turnover	7,50,00,000	7,50,00,000	9,45,00,000	9,45,00,000
(4) Tax payable on inverted rated supply	99,00,000	72,00,000	1,29,60,000	81,00,000
(5) ITC availed on inputs and input services	1,42,50,000	1,12,50,000	1,50,60,000	1,26,60,000
Max refund = (1)x(2)/(3) - (4)x(2)/(5)	43,50,000	16,20,000	21,00,000	8,49,018
Excess (erroneous) refund		**27,30,000**		**12,50,982**

Illustrative working of interest under Section 50(1) (18% per annum, simple, to 30.11.2026):

Claim	Erroneous refund (Rs.)	Date of refund	Days to 30.11.2026	Interest at 18% (Rs.)
July-September 2024	27,30,000	05.12.2024	725	9,76,068
October-December 2024	12,50,982	04.03.2025	636	3,92,363
TOTAL	**39,80,982**			**13,68,431**

Basis: *Q2 as claimed: 7,50,00,000 x 1,42,50,000 / 7,50,00,000 - 99,00,000 x 1,42,50,000 / 1,42,50,000 = Rs.43,50,000/-; Q2 correct: 6,00,00,000 x 1,01,25,000 / 7,50,00,000 - 72,00,000 x 1,01,25,000 / 1,12,50,000 = Rs.16,20,000/-. Interest Rs.13,68,431/- is to be recomputed to the date of actual payment.*

C. CHARGING PARAGRAPH OF THE SHOW CAUSE NOTICE

[The following is the operative charging paragraph proposed for incorporation in the Show Cause Notice at Part D below.]

Now, therefore, M/s XXX Steelware Pvt. Ltd., through its Director, situated at YYYY, Kochi, Kerala, is hereby called upon to show cause in writing to the Deputy/Assistant Commissioner, CGST Division - [•], Cochin CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) *the refund claims for July-September 2024 and October-December 2024 should not be held to have been computed otherwise than in accordance with Section 54(3)(ii) of the CGST Act, 2017*

and Rule 89(5) of the CGST Rules, 2017, in that the Net ITC included credit on input services and capital goods, the turnover of inverted rated supply included the turnover of cut stainless steel sheets on which the output tax rate is not lower than the rate on inputs, and the denominator of the second term was wrongly taken;

(ii) *the excess IGST-credit refund of Rs.39,80,982/- (Rupees Thirty-Nine Lakh Eighty Thousand Nine Hundred Eighty-Two only) (Rs.27,30,000/- for July-September 2024 and Rs.12,50,982/- for October-December 2024), erroneously refunded on 05.12.2024 and 04.03.2025, as detailed in Annexure-A to this notice, should not be demanded and recovered from them under Section 74A(1) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017 and the corresponding provisions of the KeGST Act, 2017;*

(iii) *interest at the applicable rate under Section 50 of the CGST Act, 2017 (read with Section 20 of the IGST Act, 2017) should not be charged and recovered on the amount at (ii) above from the respective dates of the refund till the date of payment;*

(iv) *a penalty of Rs.3,98,098/-, being ten per cent of the tax due, should not be imposed on them under Section 74A(5)(i) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017 (without prejudice to the benefit of nil penalty under Section 74A(8) on payment of the tax and interest within the time therein specified).*

D. DRAFT SHOW CAUSE NOTICE

F. No. GEXCOM/ADJN/SCN/[•]/2026-COCHIN

DIN: [Document Identification Number to be auto-generated on issue]

Office of the Deputy/Assistant Commissioner, CGST Division - [•], Cochin CGST Commissionerate, Kochi, Kerala

Date: [•].11.2026

SHOW CAUSE NOTICE

(Issued under Section 74A of the Central Goods and Services Tax Act, 2017 read with Section 20 of the Integrated Goods and Services Tax Act, 2017 and Section 74A of the Kerala Goods and Services Tax Act, 2017)

To,
M/s XXX Steelware Pvt. Ltd.,
(through its Director Mr. Z), YYYY, Kochi, Kerala.

(hereinafter referred to as 'the Noticee')

1. WHEREAS M/s XXX Steelware Pvt. Ltd., Kochi, a registered person, manufactures stainless steel kitchen utensils (12% output tax) from stainless steel coils and sheets purchased from Gujarat (IGST at 18%), and also sells cut stainless steel sheets at 18%. It filed two refund claims in FORM GST RFD-01 under Section 54(3)(ii) of the CGST Act, 2017 on account of inverted duty structure, for July-September 2024 (Rs.43,50,000/-, filed 18.10.2024) and October-December 2024 (Rs.21,00,000/-, filed 17.01.2025), which were sanctioned in full by FORM GST RFD-06 dated 02.12.2024 and 28.02.2025 and paid on 05.12.2024 and 04.03.2025 (RUD-1 and RUD-2);

2. AND WHEREAS in the audit of refunds under Section 65 of the CGST Act, 2017 (FORM GST ADT-01 dated 05.06.2026) it was found that the computation under Rule 89(5) in both claims took as Net ITC the credit availed on inputs, input services and capital goods together; took the whole turnover, including that of cut stainless steel sheets (taxed at 18%, the same rate as the inputs), as the turnover of inverted rated supply; and used the total credit as the denominator in the second term (Final Audit Report in FORM GST ADT-02 dated 14.08.2026, RUD-3); and the Noticee's reply dated 29.08.2026 (RUD-4) did not dispute the figures but stated that the utility of the ERP software had been followed, that a CA certificate had been obtained and that all details had been disclosed;

3. AND WHEREAS Mr. Z, Director (Finance), in his statement dated 03.09.2026 under Section 70 (RUD-5), stated that the finance team followed the ERP's refund utility, which takes the total ITC of the period; that the break-up of credit and turnover was shown in the statements filed with the claims; that he was not aware that input services and capital goods are excluded from Net ITC and that sheet sales are not inverted supply; and that the company is ready to pay the excess refund with interest. The figures were verified from the ledgers and purchase invoices (RUD-6);

4. AND WHEREAS under Rule 89(5) of the CGST Rules, 2017 (the second term of the formula having been substituted w.e.f. 05.07.2022 by Notification No. 14/2022-Central Tax), the Maximum Refund Amount is (turnover of inverted rated supply x Net ITC / adjusted total turnover) less (tax payable on such inverted rated supply x Net ITC / ITC availed on inputs and input services), where Net ITC is the credit availed on inputs during the relevant period. On that basis the admissible refund is Rs.16,20,000/- for July-September 2024 and Rs.8,49,018/- for October-December 2024, against Rs.43,50,000/- and Rs.21,00,000/- refunded, as under (Annexure-A):

Element of Rule 89(5) (Rs.)	Q2 as claimed	Q2 correct	Q3 as claimed	Q3 correct
(1) Turnover of inverted rated supply	7,50,00,000	6,00,00,000	9,45,00,000	6,75,00,000
(2) Net ITC (inputs only is correct)	1,42,50,000	1,01,25,000	1,50,60,000	1,14,00,000
(3) Adjusted total turnover	7,50,00,000	7,50,00,000	9,45,00,000	9,45,00,000
(4) Tax payable on inverted rated supply	99,00,000	72,00,000	1,29,60,000	81,00,000
(5) ITC availed on inputs and input services	1,42,50,000	1,12,50,000	1,50,60,000	1,26,60,000
Max refund = (1)x(2)/(3) - (4)x(2)/(5)	43,50,000	16,20,000	21,00,000	8,49,018
Excess (erroneous) refund		**27,30,000**		**12,50,982**

5. AND WHEREAS the excess of Rs.39,80,982/- (Rs.27,30,000/- + Rs.12,50,982/-) is thus a refund erroneously made, recoverable under Section 74A(1) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017, with interest under Section 50. Since the details were disclosed in the claims, a CA certificate was furnished and the claims were scrutinised and sanctioned, there is no material to allege fraud, wilful misstatement or suppression of facts, and the penalty proposed is under Section 74A(5)(i);

6. AND WHEREAS an intimation in FORM GST DRC-01A dated 21.09.2026 under Rule 142(1A) (RUD-7) was issued to the Noticee, but the amount has not been paid;

7. AND WHEREAS it thus appears that the Noticee has contravened Section 54(3)(ii) of the CGST Act, 2017 read with Rule 89(5) of the CGST Rules, 2017 and has rendered itself liable to recovery of the excess refund with interest under Section 50 and penalty under Section 74A(5)(i);

NOW, THEREFORE

M/s XXX Steelware Pvt. Ltd., through its Director, situated at YYYY, Kochi, Kerala, is hereby called upon to show cause in writing to the Deputy/Assistant Commissioner, CGST Division - [•], Cochin CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) the refund claims for July-September 2024 and October-December 2024 should not be held to have been computed otherwise than in accordance with Section 54(3)(ii) of the CGST Act, 2017 and Rule 89(5) of the CGST Rules, 2017, in that the Net ITC included credit on input services and capital goods, the turnover of inverted rated supply included the turnover of cut stainless steel sheets on which the output tax rate is not lower than the rate on inputs, and the denominator of the second term was wrongly taken;

(ii) the excess IGST-credit refund of Rs.39,80,982/- (Rupees Thirty-Nine Lakh Eighty Thousand Nine Hundred Eighty-Two only) (Rs.27,30,000/- for July-September 2024 and Rs.12,50,982/- for October-December 2024), erroneously refunded on 05.12.2024 and 04.03.2025, as detailed in Annexure-A to this notice, should not be demanded and recovered from them under Section 74A(1) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017 and the corresponding provisions of the KeGST Act, 2017;

(iii) interest at the applicable rate under Section 50 of the CGST Act, 2017 (read with Section 20 of the IGST Act, 2017) should not be charged and recovered on the amount at (ii) above from the respective dates of the refund till the date of payment;

(iv) a penalty of Rs.3,98,098/-, being ten per cent of the tax due, should not be imposed on them under Section 74A(5)(i) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017 (without prejudice to the benefit of nil penalty under Section 74A(8) on payment of the tax and interest within the time therein specified).

8. The Noticee is further informed that:

- a written reply to this notice, along with all documents relied upon, must be furnished within thirty (30) days of receipt of this notice, failing which the case will be decided ex parte on the basis of available records, on merits;
- an opportunity of personal hearing will be granted before adjudication, on a date to be separately intimated, and the Noticee may appear in person or through an authorised representative;
- attention is drawn to the benefit available under Section 74A(8) of the CGST Act, 2017/KeGST Act, 2017, whereby, if the tax at (ii) above and the interest at (iii) above are paid before the issue of this notice, no notice shall be served in respect of the said tax; and if they are paid within sixty (60) days of the issue of this notice, no penalty shall be payable and all proceedings in respect of the said notice shall be deemed to be concluded; on payment through FORM GST DRC-03, re-credit of the amount of the erroneous refund deposited will be allowed in terms of Rule 86(4B);
- this notice is issued without prejudice to any other action that may be taken against the Noticee or any other person under the CGST Act, 2017/KeGST Act, 2017 or any other law for the time being in force, including action for other tax periods.

List of Relied Upon Documents (RUDs):

RUD-1: FORM GST RFD-01 for July-September 2024 and October-December 2024 with statements, Rule 89(5) computations and CA certificates;

RUD-2: FORM GST RFD-06 orders dated 02.12.2024 and 28.02.2025 and bank credit particulars;

RUD-3: FORM GST ADT-01 dated 05.06.2026 and Final Audit Report in FORM GST ADT-02 dated 14.08.2026;

RUD-4: Reply dated 29.08.2026 of the Noticee;

RUD-5: Statement of Mr. Z recorded under Section 70 on 03.09.2026;

RUD-6: Ledgers, sales register and purchase invoices of inputs, input services and capital goods for July-December 2024;

RUD-7: FORM GST DRC-01A dated 21.09.2026;

Annexure-A: Claim-wise recomputation of the Maximum Refund Amount and interest [as per the workings in Part B].

(_____)
Deputy/Assistant Commissioner
CGST Division - [•], Cochin CGST Commissionerate, Kochi

Copy to: The Assistant Commissioner who sanctioned the refund, for information.

Drafting note (not part of the notice):

- *The addressee, jurisdictional range/officer, F. No./DIN and dates shown in square brackets/blanks are illustrative placeholders and must be completed with the correct particulars before issue.*
- ***Twist - recompute the formula; error in the claim and in sanction.*** *The recovery of a refund sanctioned by an order is by a notice under Section 74A(1) (tax 'erroneously refunded'); limitation runs from the date of refund, not from the annual return. The working must be done claim-wise, using the formula as in force on the date of the application. Walk through the three errors separately: (a) Net ITC = credit on inputs only (Rule 89(5), Explanation (a)); (b) turnover of inverted rated supply = only supplies whose output rate is lower than the input rate; (c) denominator of the second term = credit on inputs and input services.*

- ***Why no fraud.*** *Full disclosure in the statements filed with the claim, a CA certificate, scrutiny and sanction by the Assistant Commissioner - the department cannot allege 'suppression' (Explanation 2 to Section 74A: non-declaration of facts required to be declared, or failure to furnish information asked in writing). The best draft here is the one that does not over-charge: a non-fraud notice with the Section 74A(8) concession.*
- ***Rates (UNCERTAIN).*** *The 12% rate on stainless steel household utensils (heading 7323) is taken from Schedule II (6%) of Notification No. 1/2017-Central Tax (Rate) as originally issued; later amendments up to FY 2024-25 were not checked. The 18% rate on stainless steel coils/sheets (inputs) and cut sheets is stated as the rate charged on the invoices and was not independently verified; the exercise treats the inversion (12% against 18%) as undisputed. The goods are not among those for which refund of accumulated ITC is barred by Notification No. 5/2017-Central Tax (Rate) as amended (edible oils, coal, specified fabrics and knitted goods, rail goods - list read from a secondary reproduction last updated October 2023).*
- ***Interest start-date (UNCERTAIN).*** *Section 50 and Rule 88B do not state how interest runs on an erroneous refund; the draft uses the date of refund. Rule 86(4B) re-credit applies on deposit with interest and penalty.*
- ***Authority; DRC-01A.*** *The IGST demand is above Rs.20 lakh and up to Rs.2 crore, so the Deputy/Assistant Commissioner issues the notice. The pre-notice intimation (DRC-01A) and the possibility of payment before the notice (Section 74A(8)(i)) are part of the sequence.*
- *The draft should be settled by the jurisdictional Range/Division before issue (DRC-01), including verification of the monetary-limit-based issuing/adjudicating authority under Circular No. 31/05/2018-GST dated 09.02.2018 (Superintendent: central tax up to Rs.10 lakh; Deputy/Assistant Commissioner: above Rs.10 lakh up to Rs.1 crore; Additional/Joint Commissioner: above Rs.1 crore).*
- *Return of non-RUDs (Non-Relied Upon Documents): When the SCN is issued to the taxpayer in the form of DRC-01 (uploaded on the portal if registered, as well as delivered as per the provisions of law), non-RUDs must be returned to the noticee under due acknowledgement within seven days of issuance of the SCN.*

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Exercise 37

Intermediary (buying agent) services wrongly treated as export of services under LUT - tax not paid and refund of ITC taken

Exercise 37: Intermediary (buying agent) services wrongly treated as export of services under LUT - tax not paid and refund of ITC taken

Situation in Brief:

1. M/s XXX Global Sourcing Pvt. Ltd. (hereinafter 'M/s XXX'), YYYY, Bengaluru, Karnataka, is a registered person which, under a buying agency agreement dated 01.04.2022 with M/s AAA Inc., Delaware, USA, a US apparel retailer, identifies and develops garment manufacturers in India, negotiates prices, follows up samples, quality and shipment schedules, and is paid a commission of 5% of the FOB value of the goods that M/s AAA Inc. buys from the Indian manufacturers. The commission is received in US dollars through banking channels (FIRC/e-BRC available). Mr. Z is the Director.

2. M/s XXX treated its commission as 'export of services', furnished a Letter of Undertaking (FORM GST RFD-11) for FY 2024-25, issued invoices titled 'Buying commission - sourcing services' for each month without charging GST, reported them as zero-rated supplies in GSTR-1 (Table 6A) and GSTR-3B (Table 3.1(b)), and claimed refund of unutilised input tax credit under Section 54(3)(i) of the CGST Act, 2017 for the quarters April-June, July-September and October-December 2024. All the credit is of IGST on inter-State purchases of input services and goods. The refunds were sanctioned in full by the Assistant Commissioner. The claim for January-March 2025 (ITC Rs.11,04,000/-, filed 21.04.2025) is pending. The month-wise commission billed for FY 2024-25 is:

Month	Commission billed (Rs.)	Month	Commission billed (Rs.)
Apr-2024	1,44,00,000	Oct-2024	1,76,00,000
May-2024	1,52,00,000	Nov-2024	1,84,00,000
Jun-2024	1,52,00,000	Dec-2024	1,84,00,000
Jul-2024	1,60,00,000	Jan-2025	1,92,00,000
Aug-2024	1,68,00,000	Feb-2025	2,00,00,000
Sep-2024	1,68,00,000	Mar-2025	2,00,00,000
April-September 2024	**9,44,00,000**	**October 2024-March 2025**	**11,36,00,000**

3. In the audit of M/s XXX under Section 65 of the CGST Act, 2017 by the Audit Commissionerate, Bengaluru (FORM GST ADT-01 dated 07.04.2026), the buying agency agreement, the invoices, e-BRCs, the e-mail correspondence with the principal and the purchase orders and invoices raised by the Indian manufacturers were examined. It was seen that (a) there are three parties - M/s AAA Inc., the Indian manufacturers and M/s XXX; (b) the purchase orders are placed by M/s AAA Inc. directly on the manufacturers, who invoice and ship to M/s AAA Inc. and are paid by it directly; (c) M/s XXX never takes title to the goods, has no authority to bind M/s AAA Inc. or the manufacturers, and does not supply the goods on its own account; (d) the commission is computed on the FOB value of those transactions; and (e) the agreement expressly describes M/s XXX as the 'buying agent' of M/s AAA Inc. The Final Audit Report in FORM GST ADT-02 was issued on 30.06.2026.

4. The statement of Mr. Z was recorded on 12.05.2026 under Section 70, wherein he confirmed the above facts; stated that the company had always treated the services as exported since the principal is abroad and pays in foreign exchange; that the refund claims had been filed with the agreement and the invoices, that the department had never raised a query; and that, having come to know of the view that a sourcing agent is an 'intermediary', the company disputes that its services are intermediary services but is not contesting the facts. No evidence of any intent to evade tax has come on record.

5. FORM GST DRC-01A dated 28.07.2026 under Rule 142(1A) of the CGST Rules, 2017 was issued to M/s XXX; no payment was made, and the reply dated 10.08.2026 reiterated that the services are exports

of services. The pending refund claim for January-March 2025 and the supplies of FY 2025-26 are not part of this notice.

6. Now in the light of the above, -

(i) Identify the provision(s) of GST law contravened by M/s XXX Global Sourcing Pvt. Ltd. (under heading **Contravention**).

(ii) Identify the provision(s) of GST law under which action is to be taken against M/s XXX Global Sourcing Pvt. Ltd. (under heading **Consequences of Contravention of legal Provisions**).

(iii) Draft the **Charging Paragraph** of the Show Cause Notice proposed to be issued to M/s XXX Global Sourcing Pvt. Ltd., calling upon M/s XXX Global Sourcing Pvt. Ltd. to show cause as to why action should not be taken against them, while listing the proposed action to be taken against M/s XXX Global Sourcing Pvt. Ltd..

(iv) Also prepare the **draft Show Cause Notice** for issuance to M/s XXX Global Sourcing Pvt. Ltd..

***

SUGGESTED SOLUTION

(Audit, Place of Supply of Intermediary Services, Recovery of Tax and Erroneous Refund under Section 74A, and Draft Show Cause Notice - M/s XXX Global Sourcing Pvt. Ltd., Bengaluru South CGST Commissionerate)

A. CONTRAVENTION

On the facts as recorded, the following provisions stand contravened (in each case read with the corresponding provisions of the Karnataka Goods and Services Tax Act, 2017 [KGST Act], the Integrated Goods and Services Tax Act, 2017 and the Rules made thereunder):

1. **Section 2(6) read with Section 13(8)(b) of the IGST Act, 2017** - the supply is not an 'export of services' because the condition at Section 2(6)(iii), that the place of supply be outside India, is not met: for intermediary services the place of supply is the location of the supplier, i.e. Bengaluru [Section 13(8)(b), in force throughout FY 2024-25]. The other conditions of Section 2(6) are satisfied (supplier in India, recipient outside India, payment in convertible foreign exchange, not merely establishments of a distinct person).
2. **Section 8(2) of the IGST Act, 2017 and Section 9(1) of the CGST Act, 2017** - the location of the supplier and the place of supply being in the same State, the supply is an intra-State supply taxable at 18% (CGST 9% + KGST 9%); the services of commission agents fall in Heading 9961 (alternatively Heading 9985) of Notification No. 11/2017-Central Tax (Rate), at 9% central tax, and are not zero-rated under Section 16 of the IGST Act. The tax has not been paid.
3. **Section 54(3)(i) of the CGST Act, 2017 read with Section 16(3) of the IGST Act, 2017** - refund of unutilised ITC is available only for zero-rated supplies made without payment of tax; the supplies were not zero-rated, and the refund of Rs.28,32,000/- was erroneous.
4. **Sections 31, 37 and 39 of the CGST Act, 2017** - invoices were issued and returns filed without tax on supplies on which tax was payable.

Note: Considered and not invoked. *(a) Fraud (Section 74A(5)(ii)) and Section 122(1)(viii) - not invoked. The classification of a sourcing/buying agent as an 'intermediary' is a matter of interpretation of Section 2(13) of the IGST Act (as explained in Circular No. 159/15/2021-GST dated 20.09.2021), the agreement, invoices and e-BRCs were filed with the refund claims, and no information was withheld; 'suppression' (Explanation 2 to Section 74A) is not made out. (b) Section 13(8)(b) omitted by the Finance Act, 2026 - the omission is stated to have taken effect from the date of assent (30.03.2026) and to be prospective, so it does not alter the position for FY 2024-25. (c) Section 122(2)(a) overlaps Section 74A(5)(i) and is not separately charged. (d) Pending refund claim for January-March 2025 and supplies of FY 2025-26: separate action, the claim being dealt with in the refund channel.*

B. CONSEQUENCES OF CONTRAVENTION OF LEGAL PROVISIONS

The contraventions at (A) above expose M/s XXX to the following action under the CGST Act, 2017 read with the IGST Act, 2017 and the corresponding provisions of the KGST Act, 2017:

1. Demand of tax on the supplies - **Section 74A(1)** of the CGST Act, 2017 (and the KGST Act): tax not paid on intra-State supplies of Rs.20,80,00,000/-, i.e. central tax Rs.1,87,20,000/- and State tax Rs.1,87,20,000/-. The period is FY 2024-25, for which Section 74A applies [Section 74A(12) and Notification No. 17/2024-Central Tax dated 27.09.2024]. The notice may be issued within forty-two months from the due date of the annual return for FY 2024-25 (31.12.2025, Section 44) [Section 74A(2)], i.e. by 30.06.2029, and the order is to be passed within twelve months of the notice, extendable by six months [Section 74A(7)].
2. Recovery of the erroneous refund - **Section 74A(1) read with Section 20 of the IGST Act**: IGST credit refunded of Rs.28,32,000/-, the notice being issued to the person to whom the refund has been made; limitation runs from the date of refund, the earliest being 17.10.2024.

3. Interplay between the two heads (no double burden) - the tax at 1 is a liability for the supplies, and the refund at 2 is a recovery of cash paid out. On deposit of the refund with interest through FORM GST DRC-03, an amount equal to the erroneous refund is re-credited to the electronic credit ledger [Rule 86(4B), FORM GST PMT-03A]; this credit, with the unrefunded credit of Rs.11,04,000/- for January-March 2025, is available to the Noticee, subject to Sections 16 and 17, for payment of the output tax (IGST credit being usable for IGST, then CGST, then State tax in the order prescribed in Section 49). The cash burden at the end is therefore the tax less the credit available, plus interest and penalty.

4. Interest - **Section 50(1)** at 18% per annum (Notification No. 13/2017-Central Tax) on the tax from the due date of the monthly return, and on the erroneous refund from the date of the refund (the date adopted is the departmental position; see drafting notes), till payment. The workings are illustrative and to 30.11.2026.

5. Penalty - why Section 74A(5)(i), not (ii) - the sole issue is the treatment of the supply as an export of services on an interpretation of Section 2(13) and Section 13(8)(b) of the IGST Act; the facts were fully disclosed and no fraud, wilful misstatement or suppression is made out. Penalty is therefore ten per cent of the tax due or Rs.10,000/-, whichever is higher: Rs.18,72,000/- (central tax), Rs.18,72,000/- (State tax) and Rs.2,83,200/- (IGST), total Rs.40,27,200/-. The benefit of **Section 74A(8)** is available: on payment of tax and interest before the notice, no notice is to be issued; on payment within sixty days of the notice, no penalty is payable and the proceedings are concluded.

6. Prosecution; other noticees - none. Issuing authority - the central tax demand exceeds Rs.1 crore and the combined central tax and IGST demand exceeds Rs.2 crore (Rs.2,15,52,000/-), so the notice is issued by the Additional/Joint Commissioner (Circular No. 31/05/2018-GST dated 09.02.2018).

Illustrative working of the tax and interest on the supplies (quarter-wise; interest from the due date of the monthly return to 30.11.2026):

Quarter	Taxable value (Rs.)	CGST @9% (Rs.)	KGST @9% (Rs.)	Interest - CGST (Rs.)	Interest - KGST (Rs.)
April-June 2024	4,48,00,000	40,32,000	40,32,000	17,75,201	17,75,201
July-September 2024	4,96,00,000	44,64,000	44,64,000	17,62,986	17,62,986
October-December 2024	5,44,00,000	48,96,000	48,96,000	17,12,389	17,12,389
January-March 2025	5,92,00,000	53,28,000	53,28,000	16,25,397	16,25,397
TOTAL	**20,80,00,000**	**1,87,20,000**	**1,87,20,000**	**68,75,973**	**68,75,973**

Illustrative working of the erroneous refund and interest (Section 50(1), 18% per annum, from the date of refund to 30.11.2026):

Quarter	IGST refund (Rs.)	RFD-01 filed	RFD-06 order	Paid on	Days to 30.11.2026	Interest (Rs.)
April-June 2024	8,64,000	20.08.2024	14.10.2024	17.10.2024	774	3,29,788
July-September 2024	9,40,800	21.10.2024	18.12.2024	20.12.2024	710	3,29,409
October-December 2024	10,27,200	30.01.2025	25.03.2025	27.03.2025	613	3,10,524
TOTAL	**28,32,000**					**9,69,721**

Basis: *Taxable value Rs.20,80,00,000/- x 18% = Rs.3,74,40,000/- (central Rs.1,87,20,000/- + State Rs.1,87,20,000/-). Demand in all: tax Rs.3,74,40,000/- + erroneous refund Rs.28,32,000/- = Rs.4,02,72,000/-; interest (illustrative) Rs.1,47,21,667/-.*

C. CHARGING PARAGRAPH OF THE SHOW CAUSE NOTICE

[The following is the operative charging paragraph proposed for incorporation in the Show Cause Notice at Part D below.]

Now, therefore, M/s XXX Global Sourcing Pvt. Ltd., through its Director, situated at YYYY, Bengaluru, Karnataka, is hereby called upon to show cause in writing to the Additional/Joint Commissioner, Bengaluru South CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) *the services supplied by them to M/s AAA Inc., USA during April 2024 to March 2025, of value Rs.20,80,00,000/- (commission for sourcing services), should not be held to be 'intermediary services' within the meaning of Section 2(13) of the IGST Act, 2017, the place of supply of which is the location of the supplier under Section 13(8)(b) of the IGST Act, 2017, and thus not 'export of services' under Section 2(6) or zero-rated supply under Section 16 of that Act, but intra-State supplies taxable under Section 9(1) of the CGST Act, 2017/KGST Act, 2017;*

(ii) *central tax of Rs.1,87,20,000/- and Karnataka State tax of Rs.1,87,20,000/-, total Rs.3,74,40,000/- (Rupees Three Crore Seventy-Four Lakh Forty Thousand only), not paid on the said supplies as detailed in Annexure-A to this notice, should not be demanded and recovered from them under Section 74A(1) of the CGST Act, 2017 and the corresponding provisions of the KGST Act, 2017;*

(iii) *the refund of IGST credit of Rs.28,32,000/- (Rupees Twenty-Eight Lakh Thirty-Two Thousand only) sanctioned under Section 54(3)(i) of the CGST Act, 2017 for the quarters April-June 2024, July-September 2024 and October-December 2024 and erroneously refunded to them, should not be demanded and recovered from them under Section 74A(1) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017;*

(iv) *interest under Section 50(1) of the CGST Act, 2017/KGST Act, 2017 (read with Section 20 of the IGST Act, 2017) should not be charged and recovered on the amounts at (ii) and (iii) above, from the due dates of the returns and from the dates of refund respectively, till the date of payment;*

(v) *a penalty of Rs.18,72,000/- (central tax), Rs.18,72,000/- (State tax) and Rs.2,83,200/- (IGST), total Rs.40,27,200/-, being ten per cent of the tax due in each case, should not be imposed on them under Section 74A(5)(i) of the CGST Act, 2017/KGST Act, 2017 read with Section 20 of the IGST Act, 2017 (without prejudice to the benefit of nil penalty under Section 74A(8) on payment of the tax and interest within the time therein specified).*

D. DRAFT SHOW CAUSE NOTICE

F. No. GEXCOM/ADJN/SCN/[•]/2026-BENGALURU SOUTH

DIN: [Document Identification Number to be auto-generated on issue]

Office of the Additional/Joint Commissioner, Bengaluru South CGST Commissionerate, Bengaluru, Karnataka

Date: [•].11.2026

SHOW CAUSE NOTICE

(Issued under Section 74A of the Central Goods and Services Tax Act, 2017 read with Section 20 of the Integrated Goods and Services Tax Act, 2017 and Section 74A of the Karnataka Goods and Services Tax Act, 2017)

To,
M/s XXX Global Sourcing Pvt. Ltd.,
(through its Director Mr. Z), YYYY, Bengaluru, Karnataka.

(hereinafter referred to as 'the Noticee')

1. WHEREAS M/s XXX Global Sourcing Pvt. Ltd., Bengaluru, a registered person, acts under a buying agency agreement dated 01.04.2022 as buying agent of M/s AAA Inc., Delaware, USA, for which it identifies and develops garment manufacturers in India, negotiates prices, follows up samples, quality and shipments, and is paid a commission of 5% of the FOB value of the goods bought by M/s AAA Inc. from the manufacturers (RUD-1). For FY 2024-25 it billed Rs.20,80,00,000/- as 'buying commission', without charging GST, under a Letter of Undertaking, reported the supplies as zero-rated, and claimed and received refund of unutilised ITC of IGST of Rs.28,32,000/- for April-December 2024 under Section 54(3)(i) (RUD-2 to RUD-4);

2. AND WHEREAS in the audit under Section 65 of the CGST Act, 2017 (FORM GST ADT-01 dated 07.04.2026) the agreement, invoices, e-BRCs, e-mails and the purchase orders and invoices of the Indian manufacturers were examined (RUD-5), and it was found that there are three parties; that M/s AAA Inc. places purchase orders directly on the manufacturers who invoice, ship to and are paid by it directly; that M/s XXX never takes title to the goods, has no authority to bind either party and does not supply the goods on its own account; that its commission is computed on the FOB value of those transactions; and that the agreement itself describes M/s XXX as 'buying agent'. The Final Audit Report in FORM GST ADT-02 is dated 30.06.2026 (RUD-6);

3. AND WHEREAS Mr. Z, in his statement dated 12.05.2026 under Section 70 of the CGST Act, 2017 (RUD-7), confirmed these facts and stated that the company had always regarded the services as exported since the principal is abroad and pays in foreign exchange, and did not contest the facts but disputes that the services are intermediary services; and the Noticee's reply dated 10.08.2026 to FORM GST DRC-01A dated 28.07.2026 (RUD-8) reiterated the same;

4. AND WHEREAS Section 2(13) of the IGST Act, 2017 defines an 'intermediary' as a broker, agent or any other person, by whatever name called, who arranges or facilitates the supply of goods or services or both between two or more persons, but does not include a person who supplies such goods or services on his own account. As clarified in Circular No. 159/15/2021-GST dated 20.09.2021, an intermediary needs at least three parties and two distinct supplies - the main supply between the principals and the ancillary supply of arranging or facilitating it - and plays a supportive role without supplying the main supply on its own account. The Noticee's role meets each element; the main supply is the sale of

garments by the Indian manufacturers to M/s AAA Inc., and the Noticee's service of identifying suppliers, negotiating and following up is the ancillary supply, for which it is paid a commission;

5. AND WHEREAS the place of supply of intermediary services is, under Section 13(8)(b) of the IGST Act, 2017 (in force throughout FY 2024-25), the location of the supplier, i.e. Bengaluru. The condition in Section 2(6)(iii) not being satisfied, the supply is not an export of services and not a zero-rated supply; it is an intra-State supply under Section 8(2), taxable at 18% (CGST 9% + KGST 9%) under Heading 9961 (alternatively 9985) of Notification No. 11/2017-Central Tax (Rate). The refund of unutilised ITC under Section 54(3)(i), which is admissible only for zero-rated supplies without payment of tax, was erroneously made;

6. AND WHEREAS the tax payable on the commission of Rs.20,80,00,000/- billed during FY 2024-25 and the IGST credit erroneously refunded are as under (Annexure-A):

Head	Taxable value / refund (Rs.)	Amount of tax (Rs.)
CGST @9% on commission	20,80,00,000	1,87,20,000
KGST @9% on commission	20,80,00,000	1,87,20,000
IGST credit erroneously refunded (3 quarters)	28,32,000	28,32,000
TOTAL		**4,02,72,000**

7. AND WHEREAS the Noticee furnished the agreement, invoices, e-BRCs and details of the services along with its refund claims, and the question is one of interpretation of Section 2(13) and Section 13(8)(b) of the IGST Act; no evidence of fraud, wilful misstatement or suppression of facts exists, and penalty is therefore proposed under Section 74A(5)(i) of the CGST Act, 2017/KGST Act, 2017, the benefit of Section 74A(8) being available;

8. AND WHEREAS it thus appears that the Noticee has not paid tax on intra-State supplies, has availed refund of Rs.28,32,000/- not admissible, and has contravened Section 9(1) of the CGST Act, 2017, Sections 31, 37 and 39, Section 54(3)(i), and Sections 2(6), 8(2), 13(8)(b) and 16 of the IGST Act, 2017, thereby rendering itself liable to tax and interest under Sections 74A(1) and 50 and penalty under Section 74A(5)(i);

NOW, THEREFORE

M/s XXX Global Sourcing Pvt. Ltd., through its Director, situated at YYYY, Bengaluru, Karnataka, is hereby called upon to show cause in writing to the Additional/Joint Commissioner, Bengaluru South CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) the services supplied by them to M/s AAA Inc., USA during April 2024 to March 2025, of value Rs.20,80,00,000/- (commission for sourcing services), should not be held to be 'intermediary services' within the meaning of Section 2(13) of the IGST Act, 2017, the place of supply of which is the location of the supplier under Section 13(8)(b) of the IGST Act, 2017, and thus not 'export of services' under Section 2(6) or zero-rated supply under Section 16 of that Act, but intra-State supplies taxable under Section 9(1) of the CGST Act, 2017/KGST Act, 2017;

(ii) central tax of Rs.1,87,20,000/- and Karnataka State tax of Rs.1,87,20,000/-, total Rs.3,74,40,000/- (Rupees Three Crore Seventy-Four Lakh Forty Thousand only), not paid on the said supplies as detailed in Annexure-A to this notice, should not be demanded and recovered from them under Section 74A(1) of the CGST Act, 2017 and the corresponding provisions of the KGST Act, 2017;

(iii) the refund of IGST credit of Rs.28,32,000/- (Rupees Twenty-Eight Lakh Thirty-Two Thousand only) sanctioned under Section 54(3)(i) of the CGST Act, 2017 for the quarters April-June 2024, July-September 2024 and October-December 2024 and erroneously refunded to them, should

not be demanded and recovered from them under Section 74A(1) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017;

(iv) interest under Section 50(1) of the CGST Act, 2017/KGST Act, 2017 (read with Section 20 of the IGST Act, 2017) should not be charged and recovered on the amounts at (ii) and (iii) above, from the due dates of the returns and from the dates of refund respectively, till the date of payment;

(v) a penalty of Rs.18,72,000/- (central tax), Rs.18,72,000/- (State tax) and Rs.2,83,200/- (IGST), total Rs.40,27,200/-, being ten per cent of the tax due in each case, should not be imposed on them under Section 74A(5)(i) of the CGST Act, 2017/KGST Act, 2017 read with Section 20 of the IGST Act, 2017 (without prejudice to the benefit of nil penalty under Section 74A(8) on payment of the tax and interest within the time therein specified).

9. The Noticee is further informed that:

- a written reply to this notice, along with all documents relied upon, must be furnished within thirty (30) days of receipt of this notice, failing which the case will be decided ex parte on the basis of available records, on merits;
- an opportunity of personal hearing will be granted before adjudication, on a date to be separately intimated, and the Noticee may appear in person or through an authorised representative;
- attention is drawn to the benefit available under Section 74A(8) of the CGST Act, 2017/KGST Act, 2017: if the tax at (ii) and (iii) above and the interest at (iv) above are paid before the issue of this notice, no notice shall be served in respect of the said tax; and if they are paid within sixty (60) days of the issue of this notice, no penalty shall be payable and all proceedings in respect of the said notice shall be deemed to be concluded; and that on deposit of the erroneous refund an equivalent amount will be re-credited under Rule 86(4B) of the CGST Rules, 2017, available for payment of the tax in accordance with law;
- this notice is issued without prejudice to any other action that may be taken against the Noticee or any other person under the CGST Act, 2017/KGST Act, 2017, the IGST Act, 2017 or any other law for the time being in force, including action for the pending refund claim and for the supplies of FY 2025-26.

List of Relied Upon Documents (RUDs):

RUD-1: Buying agency agreement dated 01.04.2022 with M/s AAA Inc.;

RUD-2: Invoices for April 2024 to March 2025, LUT (RFD-11), GSTR-1 (Table 6A) and GSTR-3B (Table 3.1(b)) extracts;

RUD-3: FORM GST RFD-01 filings and RFD-06 orders for the three quarters;

RUD-4: e-BRCs/FIRCs for the commission received;

RUD-5: Purchase orders and invoices of the Indian manufacturers, and e-mail correspondence with M/s AAA Inc.;

RUD-6: FORM GST ADT-01 dated 07.04.2026 and Final Audit Report in FORM GST ADT-02 dated 30.06.2026;

RUD-7: Statement of Mr. Z recorded under Section 70 on 12.05.2026;

RUD-8: FORM GST DRC-01A dated 28.07.2026 and the reply dated 10.08.2026;

Annexure-A: Month-wise statement of taxable value, tax, refund and interest [as per the workings in Part B].

(_____)

Additional/Joint Commissioner
Bengaluru South CGST Commissionerate, Bengaluru

Copy to: The Commissioner, Bengaluru South CGST Commissionerate, for information.

Drafting note (not part of the notice):

- *The addressee, jurisdictional range/officer, F. No./DIN and dates shown in square brackets/blanks are illustrative placeholders and must be completed with the correct particulars before issue.*
- ***Twist - period matters (Section 13(8)(b)).*** *The notice relies on Section 13(8)(b) of the IGST Act, which governed intermediary services throughout FY 2024-25. Two secondary sources (Grant Thornton; AMS Shardul) report that the Finance Act, 2026 omitted clause (b) with effect from the date of assent, 30.03.2026, without any separate commencement date, and that the change is prospective. The Finance Act text itself was not read and the point should be re-verified from the Act before issue (UNCERTAIN). For supplies after that date the recipient-location rule may apply and the same facts would not support a demand; do not extend this draft to FY 2025-26 without re-examining the period up to 29.03.2026 and thereafter.*
- ***Intermediary or not?*** *The draft follows Circular No. 159/15/2021-GST (three parties; two distinct supplies; no supply on own account). A sourcing/buying agent that takes no title, places no orders on its own account and is paid commission on the principal's purchases fits that description, but each case turns on the contract and conduct. Compare an agent that buys and resells on its own account, or a pure sub-contractor, which would be outside Section 2(13). The facts and the agreement must be set out in the notice (E of 4C-1E); no case law is cited.*
- ***Fraud not made out.*** *The best draft does not allege fraud: the contract, invoices and e-BRCs were disclosed with the refund claims, and the controversy is one of interpretation. The result is a Section 74A(5)(i) notice with the Section 74A(8) concession. An allegation of fraud on an interpretational dispute would not survive.*
- ***Refund vs tax; Rule 86(4B).*** *Two separate heads are demanded - the tax on the supplies and the erroneous refund of ITC. After deposit of the refund, the equivalent credit is re-credited (Rule 86(4B)), and can be used against the output tax; the order of utilisation of IGST credit is governed by Section 49 (not re-read for this exercise - UNCERTAIN). Make sure trainees understand why the gross demand is not the net revenue loss.*
- ***Taxable value; cum-tax (UNCERTAIN).*** *The commission billed is taken as the taxable value, with tax added on top. Whether the Noticee can claim that the amounts received were cum-tax (and the tax is to be back-calculated) is a debated point and the agreement is silent on tax; the question is left for the adjudicating authority.*
- ***Interest (UNCERTAIN).*** *Interest on the tax is shown on the full tax from the due dates. To the extent ITC was available in the electronic credit ledger on the due dates, the adjudicating authority will have to consider the effect on the cash portion; interest on the erroneous refund runs, in this draft, from the date of the refund, the departmental position.*
- ***Rates.*** *The 18% rate rests on Notification No. 11/2017-Central Tax (Rate), S.No. 5 (Heading 9961, services of commission agents) and S.No. 23(ii) (Heading 9985, support services), both 9% central tax, as read from the original notification text; the exact SAC should be fixed from the agreement before issue.*
- *The draft should be settled by the jurisdictional Range/Division before issue (DRC-01), including verification of the monetary-limit-based issuing/adjudicating authority under Circular No. 31/05/2018-GST dated 09.02.2018 (Superintendent: central tax up to Rs.10 lakh; Deputy/Assistant Commissioner:*

above Rs.10 lakh up to Rs.1 crore; Additional/Joint Commissioner: above Rs.1 crore). Here the central tax demand exceeds Rs.1 crore and the combined central tax and IGST demand exceeds Rs.2 crore.

- *Return of non-RUDs (Non-Relied Upon Documents): When the SCN is issued to the taxpayer in the form of DRC-01 (uploaded on the portal if registered, as well as delivered as per the provisions of law), non-RUDs must be returned to the noticee under due acknowledgement within seven days of issuance of the SCN.*

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Exercise 38

Issue of manual B2B invoices without Invoice Reference Number by a manufacturer whose aggregate turnover exceeds Rs. 5 crore - invoices not to be treated as invoices under Rule 48(5)

Exercise 38: Issue of manual B2B invoices without Invoice Reference Number by a manufacturer whose aggregate turnover exceeds Rs. 5 crore - invoices not to be treated as invoices under Rule 48(5)

Situation in Brief:

1. M/s XXX, a partnership firm of which Mr. Z is the Managing Partner, is a manufacturer of moulded plastic articles registered under the CGST Act, 2017 and the Gujarat GST Act, 2017 at YYYY, Ahmedabad, Gujarat, under the jurisdiction of Ahmedabad South CGST Commissionerate. Its aggregate turnover as per the annual returns (FORM GSTR-9) was Rs.5,62,00,000/- in FY 2021-22, Rs.8,24,00,000/- in FY 2022-23, Rs.9,10,00,000/- in FY 2023-24 and Rs.9,48,00,000/- in FY 2024-25.

2. Data analytics reports received from the Directorate General of Analytics and Risk Management (DGARM) in June 2026 flagged that between August 2024 and March 2025 the firm had generated e-way bills against B2B tax invoices for which no Invoice Reference Number (IRN) had been generated on the Invoice Registration Portal, although the firm's aggregate turnover had exceeded Rs.5 crore in a preceding financial year. The Range Superintendent compared the e-way bill data with FORM GSTR-1 and FORM GSTR-3B of the firm, and a summons dated 15.06.2026 under Section 70 of the CGST Act, 2017 was issued to Mr. Z for production of the sales register, copies of invoices, e-way bills, and correspondence with the software vendor.

3. Mr. Z appeared on 24.06.2026 and produced the sales register, 46 B2B invoices (Nos. GJ/24-25/xxx series) prepared on the firm's accounting software, the related e-way bills, GSTR-1/GSTR-3B copies and an e-mail from the software vendor dated 18.07.2024 intimating that the e-invoice API module would stand discontinued from 01.08.2024 for non-renewal of the annual subscription. The 46 invoices were issued to 11 registered recipients (all within Gujarat); each carried the firm's GSTIN, the recipient's GSTIN, description, HSN, taxable value and CGST/GGST at 9% each, but none carried an IRN or a QR code.

4. In his statement recorded on 24.06.2026 under Section 70, Mr. Z stated that the firm had crossed Rs.5 crore in FY 2021-22; that the firm had been issuing e-invoices from 01.08.2023, the date from which the limit applied to it, through the vendor's module; that after the module lapsed on 01.08.2024 the firm shifted to manual invoices generated from the accounting software because the renewal was delayed for budgetary reasons; that he believed that e-invoicing applied only to businesses with turnover above Rs.10 crore; and that he never intended to avoid tax. Mr. P, the accounts executive, in his statement dated 26.06.2026 stated that he used to key the manual invoices into the GSTR-1 each month; that he left the firm's service on 31.01.2025; and that his successor did not key in the invoices of February and March 2025, which he thought would populate automatically from the e-invoice data.

5. Reconciliation done by the Range showed that of the 46 manual invoices, 39 invoices had been reported in the GSTR-1 (B2B) and the tax on them paid through FORM GSTR-3B, and 7 invoices (3 of February 2025 and 4 of March 2025) had been reported neither in GSTR-1 nor in GSTR-3B, so that the tax charged on them to the recipients had not been paid to the Government. Confirmation was obtained from three of the recipients that they had paid the full invoice value including tax on the 7 invoices and that the 7 invoices did not appear in their FORM GSTR-2B, so that they did not claim input tax credit on them. The month-wise position is as follows (taxable value excludes tax; tax charged was 9% CGST and 9% GGST):

Month	Manual B2B invoices (no IRN)	Taxable value (Rs.)	Reported in GSTR-1 (nos.)	Not reported in GSTR-1 / GSTR-3B (nos.)
Aug-2024	5	31,40,000	5	-
Sep-2024	6	38,25,000	6	-

Oct-2024	5	29,10,000	5	-
Nov-2024	6	41,60,000	6	-
Dec-2024	6	36,90,000	6	-
Jan-2025	6	33,75,000	6	-
Feb-2025	6	40,20,000	3	3
Mar-2025	6	44,80,000	2	4
TOTAL	**46**	**2,96,00,000**	**39**	**7**

6. The firm has not so far paid any amount in respect of the above and no intimation under Section 74A(8)(i) was received from it. It has no previous history of default; the tax on all other outward supplies of the year has been paid, and the firm continued to issue proper e-invoices for its remaining B2B supplies after it renewed the subscription in April 2025.

7. Now in the light of the above, -

(i) Identify the provision(s) of GST law contravened by M/s XXX (under heading **Contravention**).

(ii) Identify the provision(s) of GST law under which action is to be taken against M/s XXX (under heading **Consequences of Contravention of legal Provisions**).

(iii) Draft the **Charging Paragraph** of the Show Cause Notice proposed to be issued to M/s XXX, calling upon M/s XXX to show cause as to why action should not be taken against them, while listing the proposed action to be taken against M/s XXX.

(iv) Also prepare the **draft Show Cause Notice** for issuance to M/s XXX.

***

SUGGESTED SOLUTION

(Data-analytics detection, inquiry on summons, Determination of Tax Liability under Section 74A, and Draft Show Cause Notice - M/s XXX, Ahmedabad South CGST Commissionerate)

A. CONTRAVENTION

On the facts as recorded, the following provisions of law stand contravened (in each case read with the corresponding provisions of the Gujarat Goods and Services Tax Act, 2017 [GGST Act] and the Rules made under the two Acts):

1. **Rule 48(4) of the CGST Rules, 2017 read with Notification No. 13/2020-Central Tax dated 21.03.2020 (as amended by Notification No. 10/2023-Central Tax dated 10.05.2023)** - failure to prepare invoices for B2B supplies by including the particulars of FORM GST INV-01 after obtaining an Invoice Reference Number from the Invoice Registration Portal, although the firm's aggregate turnover had exceeded Rs.5 crore in a preceding financial year (FY 2021-22 onwards) and the limit applied to it from 01.08.2023.
2. **Rule 48(5) of the CGST Rules, 2017** - every invoice issued by a person to whom Rule 48(4) applies, in a manner other than that specified in Rule 48(4), 'shall not be treated as an invoice'. The 46 manual documents are therefore not invoices in the eyes of law. This is the pivot of the exercise: the consequence flows not from a separate prohibition but from the deeming provision.
3. **Section 31(1) of the CGST Act, 2017 read with Rule 46** - the firm, a registered person supplying taxable goods, was required to issue a tax invoice at or before removal of the goods; as the 46 documents are not invoices, the supplies stand effected without issue of a (valid) invoice.
4. **Section 37(1), Section 39(1) and Section 39(7) of the CGST Act, 2017** - in respect of the 7 unreported invoices, failure to furnish the details of outward supplies, to include them in the return, and to pay the tax so charged by the due date.
5. **Section 9(1) of the CGST Act, 2017** - non-payment of tax (CGST and GGST at 9% each) on the taxable value of Rs.43,00,000/- covered by the 7 unreported invoices.

Note: *(a) Not invoked - recipients' ITC. The question whether a recipient can claim credit on a document that 'shall not be treated as an invoice' (Section 16(2)(a)) is not before this notice. All 11 recipients are bona fide registered persons who paid the invoice value including tax; the supplier reported 39 of the 46 invoices in GSTR-1, so they appear in the recipients' GSTR-2B (Section 16(2)(aa)); and the defect lies wholly in the supplier's compliance. No action against the recipients is proposed, and the draft deliberately does not allege fraud or collusion. (b) Not invoked - Section 122(1)(x) and (xv) (false information/suppression of turnover with intent to evade tax): the unreported invoices are explained by a staff changeover and a mistaken belief, and the invoices were in the firm's own books. (c) Not invoked - Section 76 and Section 122(1)(iii) (tax collected but not paid): the tax charged on the 7 invoices was in fact collected from the recipients and has remained unpaid for more than three months, so both are factually available. They are not chosen because the amount is a statutory liability on a taxable outward supply, because Section 76(2) and the 100% penalty route are out of proportion to a staff-changeover lapse, and because the same amount cannot be recovered under both Section 74A and Section 76 (see Exercise-33 for the Section 76 route). Note, however, that the collection of tax has a consequence within Section 74A itself - see Section 74A(11) at Part B. (d) Not invoked - Sections 129/130: no goods were intercepted in transit and no intent to evade tax is shown.*

B. CONSEQUENCES OF CONTRAVENTION OF LEGAL PROVISIONS

The contraventions at (A) above expose M/s XXX to the following action under the CGST Act, 2017 (read with the corresponding provisions of the GGST Act, 2017):

1. Determination and recovery of tax - under **Section 74A(1) of the CGST Act, 2017** on the 7 unreported invoices. The e-invoicing default by itself creates no tax demand - tax on the other 39 invoices was paid. The demand pertains to FY 2024-25, for which Section 74A (and not Section 73 or 74) governs [Section 74A(12); Notification No. 17/2024-Central Tax dated 27.09.2024]. The notice is to be issued within forty-two months from the due date of the annual return for FY 2024-25 [Section 74A(2)] and the order within twelve months of the notice, extendable by six months [Section 74A(7)].

2. Interest - under **Section 50(1) of the CGST Act, 2017** at the notified rate of 18% per annum [Notification No. 13/2017-Central Tax] from the day after the due date of FORM GSTR-3B of the month concerned (20.03.2025 for February 2025 and 20.04.2025 for March 2025) till payment.

3. Penalty on the tax demand - under **Section 74A(5)(i)**, being ten per cent of the tax due or Rs.10,000/-, whichever is higher, under each Act. *Why not Section 74A(5)(ii)?* Fraud, wilful misstatement or suppression is not established: the invoices were recorded in the books and produced on the first summons, tax on 39 of 46 invoices was paid, the lapse coincides with the departure of the employee who keyed the manual invoices, and Mr. Z's belief about the Rs.10 crore limit, though mistaken, is consistent with the history (the limit was Rs.10 crore until 31.07.2023). The payment route under **Section 74A(8)** (pay tax and interest within sixty days of the notice - proceedings concluded) is available, *but* by **Section 74A(11)** the penalty under Section 74A(5)(i) remains payable notwithstanding such payment, because the tax on the 7 invoices was collected from the recipients and was not paid within thirty days from the due date of payment.

4. Penalty for supply without a valid invoice - **Section 122(1)(i)** applies because, by Rule 48(5), the supplies were made without issue of an invoice. The penalty is the *higher of Rs.10,000/- or the tax evaded*. On the 39 reported invoices tax stands paid, the 'tax evaded' is nil, and the floor of Rs.10,000/- applies. It is proposed *per invoice* (each is a separate supply without an invoice) and under each Act: 39 x Rs.10,000/- = Rs.3,90,000/- under the CGST Act and the same amount under the GGST Act. For the 7 unreported invoices the penalty under Section 74A(5)(i) already covers the same act and omission; a separate Section 122(1)(i) penalty is proposed only in the alternative, without prejudice and subject to Section 75(13) (house style of Exercise-01). Section 126(1) (minor breach/easily rectifiable error) is of no help to the firm because sub-section (6) takes outside its scope penalties that are a fixed sum or a fixed percentage; the officer should nevertheless record in the order why the per-invoice basis is proportionate, and may consider a single penalty if the adjudicating authority holds that the omission to obtain an IRN is one continuing default.

5. Prosecution - Section 132 is not proposed; no intention to evade is established and the tax involved (Rs.7,74,000/-) is far below the monetary thresholds of Section 132(1).

6. Persons charged - M/s XXX alone. Mr. Z is the firm itself in law (a partnership firm is a 'person'); Mr. P, an employee acting under instructions, is not charged under Section 122(3)(a) as there is no evidence of any knowing assistance.

7. Issuing authority - the central tax demand is Rs.3,87,000/-, within the monetary limit of the Superintendent under Circular No. 31/05/2018-GST dated 09.02.2018.

Illustrative working of the tax and interest on the 7 unreported invoices (interest shown up to 31.10.2026 for illustration only; actual interest is to be charged till the date of payment):

Month	GSTR-3B due	Taxable value of unreported invoices (Rs.)	CGST @9% (Rs.)	GGST @9% (Rs.)	Interest @18% to 31.10.2026, each Act (Rs.)
Feb-2025	20.03.2025	17,40,000	1,56,600	1,56,600	45,564
Mar-2025	20.04.2025	25,60,000	2,30,400	2,30,400	63,515
TOTAL		**43,00,000**	**3,87,000**	**3,87,000**	**1,09,079**

Basis: *Total tax Rs.7,74,000/- (CGST Rs.3,87,000/- + GGST Rs.3,87,000/-); penalty under Section 74A(5)(i) Rs.77,400/- (Rs.38,700/- each Act); penalty under Section 122(1)(i) on the 39 reported invoices Rs.7,80,000/- (Rs.3,90,000/- each Act). Tax shown on all 46 invoices: Rs.26,64,000/- each of CGST and GGST, of which the tax on the 39 reported invoices stands paid.*

C. CHARGING PARAGRAPH OF THE SHOW CAUSE NOTICE

[The following is the operative charging paragraph proposed for incorporation in the Show Cause Notice at Part D below.]

Now, therefore, M/s XXX, a partnership firm situated at YYYY, Ahmedabad, Gujarat, through its Managing Partner Mr. Z, are hereby called upon to show cause in writing to the Superintendent, CGST Range - [•], Ahmedabad South CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) *the 46 B2B documents (value Rs.2,96,00,000/-, taxable) issued between August 2024 and March 2025 without obtaining an Invoice Reference Number, as detailed in Annexure-A, should not be held to be documents that are not to be treated as invoices under Rule 48(5) of the CGST Rules, 2017, issued in contravention of Rule 48(4) read with Notification No. 13/2020-Central Tax (as amended) and Section 31(1) of the CGST Act, 2017/GGST Act, 2017;*

(ii) *an amount of Rs.3,87,000/- (Central tax) and Rs.3,87,000/- (Gujarat State tax), total Rs.7,74,000/- (Rupees Seven Lakh Seventy-Four Thousand only), being tax not paid on the 7 invoices of February and March 2025 of aggregate taxable value Rs.43,00,000/-, should not be demanded and recovered from them under Section 74A(1) of the CGST Act, 2017 and the corresponding provisions of the GGST Act, 2017;*

(iii) *interest at the applicable rate under Section 50(1) of the CGST Act, 2017/GGST Act, 2017 should not be charged and recovered on the tax at (ii) above, from 21.03.2025 and 21.04.2025 respectively till the date of payment;*

(iv) *a penalty of Rs.38,700/- (Central tax) and Rs.38,700/- (Gujarat State tax), total Rs.77,400/-, being ten per cent of the tax due, should not be imposed on them under Section 74A(5)(i) of the CGST Act, 2017/GGST Act, 2017 (which, in view of Section 74A(11), remains payable even on payment of tax and interest under Section 74A(8), the tax having been collected from the recipients and not paid within thirty days from the due date);*

(v) *a penalty of Rs.3,90,000/- (Central tax) and Rs.3,90,000/- (Gujarat State tax), total Rs.7,80,000/-, being Rs.10,000/- for each of the 39 invoices on which tax has been paid, should not be imposed on them under Section 122(1)(i) of the CGST Act, 2017/GGST Act, 2017;*

(vi) *penalty should not separately be imposed on them under Section 122(1)(i) of the CGST Act, 2017/GGST Act, 2017 in respect of the 7 unreported invoices, without prejudice to (iv) above and subject to Section 75(13) and Section 126 of the CGST Act, 2017.*

D. DRAFT SHOW CAUSE NOTICE

F. No. GEXCOM/ADJN/SCN/[•]/2026-AHMEDABAD SOUTH

DIN: [Document Identification Number to be auto-generated on issue]

Office of the Superintendent, CGST Range - [•], Division - [•], Ahmedabad South CGST Commissionerate, Gujarat

Date: [•].11.2026

SHOW CAUSE NOTICE

(Issued under Section 74A of the Central Goods and Services Tax Act, 2017 read with Section 74A of the Gujarat Goods and Services Tax Act, 2017)

To,
M/s XXX,
through its Managing Partner Mr. Z,
YYYY, Ahmedabad, Gujarat.

(hereinafter referred to as 'the Noticee', which expression shall, unless the context otherwise requires, include M/s XXX and its partners)

WHEREAS M/s XXX (GSTIN [•]) is a partnership firm registered under the CGST Act, 2017/GGST Act, 2017 and engaged in the manufacture and supply of moulded plastic articles. The aggregate turnover of the Noticee as per its annual returns was Rs.5,62,00,000/- in FY 2021-22, Rs.8,24,00,000/- in FY 2022-23, Rs.9,10,00,000/- in FY 2023-24 and Rs.9,48,00,000/- in FY 2024-25 (RUD-1). Having exceeded Rs.5 crore in a preceding financial year from 2017-18 onwards, the Noticee was a person required to prepare invoices for B2B supplies in the manner prescribed in Rule 48(4) of the CGST Rules, 2017 with effect from 01.08.2023 under Notification No. 13/2020-Central Tax dated 21.03.2020 as amended by Notification No. 10/2023-Central Tax dated 10.05.2023;

2. AND WHEREAS data analytics reports of the Directorate General of Analytics and Risk Management (RUD-2) indicated that between August 2024 and March 2025 the Noticee had generated e-way bills against B2B invoices for which no Invoice Reference Number had been generated. A summons dated 15.06.2026 under Section 70 of the CGST Act, 2017 was issued (RUD-3), in response to which Mr. Z appeared on 24.06.2026 and produced the sales register, 46 B2B invoices, the e-way bills, the GSTR-1 and GSTR-3B copies and the vendor's e-mail dated 18.07.2024 (RUD-4 to RUD-7);

3. AND WHEREAS in his statement recorded on 24.06.2026 under Section 70 of the CGST Act, 2017 (RUD-8), Mr. Z admitted, inter alia, that:

- the Noticee had crossed Rs.5 crore in FY 2021-22 and had been issuing e-invoices from 01.08.2023 through the software vendor's module;
- after the e-invoice module lapsed on 01.08.2024 for non-renewal of subscription, the Noticee issued manual B2B invoices from the accounting software, without IRN or QR code, till the subscription was renewed in April 2025;
- he believed that e-invoicing applied only to persons with turnover above Rs.10 crore; and
- all 46 invoices were issued to registered recipients and the tax was charged to them;

4. AND WHEREAS Mr. P, the accounts executive of the Noticee, in his statement dated 26.06.2026 (RUD-9) stated that he used to key the manual invoices into GSTR-1 every month; that he left service on 31.01.2025; and that the invoices of February and March 2025 were not keyed in by his successor, who thought they would auto-populate;

5. AND WHEREAS reconciliation of the 46 invoices with FORM GSTR-1 and FORM GSTR-3B (RUD-10) shows that 39 invoices were reported and the tax on them paid, while 7 invoices (3 of February 2025 and 4 of March 2025) of aggregate taxable value Rs.43,00,000/- were reported in neither return, so that the tax of Rs.7,74,000/- charged on them to the recipients was not paid; three recipients have confirmed that they paid the full invoice value including tax and that these invoices do not appear in their FORM GSTR-2B (RUD-11). The month-wise details of the 46 invoices are in Annexure-A;

6. AND WHEREAS Rule 48(5) of the CGST Rules, 2017 provides that every invoice issued by a person to whom Rule 48(4) applies, in any manner other than the manner specified in Rule 48(4), shall not be treated as an invoice. The 46 documents, having been issued without an IRN, are therefore not invoices and the supplies covered by them appear to have been made without issue of an invoice, in contravention of Section 31(1) of the CGST Act, 2017;

7. AND WHEREAS the tax payable on the 7 unreported invoices is worked out as under (basis in Annexure-A and Part B of the working):

Period	Taxable value (Rs.)	CGST @9% (Rs.)	GGST @9% (Rs.)	GSTR-3B due date
Feb-2025	17,40,000	1,56,600	1,56,600	20.03.2025
Mar-2025	25,60,000	2,30,400	2,30,400	20.04.2025
TOTAL	**43,00,000**	**3,87,000**	**3,87,000**	

8. AND WHEREAS no evidence has been found that the non-payment of tax on the 7 invoices, or the issue of manual invoices, was by reason of fraud, wilful misstatement or suppression of facts to evade tax: the invoices were recorded in the Noticee's books and produced on the first summons, the omission coincided with the change of the employee who keyed in the invoices, and tax on 39 of the 46 invoices was duly paid. The default is therefore treated as one other than fraud, wilful misstatement or suppression of facts, attracting penalty under Section 74A(5)(i) of the CGST Act, 2017/GGST Act, 2017;

9. AND WHEREAS it thus appears that the Noticee has contravened the following provisions (and the corresponding provisions of the GGST Act, 2017):

- Rule 48(4) of the CGST Rules, 2017 read with Notification No. 13/2020-Central Tax (as amended by Notification No. 10/2023-Central Tax) - failure to issue invoices after obtaining IRN;
- Rule 48(5) of the CGST Rules, 2017 - the documents issued are not to be treated as invoices;
- Section 31(1) read with Rule 46 - supply of taxable goods without issue of a tax invoice;
- Sections 37(1), 39(1) and 39(7) - failure to furnish details of outward supplies, include them in the return and pay the tax by the due date (7 invoices);
- Section 9(1) - non-payment of tax on outward taxable supplies (7 invoices);

10. AND WHEREAS the aforesaid acts and omissions render the Noticee liable to:

(a) demand and recovery of tax under Section 74A of the CGST Act, 2017/GGST Act, 2017;

(b) interest under Section 50(1) of the CGST Act, 2017/GGST Act, 2017;

(c) penalty under Section 74A(5)(i) of the CGST Act, 2017/GGST Act, 2017; and

(d) penalty under Section 122(1)(i) of the CGST Act, 2017/GGST Act, 2017 (in respect of the 7 unreported invoices, without prejudice to, and subject to Section 75(13) in relation to, the penalty at (c) above);

NOW, THEREFORE

M/s XXX, a partnership firm situated at YYYY, Ahmedabad, Gujarat, through its Managing Partner Mr. Z, are hereby called upon to show cause in writing to the Superintendent, CGST Range - [•], Ahmedabad South CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) the 46 B2B documents (value Rs.2,96,00,000/-, taxable) issued between August 2024 and March 2025 without obtaining an Invoice Reference Number, as detailed in Annexure-A, should not be held to be documents that are not to be treated as invoices under Rule 48(5) of the CGST Rules, 2017, issued in contravention of Rule 48(4) read with Notification No. 13/2020-Central Tax (as amended) and Section 31(1) of the CGST Act, 2017/GGST Act, 2017;

(ii) an amount of Rs.3,87,000/- (Central tax) and Rs.3,87,000/- (Gujarat State tax), total Rs.7,74,000/- (Rupees Seven Lakh Seventy-Four Thousand only), being tax not paid on the 7 invoices of February and March 2025 of aggregate taxable value Rs.43,00,000/-, should not be demanded and recovered from them under Section 74A(1) of the CGST Act, 2017 and the corresponding provisions of the GGST Act, 2017;

(iii) interest at the applicable rate under Section 50(1) of the CGST Act, 2017/GGST Act, 2017 should not be charged and recovered on the tax at (ii) above, from 21.03.2025 and 21.04.2025 respectively till the date of payment;

(iv) a penalty of Rs.38,700/- (Central tax) and Rs.38,700/- (Gujarat State tax), total Rs.77,400/-, being ten per cent of the tax due, should not be imposed on them under Section 74A(5)(i) of the CGST Act, 2017/GGST Act, 2017 (which, in view of Section 74A(11), remains payable even on payment of tax and interest under Section 74A(8), the tax having been collected from the recipients and not paid within thirty days from the due date);

(v) a penalty of Rs.3,90,000/- (Central tax) and Rs.3,90,000/- (Gujarat State tax), total Rs.7,80,000/-, being Rs.10,000/- for each of the 39 invoices on which tax has been paid, should not be imposed on them under Section 122(1)(i) of the CGST Act, 2017/GGST Act, 2017;

(vi) penalty should not separately be imposed on them under Section 122(1)(i) of the CGST Act, 2017/GGST Act, 2017 in respect of the 7 unreported invoices, without prejudice to (iv) above and subject to Section 75(13) and Section 126 of the CGST Act, 2017.

11. The Noticee is further informed that:

- a written reply to this notice, along with all documents relied upon, must be furnished within thirty (30) days of receipt of this notice, failing which the case will be decided ex parte on the basis of available records, on merits;
- an opportunity of personal hearing will be granted before adjudication, on a date to be separately intimated, and the Noticee (or an authorised representative) may appear in person or through counsel;
- attention is drawn to the benefit available under Section 74A(8) of the CGST Act, 2017/GGST Act, 2017, whereby, if the tax at (ii) above and the interest at (iii) above are paid before the issue of this notice, no notice shall be served in respect of the said tax; and if they are paid within sixty (60) days of the issue of this notice, all proceedings in respect of the said notice shall be deemed to be concluded, but, in view of Section 74A(11), the penalty under Section 74A(5)(i) shall remain payable as the tax was collected from the recipients and was not paid within thirty days from the due date;
- this notice is issued without prejudice to any other action that may be taken against the Noticee or any other person under the CGST Act, 2017/GGST Act, 2017, or any other law for the time being in force.

List of Relied Upon Documents (RUDs):

RUD-1: Annual returns (FORM GSTR-9) of the Noticee for FY 2021-22 to FY 2024-25;

RUD-2: DGARM data analytics report (e-way bills without IRN) received in June 2026;

RUD-3: Summons dated 15.06.2026 under Section 70 of the CGST Act, 2017, with proof of service;

RUD-4: Sales register for August 2024 to March 2025 and 46 B2B invoices produced on 24.06.2026;

RUD-5: E-way bills relating to the 46 invoices;

RUD-6: E-mail dated 18.07.2024 from the software vendor regarding discontinuance of the e-invoice module;

RUD-7: FORM GSTR-1 and FORM GSTR-3B of the Noticee for August 2024 to March 2025;

RUD-8: Statement of Mr. Z recorded on 24.06.2026 under Section 70;

RUD-9: Statement of Mr. P recorded on 26.06.2026 under Section 70;

RUD-10: Invoice-wise reconciliation statement of the Range;

RUD-11: Confirmations received from three recipients.

Annexure-A: Month-wise statement of the 46 manual invoices, reported/unreported status, and computation of tax, interest base and penalties [as per the working in Part B].

(_____)
Superintendent, CGST
Range - [•], Division - [•], Ahmedabad South CGST Commissionerate

Copy to: The Deputy/Assistant Commissioner, CGST Division, Ahmedabad South, for information.

Drafting note (not part of the notice):

- *The addressee, jurisdictional range/officer, F. No./DIN and dates shown in square brackets/blanks are illustrative placeholders and must be completed with the correct particulars before issue.*
- *The tax, interest and penalty figures are worked out on the reasoned basis explained in Part B and remain subject to reconciliation with the seized/recorded documents.*
- ***Teaching twist - what does a missing IRN do?** Rule 48(5) does not itself prescribe a penalty or a tax; it only declares that the document 'shall not be treated as an invoice'. The penal consequence is borrowed from Section 122(1)(i) (supply without an invoice). The penalty base is the higher of Rs.10,000/- or the tax evaded; where tax has been paid the evaded tax is nil and the floor applies. Trainees should not write 'penalty of 100% of tax' for paid invoices, nor invoke Section 122(1)(x)/(xv) without proof of intent.*
- ***Per-invoice penalty is a contestable approach.** The text of Section 122(1) does not say 'per invoice'; the per-invoice basis is used here because each non-compliant document is a separate supply without an invoice. An adjudicating authority may reasonably treat the default as one continuing contravention. The draft therefore asks the officer to record reasons in the order (Section 126(4) discipline), even though Section 126(6) bars the minor-breach/proportionality sub-sections for fixed-sum penalties.*
- ***Recipients' ITC (UNCERTAIN).** No CBIC circular was found addressing the recipient's credit where the supplier's document is not an invoice because of Rule 48(5). Secondary commentary views the credit as vulnerable under Section 16(2)(a). The draft takes the position that action against bona fide recipients is not warranted where the invoice is reported in the supplier's GSTR-1 and appears in GSTR-2B, but this is a policy view and not a verified legal rule; the field formation should consult its Commissionerate before taking any contrary step. Because the 7 unreported invoices do not appear in GSTR-2B, no credit should have been taken on them, and the Range may verify that.*

- ***Applicability checks before issue:*** *(1) confirm that the Noticee does not fall in any category exempted from Rule 48(4) by Notification No. 13/2020-Central Tax (e.g. certain financial, transport and cinema businesses, SEZ units, Government departments); the categories were not re-verified for this draft; (2) the separate 30-day reporting limit for taxpayers with AATO of Rs.10 crore and above (from 01.04.2025, per GSTN advisory) does not arise here as the Noticee's AATO is below Rs.10 crore and the period is FY 2024-25; (3) the portal-level treatment of B2B entries made in GSTR-1 without IRN is a factual matter on record in RUD-7 and is not a legal premise of the notice.*
- ***Fraud or non-fraud?*** *Compare Exercise-01. If evidence emerged that the manual invoices were kept deliberately outside the system to avoid scrutiny (for example, the vendor module had been renewed but staff were told not to use it for particular customers), the charge could be altered to Section 74A(5)(ii) with Section 74A(9) concessions.*
- *The draft should be settled by the jurisdictional Range/Division before issue (DRC-01), including verification of the monetary-limit-based issuing/adjudicating authority under Circular No. 31/05/2018-GST dated 09.02.2018 (Superintendent: central tax up to Rs.10 lakh; Deputy/Assistant Commissioner: above Rs.10 lakh up to Rs.1 crore; Additional/Joint Commissioner: above Rs.1 crore). Here the central tax demand is Rs.3,87,000/-, within the Superintendent's limit.*
- *Return of non-RUDs (Non-Relied Upon Documents): When the SCN is issued to the taxpayer in the form of DRC-01 (uploaded on the portal if registered, as well as delivered as per the provisions of law), non-RUDs must be returned to the noticee under due acknowledgement within seven days of issuance of the SCN.*

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Exercise 39

Reduction of output tax through credit notes issued after 30th November following the financial year, and where recipients have not reversed input tax credit

Exercise 39: Reduction of output tax through credit notes issued after 30th November following the financial year, and where recipients have not reversed input tax credit

Situation in Brief:

1. M/s XXX Foods Pvt. Ltd., Kochi, Kerala, a manufacturer of packaged food products registered under the CGST Act, 2017 and the Kerala SGST Act, 2017, falls within the jurisdiction of Kochi CGST Commissionerate. Mr. Z is its Chief Financial Officer. The company supplies its products to nine registered distributors under a 'Distributor Volume Rebate Scheme 2024-25' signed with each distributor on 01.04.2024, which provides slab-wise year-end rebate on the volume purchased during FY 2024-25 but does not link the rebate to particular invoices. Tax at 9% CGST and 9% KGST was charged in the original invoices.

2. The Range Superintendent noticed during review of the returns that the Table 9B (credit/debit notes registered) of the company's FORM GSTR-1 for October 2025 to March 2026 showed a sudden rise, and the credit notes all related to supplies of FY 2024-25. A summons dated 03.08.2026 under Section 70 of the CGST Act, 2017 was issued to Mr. Z. He appeared on 14.08.2026 and produced the Rebate Scheme and signed distributor agreements, the 14 credit notes, the rebate computation sheet, the Board resolutions dated 10.10.2025 and 29.11.2025, the GSTR-1 and GSTR-3B for the period, and the annual return (FORM GSTR-9) for FY 2024-25, which was filed on 22.12.2025.

3. In his statement of 14.08.2026 under Section 70, Mr. Z stated that the rebate was computed after year-end reconciliation of distributor-wise sales, which for the second tranche of distributors was completed only on 08.12.2025, the Board having approved the first tranche of rebates on 10.10.2025 and the second tranche on 29.11.2025; that 7 credit notes were issued in October-November 2025 and 7 in December 2025 to March 2026; that all 14 credit notes were declared in the GSTR-1 of the month of issue and the output tax was reduced accordingly in the GSTR-3B; that the company did not know of the 30th November limit; and that the company had neither asked the distributors to reverse their input tax credit nor obtained any certificate or undertaking from them, as it believed that the distributors would do so on seeing the credit notes.

4. Statements of the proprietors of M/s AAA (28.08.2026) and M/s HHH (31.08.2026) under Section 70 stated that they booked the rebate in their books as 'discount received', that they had not reversed any input tax credit, and that XXX had never asked them to do so. GSTR-3B (ITC reversal table) and ledger extracts of the other distributors show that M/s BBB, M/s EEE and M/s III reversed the input tax credit attributable to their credit notes in the month of receipt and that M/s CCC and M/s FFF (not examined by statement) made no reversal. The position as established is below (value of rebate is taxable value; tax @18% = 9% CGST + 9% KGST):

CN No.	Distributor	Date	Value of rebate (Rs.)	Declared in	Recipient's ITC reversal (per its GSTR-3B/statement)
CN/25-26/041	M/s AAA	17.10.2025	38,00,000	Oct-2025	Not reversed
CN/25-26/042	M/s BBB	17.10.2025	48,00,000	Oct-2025	Reversed
CN/25-26/043	M/s CCC	24.10.2025	33,60,000	Oct-2025	Not reversed
CN/25-26/046	M/s EEE	07.11.2025	41,00,000	Nov-2025	Reversed
CN/25-26/047	M/s FFF	14.11.2025	27,00,000	Nov-2025	Not reversed
CN/25-26/049	M/s HHH	21.11.2025	44,40,000	Nov-2025	Not reversed
CN/25-26/051	M/s III	27.11.2025	29,20,000	Nov-2025	Reversed
CN/25-26/058	M/s AAA	12.12.2025	24,80,000	Dec-2025	Not examined (CN beyond 30.11.2025)
CN/25-26/059	M/s CCC	16.12.2025	45,20,000	Dec-2025	Not examined (CN beyond 30.11.2025)

CN/25-26/064	M/s DDD	10.01.2026	58,40,000	Jan-2026	Not examined (CN beyond 30.11.2025)
CN/25-26/066	M/s EEE	22.01.2026	31,60,000	Jan-2026	Not examined (CN beyond 30.11.2025)
CN/25-26/071	M/s GGG	14.02.2026	39,20,000	Feb-2026	Not examined (CN beyond 30.11.2025)
CN/25-26/077	M/s HHH	09.03.2026	21,60,000	Mar-2026	Not examined (CN beyond 30.11.2025)
CN/25-26/081	M/s III	25.03.2026	48,00,000	Mar-2026	Not examined (CN beyond 30.11.2025)
TOTAL (14 CNs; tax @18% charged in original invoices)			**5,30,00,000**		

5. Now in the light of the above, -

(i) Identify the provision(s) of GST law contravened by M/s XXX Foods Pvt. Ltd. (under heading **Contravention**).

(ii) Identify the provision(s) of GST law under which action is to be taken against M/s XXX Foods Pvt. Ltd. (under heading **Consequences of Contravention of legal Provisions**).

(iii) Draft the **Charging Paragraph** of the Show Cause Notice proposed to be issued to M/s XXX Foods Pvt. Ltd., calling upon M/s XXX Foods Pvt. Ltd. to show cause as to why action should not be taken against them, while listing the proposed action to be taken against M/s XXX Foods Pvt. Ltd..

(iv) Also prepare the **draft Show Cause Notice** for issuance to M/s XXX Foods Pvt. Ltd..

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SUGGESTED SOLUTION

(Return review, inquiry on summons, Determination of Tax Liability under Section 74A, and Draft Show Cause Notice - M/s XXX Foods Pvt. Ltd., Kochi CGST Commissionerate)

A. CONTRAVENTION

On the facts as recorded, the following provisions of law stand contravened (in each case read with the corresponding provisions of the Kerala State Goods and Services Tax Act, 2017 [KGST Act] and the Rules made under the two Acts):

1. **Section 34(2) of the CGST Act, 2017** (time limit) - the 7 credit notes of Group A, dated between 12.12.2025 and 25.03.2026, relate to supplies of FY 2024-25 and were declared in returns for months after 30.11.2025, the cut-off date being the 30th day of November following the end of the financial year in which the supply was made or the date of furnishing the annual return (22.12.2025) whichever is earlier, i.e. 30.11.2025. The output tax liability could not be adjusted by these credit notes.
2. **Proviso to Section 34(2) of the CGST Act, 2017** (as substituted by the Finance Act, 2025 with effect from 01.10.2025) - for the 4 Group B credit notes (to M/s AAA, CCC, FFF and HHH), which are within time, the recipient registered persons had not reversed the input tax credit attributable to the reduction in output tax liability; no reduction in output tax liability was therefore permissible.
3. **Section 15(3)(b)(ii) of the CGST Act, 2017** - a post-supply discount is excluded from the value of supply only if the input tax credit attributable to it has been reversed by the recipient; the company excluded the rebate from its taxable value although the condition was not met (the scheme, which does not link the rebate to specific invoices, also falls short of the linkage condition in Section 15(3)(b)(ii)(a); this is left to the reply and is not separately charged).
4. **Section 39(1) and Section 39(7) of the CGST Act, 2017** - consequent short payment of the self-assessed output tax in FORM GSTR-3B for the months of October 2025 to March 2026 by adjusting credit notes that were not eligible.

Note: *(a) Not invoked - Section 122(1)(i), (x) or (xv): the credit notes are genuine, were issued in respect of an agreed scheme, were declared in GSTR-1 (Table 9B) and were not hidden from the department; no intent to evade tax is established. Section 122(2)(a) is not separately proposed because the same default is covered by the penalty under Section 74A(5)(i); Section 75(13) bars a second penalty. (b) Not invoked - proceedings against the distributors: their invoices remain valid and their credit on the original invoices is not 'wrongly availed'; whether they are under an independent obligation to reverse credit is for their jurisdictional officers and is not the subject of this notice. (c) Not invoked - Section 137 / Section 122(1A) against Mr. Z: no personal act of Mr. Z is alleged beyond the company's non-compliance; Section 137 relates to offences and prosecution, not to penalty under Section 122.*

B. CONSEQUENCES OF CONTRAVENTION OF LEGAL PROVISIONS

The contraventions at (A) above expose M/s XXX Foods Pvt. Ltd. to the following action under the CGST Act, 2017 (read with the corresponding provisions of the KGST Act, 2017):

1. Disallowance of the reduction in output tax and determination and recovery of tax - under **Section 74A(1) of the CGST Act, 2017**, on the credit notes of Group A (late) and of Group B in respect of the 4 recipients who did not reverse the input tax credit. The credit notes of Group B issued to M/s BBB, M/s EEE and M/s III (recipients that reversed their credit) are *not* disputed, and the corresponding tax of Rs.21,27,600/- is not demanded. This is the 'recipient-wise' discipline of the exercise.
2. Which regime and which limitation? The credit notes relate to supplies of FY 2024-25, but the short payment of tax occurred in the tax periods October 2025 to March 2026, i.e. in FY 2025-26. Both years are 'FY 2024-25 onwards', so Section 74A governs [Section 74A(12); Notification No. 17/2024-Central

Tax dated 27.09.2024]. As the liability arises in the returns of FY 2025-26, the forty-two months of Section 74A(2) run from the due date of the annual return for FY 2025-26 (31.12.2026 under Section 44 read with Rule 80, subject to any extension); the notice is well within time. The order must be passed within twelve months of the notice [Section 74A(7)].

3. Interest - under **Section 50(1) of the CGST Act, 2017** at 18% per annum [Notification No. 13/2017-Central Tax] on the tax short paid in each month, from the day after the due date of GSTR-3B of that month (see working) till payment.

4. Penalty - under **Section 74A(5)(i)**, ten per cent of the tax due or Rs.10,000/-, whichever is higher, under each Act. *Why not Section 74A(5)(ii)?* Fraud, wilful misstatement or suppression is not shown: every credit note was declared in GSTR-1, the underlying scheme was in writing since 01.04.2024, the rebates were Board-approved, and the late issue is explained by the year-end reconciliation. The mistaken belief that no reversal by recipients was needed is, on this record, a lapse and not an intent to evade. The concession under **Section 74A(8)** (tax and interest paid within sixty days - no penalty) is available.

5. Evidence of recipient reversal - the burden lies on the supplier. The CBIC has, in Circular No. 212/06/2024-GST dated 26.06.2024 (issued on Section 15(3)(b)(ii)), accepted as interim evidence of recipient-side reversal a CA/CMA certificate (with UDIN) where the tax involved in the discount to a recipient in a financial year exceeds Rs.5 lakh, and a recipient's undertaking/certificate where it is up to Rs.5 lakh, together with the credit-note details, related invoices and the ITC reversal document. The company produced neither. Whether that circular is to be applied by analogy to the amended proviso to Section 34(2) is not addressed in the circular, and the draft relies on actual evidence from the recipients' returns rather than on the circular.

6. Prosecution - not proposed; no fraud is alleged and the amount is far below the thresholds of Section 132(1).

7. Issuing authority - the central tax demand is Rs.37,06,200/-, above Rs.10 lakh and up to Rs.1 crore, and therefore falls within the monetary limit of the Deputy/Assistant Commissioner under Circular No. 31/05/2018-GST dated 09.02.2018.

Illustrative working of the tax to be added back to the output tax liability, month-wise:

Month of adjustment	Group A: late CNs (Rs.)	Group B: ITC not reversed (Rs.)	Total value (Rs.)	CGST @9% (Rs.)	KGST @9% (Rs.)	GSTR-3B due
Oct-2025	-	71,60,000	71,60,000	6,44,400	6,44,400	20.11.2025
Nov-2025	-	71,40,000	71,40,000	6,42,600	6,42,600	20.12.2025
Dec-2025	70,00,000	-	70,00,000	6,30,000	6,30,000	20.01.2026
Jan-2026	90,00,000	-	90,00,000	8,10,000	8,10,000	20.02.2026
Feb-2026	39,20,000	-	39,20,000	3,52,800	3,52,800	20.03.2026
Mar-2026	69,60,000	-	69,60,000	6,26,400	6,26,400	20.04.2026
TOTAL	**2,68,80,000**	**1,43,00,000**	**4,11,80,000**	**37,06,200**	**37,06,200**	

Basis: *Group A (7 late credit notes): taxable value Rs.2,68,80,000/-, tax Rs.48,38,400/- (CGST Rs.24,19,200/-). Group B, recipients not reversing (4 credit notes): taxable value Rs.1,43,00,000/-, tax Rs.25,74,000/- (CGST Rs.12,87,000/-). Total demand Rs.74,12,400/-. Penalty Rs.3,70,620/- under each Act. Group B credit notes with reversal (3 credit notes): taxable value Rs.1,18,20,000/-, tax Rs.21,27,600/-, allowed.*

C. CHARGING PARAGRAPH OF THE SHOW CAUSE NOTICE

[The following is the operative charging paragraph proposed for incorporation in the Show Cause Notice at Part D below.]

Now, therefore, M/s XXX Foods Pvt. Ltd., a company incorporated under the Companies Act, 2013 having its registered office at YYYY, Kochi, Kerala, are hereby called upon to show cause in writing to the Deputy/Assistant Commissioner, CGST Division - [•], Kochi CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) *the 7 credit notes dated 12.12.2025 to 25.03.2026 (taxable value Rs.2,68,80,000/-), issued in respect of supplies made in FY 2024-25 and declared after 30.11.2025, should not be held to have been issued and declared beyond the time permitted by Section 34(2) of the CGST Act, 2017/KGST Act, 2017, and the consequent reduction of Rs.48,38,400/- in output tax liability should not be disallowed;*

(ii) *the reduction in output tax liability of Rs.25,74,000/- on the 4 credit notes dated 17.10.2025 to 21.11.2025 (taxable value Rs.1,43,00,000/-) issued to M/s AAA, M/s CCC, M/s FFF and M/s HHH should not be disallowed under the proviso to Section 34(2) of the CGST Act, 2017/KGST Act, 2017, the recipients not having reversed the attributable input tax credit, read with Section 15(3)(b)(ii);*

(iii) *an amount of Rs.37,06,200/- (Central tax) and Rs.37,06,200/- (Kerala State tax), total Rs.74,12,400/- (Rupees Seventy-Four Lakh Twelve Thousand Four Hundred only), being tax short paid in FORM GSTR-3B for October 2025 to March 2026 as detailed in Annexure-A, should not be demanded and recovered from them under Section 74A(1) of the CGST Act, 2017 and the corresponding provisions of the KGST Act, 2017;*

(iv) *interest at the applicable rate under Section 50(1) of the CGST Act, 2017/KGST Act, 2017 should not be charged and recovered on the tax at (iii) above from the day following the due date of FORM GSTR-3B of the respective month till the date of payment; and*

(v) *a penalty of Rs.3,70,620/- (Central tax) and Rs.3,70,620/- (Kerala State tax), total Rs.7,41,240/-, being ten per cent of the tax due, should not be imposed on them under Section 74A(5)(i) of the CGST Act, 2017/KGST Act, 2017 (without prejudice to the benefit of nil penalty under Section 74A(8) on payment of tax and interest within the time therein specified).*

D. DRAFT SHOW CAUSE NOTICE

F. No. GEXCOM/ADJN/SCN/[•]/2026-KOCHI

DIN: [Document Identification Number to be auto-generated on issue]

Office of the Deputy/Assistant Commissioner, CGST Division - [•], Kochi CGST Commissionerate, Kerala

Date: [•].11.2026

SHOW CAUSE NOTICE

(Issued under Section 74A of the Central Goods and Services Tax Act, 2017 read with Section 74A of the Kerala State Goods and Services Tax Act, 2017)

To,
M/s XXX Foods Pvt. Ltd.,
YYYY, Kochi, Kerala.

(hereinafter referred to as 'the Noticee', which expression shall, unless the context otherwise requires, include M/s XXX Foods Pvt. Ltd. and its authorised officers)

WHEREAS M/s XXX Foods Pvt. Ltd. (GSTIN [•]) is engaged in the manufacture and supply of packaged food products and supplies them to nine registered distributors under a Distributor Volume Rebate Scheme 2024-25 signed on 01.04.2024 (RUD-1), providing for a slab-wise year-end rebate on purchases of FY 2024-25 without linking the rebate to specific invoices. Tax at 9% CGST and 9% KGST was charged in the original invoices;

2. AND WHEREAS review of the returns of the Noticee showed that credit notes registered in Table 9B of FORM GSTR-1 for October 2025 to March 2026 had risen sharply, and all related to supplies of FY 2024-25 (RUD-2). A summons dated 03.08.2026 under Section 70 of the CGST Act, 2017 (RUD-3) was issued to Mr. Z, the Chief Financial Officer, who appeared on 14.08.2026 and produced 14 credit notes, the rebate computation, the Board resolutions dated 10.10.2025 and 29.11.2025, the returns and the annual return for FY 2024-25 filed on 22.12.2025 (RUD-4 to RUD-8);

3. AND WHEREAS in his statement dated 14.08.2026 under Section 70 (RUD-9), Mr. Z admitted, inter alia, that:

- 7 credit notes were issued between 17.10.2025 and 27.11.2025 and 7 between 12.12.2025 and 25.03.2026, all declared in the GSTR-1 of the month of issue and adjusted against output tax in GSTR-3B;
- the year-end reconciliation for the second tranche was completed on 08.12.2025 and the Noticee was not aware of the 30th November limit; and
- the Noticee had not asked the distributors to reverse input tax credit and had obtained no certificate or undertaking from them;

4. AND WHEREAS the proprietors of M/s AAA and M/s HHH, in their statements dated 28.08.2026 and 31.08.2026 (RUD-10 and RUD-11), stated that they booked the rebate as discount received and did not reverse any input tax credit, and the GSTR-3B/ledger extracts of the distributors (RUD-12) show that M/s BBB, M/s EEE and M/s III reversed the attributable credit while M/s CCC and M/s FFF did not;

5. AND WHEREAS it appears that: (a) the 7 credit notes of Group A (dated 12.12.2025 to 25.03.2026, taxable value Rs.2,68,80,000/-) relate to supplies of FY 2024-25 but were declared after 30.11.2025, the last date prescribed under Section 34(2) of the CGST Act, 2017, the annual return having been filed on 22.12.2025; and (b) in respect of 4 credit notes of Group B (taxable value Rs.1,43,00,000/-), the registered recipients had not reversed the input tax credit attributable to the reduction in output tax liability, so that, by virtue of the proviso to Section 34(2) as substituted with effect from 01.10.2025,

no reduction in output tax liability was permitted. The Noticee thus short paid tax in FORM GSTR-3B by adjusting credit notes for October 2025 to March 2026;

6. AND WHEREAS the tax short paid is worked out as under (month-wise basis in Annexure-A):

Group	Taxable value (Rs.)	CGST @9% (Rs.)	KGST @9% (Rs.)
A - 7 credit notes issued after 30.11.2025	2,68,80,000	24,19,200	24,19,200
B - 4 credit notes, recipients did not reverse ITC	1,43,00,000	12,87,000	12,87,000
TOTAL	**4,11,80,000**	**37,06,200**	**37,06,200**

7. AND WHEREAS the Noticee declared all the credit notes in its returns, and no evidence has been found to show that the short payment of tax was by reason of fraud, wilful misstatement or suppression of facts to evade tax; the case is therefore treated as one other than fraud, attracting penalty under Section 74A(5)(i) of the CGST Act, 2017/KGST Act, 2017. The three credit notes of Group B for which the recipients reversed the credit (taxable value Rs.1,18,20,000/-) are not disputed in this notice;

8. AND WHEREAS it thus appears that the Noticee has contravened the following provisions (and the corresponding provisions of the KGST Act, 2017):

- Section 34(2) - credit notes declared after the last date prescribed;
- Proviso to Section 34(2) - reduction of output tax where the recipient had not reversed the input tax credit;
- Section 15(3)(b)(ii) - exclusion of post-supply discount from value without reversal of credit by the recipients;
- Sections 39(1) and 39(7) - short payment of self-assessed tax in FORM GSTR-3B;

9. AND WHEREAS the aforesaid acts and omissions render the Noticee liable to demand and recovery of tax under Section 74A, interest under Section 50(1) and penalty under Section 74A(5)(i) of the CGST Act, 2017/KGST Act, 2017;

NOW, THEREFORE

M/s XXX Foods Pvt. Ltd., having its registered office at YYYY, Kochi, Kerala, is hereby called upon to show cause in writing to the Deputy/Assistant Commissioner, CGST Division - [•], Kochi CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) the 7 credit notes dated 12.12.2025 to 25.03.2026 (taxable value Rs.2,68,80,000/-), issued in respect of supplies made in FY 2024-25 and declared after 30.11.2025, should not be held to have been issued and declared beyond the time permitted by Section 34(2) of the CGST Act, 2017/KGST Act, 2017, and the consequent reduction of Rs.48,38,400/- in output tax liability should not be disallowed;

(ii) the reduction in output tax liability of Rs.25,74,000/- on the 4 credit notes dated 17.10.2025 to 21.11.2025 (taxable value Rs.1,43,00,000/-) issued to M/s AAA, M/s CCC, M/s FFF and M/s HHH should not be disallowed under the proviso to Section 34(2) of the CGST Act, 2017/KGST Act, 2017, the recipients not having reversed the attributable input tax credit, read with Section 15(3)(b)(ii);

(iii) an amount of Rs.37,06,200/- (Central tax) and Rs.37,06,200/- (Kerala State tax), total Rs.74,12,400/- (Rupees Seventy-Four Lakh Twelve Thousand Four Hundred only), being tax short paid in FORM GSTR-3B for October 2025 to March 2026 as detailed in Annexure-A, should not be demanded and recovered from them under Section 74A(1) of the CGST Act, 2017 and the corresponding provisions of the KGST Act, 2017;

(iv) interest at the applicable rate under Section 50(1) of the CGST Act, 2017/KGST Act, 2017 should not be charged and recovered on the tax at (iii) above from the day following the due date of FORM GSTR-3B of the respective month till the date of payment; and

(v) a penalty of Rs.3,70,620/- (Central tax) and Rs.3,70,620/- (Kerala State tax), total Rs.7,41,240/-, being ten per cent of the tax due, should not be imposed on them under Section 74A(5)(i) of the CGST Act, 2017/KGST Act, 2017 (without prejudice to the benefit of nil penalty under Section 74A(8) on payment of tax and interest within the time therein specified).

10. The Noticee is further informed that:

- a written reply to this notice, along with all documents relied upon (including, if available, certificates or undertakings of the recipients evidencing reversal of input tax credit), must be furnished within thirty (30) days of receipt of this notice, failing which the case will be decided ex parte on the basis of available records, on merits;
- an opportunity of personal hearing will be granted before adjudication, on a date to be separately intimated, and the Noticee (or an authorised representative) may appear in person or through counsel;
- attention is drawn to the benefit available under Section 74A(8) of the CGST Act, 2017/KGST Act, 2017, whereby, if the tax at (iii) above and the interest at (iv) above are paid before the issue of this notice, no notice shall be served in respect of the said tax; and if they are paid within sixty (60) days of the issue of this notice, no penalty shall be payable and all proceedings in respect of the said notice shall be deemed to be concluded;
- this notice is issued without prejudice to any other action that may be taken against the Noticee or any other person under the CGST Act, 2017/KGST Act, 2017, or any other law for the time being in force.

List of Relied Upon Documents (RUDs):

RUD-1: Distributor Volume Rebate Scheme 2024-25 and signed distributor agreements;

RUD-2: Range analysis of Table 9B of FORM GSTR-1, October 2025 to March 2026;

RUD-3: Summons dated 03.08.2026 under Section 70 of the CGST Act, 2017, with proof of service;

RUD-4: Fourteen credit notes (CN/25-26/041 to 081) and rebate computation sheet;

RUD-5: Board resolutions dated 10.10.2025 and 29.11.2025;

RUD-6: FORM GSTR-1 and FORM GSTR-3B of the Noticee for October 2025 to March 2026;

RUD-7: Annual return (FORM GSTR-9) for FY 2024-25 filed on 22.12.2025;

RUD-8: Year-end reconciliation records of distributor-wise sales;

RUD-9: Statement of Mr. Z recorded on 14.08.2026 under Section 70;

RUD-10: Statement of the proprietor of M/s AAA dated 28.08.2026;

RUD-11: Statement of the proprietor of M/s HHH dated 31.08.2026;

RUD-12: FORM GSTR-3B and ledger extracts of the nine distributors showing reversal/non-reversal of input tax credit;

Annexure-A: Month-wise statement of credit notes and computation of tax and interest base [as per the working in Part B].

(_____)
Deputy/Assistant Commissioner, CGST

Division - [•], Kochi CGST Commissionerate

Copy to: The Additional/Joint Commissioner, Kochi CGST Commissionerate, for information.

Drafting note (not part of the notice):

- *The addressee, jurisdictional range/officer, F. No./DIN and dates shown in square brackets/blanks are illustrative placeholders and must be completed with the correct particulars before issue.*
- *The tax, interest and penalty figures are worked out on the reasoned basis explained in Part B and remain subject to reconciliation with the seized/recorded documents.*
- ***Teaching twist - two independent grounds, to be kept apart.*** *(1) Time bar under Section 34(2) applies to Group A irrespective of what the recipients did; no inquiry into reversal is needed for it. (2) The amended proviso to Section 34(2) (in force from 01.10.2025 per Notification No. 16/2025-Central Tax dated 17.09.2025; the substituted wording was verified only from secondary reproductions of the Finance Act, 2025 - re-check the exact words before issue) applies only to credit notes that are within time, and only recipient-wise. Before 01.10.2025 the proviso spoke of the incidence of tax and interest having been passed on; the facts here are all post-01.10.2025.*
- ***Unjust enrichment angle.*** *Both limbs of the amended proviso are anti-double-benefit provisions. If the supplier were allowed to reduce its output tax while distributors keep the credit, the Government would lose the tax twice. Trainees should see that the distributors' credit on the original invoices is not itself disturbed by this notice.*
- ***Regime/limitation trap.*** *The supplies belong to FY 2024-25, the short payment to FY 2025-26. Both fall under Section 74A, but the limitation clock is reckoned from the annual return of the year to which the tax relates. Trainees tend to compute the 42 months from the FY 2024-25 annual return (due 31.12.2025, i.e. up to 30.06.2029); the notice is within time on either computation, but the working must say which year the tax relates to.*
- ***Mr. Z not charged.*** *There is no personal act of the CFO that is separately penalisable. Section 122(1A) requires retention of the benefit of a transaction under clauses (i), (ii), (vii) or (ix); Section 137 concerns offences and prosecution. If evidence emerged that credit notes were back-dated or created to reduce turnover, the position would change.*
- ***Section 15(3)(b) overlap.*** *If the rebate is a true 'discount' under an agreement entered into at or before the supply and linked to invoices, its exclusion from value is itself conditional on the recipient's reversal [Section 15(3)(b)(ii)]. Circular No. 212/06/2024-GST was verified from the GST Council website (gstcouncil.gov.in) for this purpose only.*
- *The draft should be settled by the jurisdictional Range/Division before issue (DRC-01), including verification of the monetary-limit-based issuing/adjudicating authority under Circular No. 31/05/2018-GST dated 09.02.2018 (Superintendent: central tax up to Rs.10 lakh; Deputy/Assistant Commissioner: above Rs.10 lakh up to Rs.1 crore; Additional/Joint Commissioner: above Rs.1 crore). Here the central tax demand is Rs.37,06,200/-, which lies in the range of the Deputy/Assistant Commissioner.*
- *Return of non-RUDs (Non-Relied Upon Documents): When the SCN is issued to the taxpayer in the form of DRC-01 (uploaded on the portal if registered, as well as delivered as per the provisions of law), non-RUDs must be returned to the noticee under due acknowledgement within seven days of issuance of the SCN.*

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Exercise 40

Availment of ITC on invoices without supply arranged by a Chartered Accountant/GST Practitioner - penalty on the abettor, on the company and on its Managing Director

Exercise 40: Availment of ITC on invoices without supply arranged by a Chartered Accountant/GST Practitioner - penalty on the abettor, on the company and on its Managing Director

Situation in Brief:

1. M/s XXX Pvt. Ltd. is a trader in electrical and electronic components registered under the CGST Act, 2017 and the Karnataka GST Act, 2017 at YYYY, Bengaluru, Karnataka, under the jurisdiction of Bengaluru West CGST Commissionerate. Mr. Z is its Managing Director and controls its finances. Mr. CA is a practising Chartered Accountant of Bengaluru, proprietor of M/s CA & Associates, an enrolled GST Practitioner, who has been the company's tax consultant since 2022 and files its GSTR-1 and GSTR-3B through his practitioner login under authorisation in FORM GST PCT-05.

2. Verification by the Anti-Evasion section of the Commissionerate showed that during June 2025 to December 2025 M/s XXX had availed input tax credit on 23 invoices issued by four registered suppliers, and that the premises declared by the suppliers were non-existent or residential flats whose occupants denied any business; that no e-way bill had been generated for any of the 23 invoices although each was for a value above the threshold; that no transport receipt, weighment slip or gate entry existed; and that the registrations of the four suppliers had been cancelled with retrospective effect by the proper officers on non-existence of the business.

3. A search under Section 67(1) of the CGST Act, 2017, authorised by the Joint Commissioner, was conducted on 07.08.2026 at the business premises of M/s XXX and the residence of Mr. Z. The stock records showed no receipt of goods against the 23 invoices and no corresponding sale. The mobile phone and laptop of Mr. Z were seized under Section 67(2) and forensic images were taken in his presence; printouts of the extracted WhatsApp chats with Mr. CA (saved under the contact name 'CA Sir') and e-mails were prepared, with a certificate of the forensic examiner under Section 145 of the CGST Act, 2017 describing the device and manner of production. The bank statements of M/s XXX and of the four suppliers show that the payments of M/s XXX to the suppliers by RTGS were withdrawn in cash within two working days of receipt, and that three payments of Rs.1,75,000/- each (September, October and December 2025) were made by M/s XXX to M/s CA & Associates, shown in its books as 'GST advisory fee'.

4. The WhatsApp chats of 12.05.2025 onwards show that Mr. CA offered 'ITC arrangement of around Rs.90 lakh from four parties' for a commission of 1% of the bill value; that Mr. Z asked whether goods movement had to be shown, to which Mr. CA replied 'no e-way bill, no LR, 2B will show, I will take care in 3B'; that Mr. CA mailed the invoice details for each supplier before the invoice date; and that Mr. Z paid the commission in three instalments on his instructions. The company's GSTR-3B for the relevant months was filed through Mr. CA's practitioner login.

5. In his statement recorded on 20.08.2026 under Section 70, Mr. Z admitted that no goods were received from the four suppliers; that the invoices were arranged through Mr. CA to reduce the cash tax liability of the company; that he paid the commission; and that the credit was utilised against output tax. Mr. CA, in his statement of 22.08.2026, admitted the chats and the receipt of Rs.5,25,000/- but claimed that it was for compliance work; he retracted his statement by a letter dated 29.08.2026 alleging pressure, but did not explain the chats, the mails or the payments. The details of the 23 invoices and the credit availed are as under (all intra-State supplies of electrical components at 18%; of the Rs.94,50,000/- credit, Rs.71,30,000/- was utilised for payment of tax and Rs.23,20,000/- remains in the electronic credit ledger):

Supplier (premises)	Invoices (nos.)	Taxable value (Rs.)	CGST @9% (Rs.)	KGST @9% (Rs.)
M/s AAA Enterprises (Bengaluru Urban)	7	1,62,50,000	14,62,500	14,62,500

M/s BBB Trading Co. (Bengaluru Urban)	6	1,38,00,000	12,42,000	12,42,000
M/s CCC Distributors (Tumakuru)	5	1,19,50,000	10,75,500	10,75,500
M/s DDD Sales (Bengaluru Urban)	5	1,05,00,000	9,45,000	9,45,000
TOTAL	**23**	**5,25,00,000**	**47,25,000**	**47,25,000**

6. Now in the light of the above, -

(i) Identify the provision(s) of GST law contravened by M/s XXX Pvt. Ltd. (under heading **Contravention**).

(ii) Identify the provision(s) of GST law under which action is to be taken against M/s XXX Pvt. Ltd. (under heading **Consequences of Contravention of legal Provisions**).

(iii) Draft the **Charging Paragraph** of the Show Cause Notice proposed to be issued to M/s XXX Pvt. Ltd., calling upon M/s XXX Pvt. Ltd., Mr. Z and Mr. CA to show cause as to why action should not be taken against them, while listing the proposed action to be taken against M/s XXX Pvt. Ltd., Mr. Z and Mr. CA.

(iv) Also prepare the **draft Show Cause Notice** for issuance to M/s XXX Pvt. Ltd..

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SUGGESTED SOLUTION

(Verification, search, digital evidence, statements, Determination of Tax Liability under Section 74A, and Draft Show Cause Notice - M/s XXX Pvt. Ltd., Mr. Z and Mr. CA, Bengaluru West CGST Commissionerate)

A. CONTRAVENTION

On the facts as recorded, the following provisions of law stand contravened (in each case read with the corresponding provisions of the Karnataka Goods and Services Tax Act, 2017 [KGST Act] and the Rules made under the two Acts):

1. **Section 16(2)(b) of the CGST Act, 2017** - M/s XXX availed and utilised input tax credit of Rs.94,50,000/- on invoices of four suppliers without receipt of any goods.
2. **Section 16(1) read with Section 16(2)(a), (aa) and (c)** - the credit was taken on documents not backed by any supply, and tax was not paid to the Government by the suppliers against any supply.
3. **Section 122(1)(vii) of the CGST Act, 2017** - M/s XXX took and utilised input tax credit without actual receipt of goods.
4. **Section 122(1A)** - Mr. Z, being the person who retained the benefit of the transaction and at whose instance it was conducted.
5. **Section 122(3)(a)** - Mr. CA aided and abetted the offence under Section 122(1)(vii) by arranging the invoices, advising that no movement need be shown, collecting a commission and filing the returns taking the credit.

Note: *(a) Why Mr. CA is a 'person' to be charged though he is not a taxable person here. Section 122(3) applies to 'any person'; there is no demand of tax against him. (b) Section 122(3)(e) (failing to issue an invoice or account for it) is not invoked - it describes a supplier or recipient default, not that of an adviser. (c) Section 48(3) is no defence. Under Section 48(3) the responsibility for the correctness of particulars furnished by a practitioner continues to rest with the registered person; it protects the practitioner from nothing, since Section 122(3)(a) imposes an independent penalty for abetment. (d) Section 137 is not invoked for penalty. It concerns offences by companies and the persons in charge; it does not enlarge the penalty provisions of Section 122. (e) Section 132 is considered, not proposed in this notice - see Part B.*

B. CONSEQUENCES OF CONTRAVENTION OF LEGAL PROVISIONS

The contraventions at (A) above expose the three persons to the following action under the CGST Act, 2017 (read with the corresponding provisions of the KGST Act, 2017):

1. M/s XXX - determination and recovery of ITC wrongly availed and utilised - under **Section 74A(1) of the CGST Act, 2017** (and the KGST Act). The ITC was taken in June to December 2025 (FY 2025-26); Section 74A (and not Section 73 or 74) applies [Section 74A(12); Notification No. 17/2024-Central Tax dated 27.09.2024]. The notice is to be issued within forty-two months of the due date of the annual return for FY 2025-26 and the order within twelve months of the notice [Sections 74A(2), 74A(7)]. Of the credit of Rs.94,50,000/-, Rs.71,30,000/- has been utilised and is to be recovered in cash, while Rs.23,20,000/- lying in the electronic credit ledger is to be disallowed and debited.
2. Interest - under **Section 50(3) of the CGST Act, 2017** at 24% per annum [Notification No. 13/2017-Central Tax] on the credit wrongly availed *and utilised*, from the date of utilisation to the date of payment, as worked out under **Rule 88B(3)**. Interest is not leviable on the Rs.23,20,000/- merely availed and not utilised.
3. Penalty on M/s XXX - under **Section 74A(5)(ii)**, equal to the tax due (Rs.94,50,000/-), because the credit was taken on bills without any supply, the Noticee's own director knew it and paid for it, and the facts show suppression of the fact of non-receipt of goods in the return [Explanation 2 to Section 74A(12) -

suppression includes non-declaration of facts required to be declared in a return]. *Section 122(1)(vii)* is proposed against M/s XXX only in the alternative, subject to Section 75(13), since a penalty for the same act is already proposed under Section 74A(5)(ii).

4. Penalty on Mr. Z - under **Section 122(1A)**, equal to the ITC availed (Rs.94,50,000/-), since he retained the benefit of the transaction covered by Section 122(1)(vii) and conducted it. This penalty is in addition to, and independent of, the penalty on the company.

5. Penalty on Mr. CA - under **Section 122(3)(a)**, which carries a penalty that *may extend to* Rs.25,000/-. The figure is a ceiling, not a rate; Rs.25,000/- is proposed under the CGST Act and the same under the KGST Act, having regard to the commission of Rs.5,25,000/- received and the premeditation shown by the chats. The weight of the evidence is the digital record (chats, e-mails, login logs and bank trail), corroborated through the certificate under Section 145 and the forensic hash values; the retraction of the statement does not displace it.

6. Concessions and their effect on the other noticees - the main noticee may pay tax, interest and penalty at 15% before the notice, 25% within sixty days of the notice, or 50% within sixty days of the order [Section 74A(9)]. By Explanation 1 to Section 74A, if the proceedings against the main person are concluded under Section 74A, the proceedings under Section 122 against others in the same notice are deemed concluded; this does *not* extend to Section 132. The draft informs all three noticees accordingly and the trainee should note that the abettor's exposure depends on the main person's election.

7. Prosecution - Section 132(1)(b)/(c)/(l) have been considered. The credit involved (Rs.94,50,000/-) is below Rs.1 crore, the lowest of the monetary tiers of Section 132(1); on the verified text no tier of punishment is reached for the clause (c) offence at this value, and the one-year tier for Rs.1-2 crore applies only to clause (b). Prosecution is therefore not proposed; the Commissioner may reconsider if further credit is detected (previous sanction under Section 132(6)). Arrest under Section 69 is not in issue.

8. Action under the practitioner rules - separate from this notice, a reference may be made to the authority that enrolled Mr. CA for action under Rule 83(4) of the CGST Rules, 2017 (show-cause notice in FORM GST PCT-03 and disqualification by order in FORM GST PCT-04 for misconduct in proceedings under the Act, after hearing); a report to his professional body may also be considered.

9. Issuing authority - the central tax demand is Rs.47,25,000/-, which lies in the range of the Deputy/Assistant Commissioner under Circular No. 31/05/2018-GST dated 09.02.2018. The penalty on Mr. Z and Mr. CA follows the same notice.

Illustrative working of the credit, its utilisation and the penalties proposed:

Particulars	CGST (Rs.)	KGST (Rs.)	Total (Rs.)
ITC availed on 23 invoices	47,25,000	47,25,000	94,50,000
of which utilised for payment of output tax	35,60,000	35,70,000	71,30,000
of which lying unutilised in the electronic credit ledger	11,65,000	11,55,000	23,20,000
Penalty on M/s XXX - Section 74A(5)(ii)	47,25,000	47,25,000	94,50,000
Penalty on Mr. Z - Section 122(1A)	47,25,000	47,25,000	94,50,000
Penalty on Mr. CA - Section 122(3)(a) (up to)	25,000	25,000	50,000
TOTAL PENALTIES PROPOSED	**94,75,000**	**94,75,000**	**1,89,50,000**

Basis: *Commission paid to Mr. CA: 1% of the taxable value of Rs.5,25,00,000/- = Rs.5,25,000/- (three instalments of Rs.1,75,000/-). Total ITC Rs.94,50,000/-.*

C. CHARGING PARAGRAPH OF THE SHOW CAUSE NOTICE

[The following is the operative charging paragraph proposed for incorporation in the Show Cause Notice at Part D below.]

Now, therefore, (1) M/s XXX Pvt. Ltd., a company having its registered office at YYYY, Bengaluru, Karnataka, (2) Mr. Z, Managing Director of M/s XXX Pvt. Ltd., and (3) Mr. CA, Chartered Accountant and GST Practitioner, proprietor of M/s CA & Associates, Bengaluru, are hereby called upon to show cause in writing to the Deputy/Assistant Commissioner, CGST Division - [•], Bengaluru West CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) *the input tax credit of Rs.94,50,000/- (CGST Rs.47,25,000/- and KGST Rs.47,25,000/-) availed on 23 invoices of M/s AAA Enterprises, M/s BBB Trading Co., M/s CCC Distributors and M/s DDD Sales, of aggregate taxable value Rs.5,25,00,000/-, without receipt of goods, should not be held to have been wrongly availed in contravention of Section 16(2)(b) of the CGST Act, 2017/KGST Act, 2017 and should not be disallowed;*

(ii) *an amount of Rs.47,25,000/- (Central tax) and Rs.47,25,000/- (Karnataka State tax), total Rs.94,50,000/- (Rupees Ninety-Four Lakh Fifty Thousand only), being the input tax credit wrongly availed (of which Rs.71,30,000/- has been utilised and Rs.23,20,000/- remains in the electronic credit ledger), should not be demanded and recovered from M/s XXX Pvt. Ltd. under Section 74A(1) of the CGST Act, 2017 and the corresponding provisions of the KGST Act, 2017, the unutilised balance being debited from the ledger;*

(iii) *interest at 24% per annum under Section 50(3) of the CGST Act, 2017/KGST Act, 2017 read with Rule 88B should not be charged and recovered from M/s XXX Pvt. Ltd. on the credit utilised, from the date of utilisation till the date of payment;*

(iv) *a penalty of Rs.47,25,000/- (Central tax) and Rs.47,25,000/- (Karnataka State tax), total Rs.94,50,000/-, being equal to the tax due, should not be imposed on M/s XXX Pvt. Ltd. under Section 74A(5)(ii) of the CGST Act, 2017/KGST Act, 2017 (without prejudice to the lower penalty payable under Section 74A(9) on payment within the times therein specified);*

(v) *a penalty of Rs.47,25,000/- (Central tax) and Rs.47,25,000/- (Karnataka State tax), total Rs.94,50,000/-, being equal to the input tax credit availed, should not be imposed on Mr. Z under Section 122(1A) of the CGST Act, 2017/KGST Act, 2017;*

(vi) *a penalty of Rs.25,000/- under the CGST Act, 2017 and Rs.25,000/- under the KGST Act, 2017, being the maximum under each Act, should not be imposed on Mr. CA under Section 122(3)(a) of the CGST Act, 2017/KGST Act, 2017 for aiding and abetting the offence under Section 122(1)(vii);*

(vii) *penalty should not separately be imposed on M/s XXX Pvt. Ltd. under Section 122(1)(vii) of the CGST Act, 2017/KGST Act, 2017, without prejudice to (iv) above and subject to Section 75(13) of the CGST Act, 2017.*

D. DRAFT SHOW CAUSE NOTICE

F. No. GEXCOM/ADJN/SCN/[•]/2026-BENGALURU WEST

DIN: [Document Identification Number to be auto-generated on issue]

Office of the Deputy/Assistant Commissioner, CGST Division - [•], Bengaluru West CGST Commissionerate, Karnataka

Date: [•].11.2026

SHOW CAUSE NOTICE

(Issued under Section 74A and Section 122 of the Central Goods and Services Tax Act, 2017 read with the corresponding provisions of the Karnataka Goods and Services Tax Act, 2017)

To,
1. M/s XXX Pvt. Ltd., YYYY, Bengaluru, Karnataka;
2. Mr. Z, Managing Director, M/s XXX Pvt. Ltd., YYYY, Bengaluru, Karnataka;
3. Mr. CA, Chartered Accountant and GST Practitioner, proprietor of M/s CA & Associates, Bengaluru, Karnataka.

(hereinafter referred to respectively as 'Noticee No. 1', 'Noticee No. 2' and 'Noticee No. 3', and collectively as 'the Noticees')

WHEREAS M/s XXX Pvt. Ltd. (GSTIN [•]) (Noticee No. 1), a trader in electrical and electronic components, availed input tax credit of Rs.94,50,000/- (CGST Rs.47,25,000/- and KGST Rs.47,25,000/-) during June 2025 to December 2025 on 23 invoices of aggregate taxable value Rs.5,25,00,000/- issued by M/s AAA Enterprises, M/s BBB Trading Co., M/s CCC Distributors and M/s DDD Sales (RUD-1 and RUD-2). Mr. Z (Noticee No. 2) is its Managing Director and controls its finances; Mr. CA (Noticee No. 3) is its tax consultant and an enrolled GST Practitioner who files its returns through his login under FORM GST PCT-05 authorisation;

2. AND WHEREAS verification reports (RUD-3) show that the declared premises of the four suppliers were non-existent or residential flats whose occupants denied any business, that no e-way bill, transport receipt, weighment slip or gate entry exists for any of the 23 invoices, and that the registrations of the four suppliers were cancelled with retrospective effect for non-existence of the business;

3. AND WHEREAS a search under Section 67(1) of the CGST Act, 2017 was conducted on 07.08.2026 at the premises of Noticee No. 1 and the residence of Noticee No. 2 (RUD-4); the stock and purchase records showed no receipt of goods against the 23 invoices; the mobile phone and laptop of Noticee No. 2 were seized and forensic images made in his presence (RUD-5); WhatsApp chats and e-mails were extracted, and printouts were produced with the certificate of the forensic examiner under Section 145 of the CGST Act, 2017 (RUD-6);

4. AND WHEREAS the extracted chats and e-mails (RUD-6) show that from 12.05.2025 Noticee No. 3 offered to arrange input tax credit of about Rs.90 lakh from four parties for a commission of 1% of bill value; that, asked by Noticee No. 2 whether movement of goods had to be shown, he answered 'no e-way bill, no LR, 2B will show, I will take care in 3B'; that he mailed the invoice particulars of each supplier in advance of the invoice dates; and that the commission was paid in three instalments. The bank statements (RUD-7) show payments of Rs.1,75,000/- each in September, October and December 2025 by Noticee No. 1 to M/s CA & Associates, aggregating Rs.5,25,000/-, and cash withdrawal of the amounts paid to the suppliers within two working days of receipt. The GSTR-3B of Noticee No. 1 for the months was filed through the practitioner login of Noticee No. 3 (RUD-8);

5. AND WHEREAS in his statement dated 20.08.2026 under Section 70 (RUD-9), Noticee No. 2 admitted that no goods were received from the four suppliers, that the invoices were arranged through Noticee

No. 3 to reduce the cash tax liability, that he paid the commission, and that the credit was used for payment of output tax. Noticee No. 3, in his statement dated 22.08.2026 (RUD-10), admitted the chats and the receipt of Rs.5,25,000/-, claiming it was for compliance work; his retraction letter dated 29.08.2026 (RUD-11) does not explain the chats, the e-mails or the bank trail, which are independent of the statement and corroborate each other;

6. AND WHEREAS it thus appears that the 23 invoices were not backed by any supply of goods and the credit taken on them is wrongly availed in contravention of Section 16(2)(b) of the CGST Act, 2017; that Noticee No. 1 and Noticee No. 2 knowingly suppressed in the returns the fact of non-receipt of goods, so that the demand attracts the extended consequences of Section 74A(5)(ii) (fraud, wilful misstatement or suppression of facts to evade tax; Explanation 2 to Section 74A(12)); that Noticee No. 2 retained the benefit of the transaction and conducted it at his instance, attracting Section 122(1A); and that Noticee No. 3 aided and abetted the offence under Section 122(1)(vii), attracting Section 122(3)(a);

7. AND WHEREAS the credit, its utilisation and the penalties proposed are summarised below (month-wise utilisation in Annexure-A):

Particulars	CGST (Rs.)	KGST (Rs.)	Total (Rs.)
ITC availed on 23 invoices	47,25,000	47,25,000	94,50,000
of which utilised for payment of output tax	35,60,000	35,70,000	71,30,000
of which lying unutilised in the electronic credit ledger	11,65,000	11,55,000	23,20,000
Penalty on M/s XXX - Section 74A(5)(ii)	47,25,000	47,25,000	94,50,000
Penalty on Mr. Z - Section 122(1A)	47,25,000	47,25,000	94,50,000
Penalty on Mr. CA - Section 122(3)(a) (up to)	25,000	25,000	50,000
TOTAL PENALTIES PROPOSED	**94,75,000**	**94,75,000**	**1,89,50,000**

8. AND WHEREAS it thus appears that the Noticees have contravened the following provisions (and the corresponding provisions of the KGST Act, 2017):

- Noticee No. 1: Section 16(2)(b) - credit availed without receipt of goods; Section 122(1)(vii) - taking and utilising credit without actual receipt of goods;
- Noticee No. 2: Section 122(1A) - person who retained the benefit of the transaction and at whose instance it was conducted;
- Noticee No. 3: Section 122(3)(a) - aiding and abetting the offence under Section 122(1)(vii);

9. AND WHEREAS the aforesaid acts and omissions render Noticee No. 1 liable to demand of the credit with interest under Section 50(3) and penalty under Section 74A(5)(ii), Noticee No. 2 to penalty under Section 122(1A), and Noticee No. 3 to penalty under Section 122(3)(a);

NOW, THEREFORE

(1) M/s XXX Pvt. Ltd., (2) Mr. Z and (3) Mr. CA are hereby called upon to show cause in writing to the Deputy/Assistant Commissioner, CGST Division - [•], Bengaluru West CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) the input tax credit of Rs.94,50,000/- (CGST Rs.47,25,000/- and KGST Rs.47,25,000/-) availed on 23 invoices of M/s AAA Enterprises, M/s BBB Trading Co., M/s CCC Distributors and M/s DDD Sales, of aggregate taxable value Rs.5,25,00,000/-, without receipt of goods, should not be held to have been wrongly availed in contravention of Section 16(2)(b) of the CGST Act, 2017/KGST Act, 2017 and should not be disallowed;

(ii) an amount of Rs.47,25,000/- (Central tax) and Rs.47,25,000/- (Karnataka State tax), total Rs.94,50,000/- (Rupees Ninety-Four Lakh Fifty Thousand only), being the input tax credit wrongly availed (of which Rs.71,30,000/- has been utilised and Rs.23,20,000/- remains in the electronic credit ledger), should not be demanded and recovered from M/s XXX Pvt. Ltd. under Section 74A(1) of the CGST Act, 2017 and the corresponding provisions of the KGST Act, 2017, the unutilised balance being debited from the ledger;

(iii) interest at 24% per annum under Section 50(3) of the CGST Act, 2017/KGST Act, 2017 read with Rule 88B should not be charged and recovered from M/s XXX Pvt. Ltd. on the credit utilised, from the date of utilisation till the date of payment;

(iv) a penalty of Rs.47,25,000/- (Central tax) and Rs.47,25,000/- (Karnataka State tax), total Rs.94,50,000/-, being equal to the tax due, should not be imposed on M/s XXX Pvt. Ltd. under Section 74A(5)(ii) of the CGST Act, 2017/KGST Act, 2017 (without prejudice to the lower penalty payable under Section 74A(9) on payment within the times therein specified);

(v) a penalty of Rs.47,25,000/- (Central tax) and Rs.47,25,000/- (Karnataka State tax), total Rs.94,50,000/-, being equal to the input tax credit availed, should not be imposed on Mr. Z under Section 122(1A) of the CGST Act, 2017/KGST Act, 2017;

(vi) a penalty of Rs.25,000/- under the CGST Act, 2017 and Rs.25,000/- under the KGST Act, 2017, being the maximum under each Act, should not be imposed on Mr. CA under Section 122(3)(a) of the CGST Act, 2017/KGST Act, 2017 for aiding and abetting the offence under Section 122(1)(vii);

(vii) penalty should not separately be imposed on M/s XXX Pvt. Ltd. under Section 122(1)(vii) of the CGST Act, 2017/KGST Act, 2017, without prejudice to (iv) above and subject to Section 75(13) of the CGST Act, 2017.

10. The Noticees are further informed that:

- a written reply to this notice, along with all documents relied upon, must be furnished within thirty (30) days of receipt of this notice, failing which the case will be decided ex parte on the basis of available records, on merits;
- an opportunity of personal hearing will be granted before adjudication, on a date to be separately intimated, and each Noticee (or an authorised representative) may appear in person or through counsel;
- attention of Noticee No. 1 is drawn to the benefit under Section 74A(9) of the CGST Act, 2017/KGST Act, 2017, whereby, if the tax, interest and penalty of fifteen per cent of the tax are paid before the issue of this notice, no notice shall be served in respect of the said tax; if they are paid with penalty of twenty-five per cent within sixty (60) days of the issue of this notice, or with penalty of fifty per cent within sixty (60) days of communication of the order, all proceedings in respect of the said notice shall be deemed to be concluded; and that, in terms of Explanation 1 to Section 74A, the proceedings against the other Noticees under Section 122 shall then be deemed to be concluded, but not any proceedings under Section 132;
- this notice is issued without prejudice to any other action, including prosecution, that may be taken against the Noticees or any other person under the CGST Act, 2017/KGST Act, 2017, the CGST Rules, 2017 or any other law for the time being in force.

List of Relied Upon Documents (RUDs):

RUD-1: The 23 invoices of the four suppliers and GSTR-2B/GSTR-3B of Noticee No. 1 for June to December 2025;

RUD-2: Electronic credit ledger of Noticee No. 1 showing availment and utilisation;

RUD-3: Physical verification reports of the four suppliers and cancellation orders;

RUD-4: Search authorisation and panchnama dated 07.08.2026;

RUD-5: Seizure memo and forensic imaging report with hash values;

RUD-6: Printouts of WhatsApp chats and e-mails with the certificate under Section 145;

RUD-7: Bank statements of Noticee No. 1, the four suppliers and M/s CA & Associates;

RUD-8: GST portal login/filing details of GSTR-3B and authorisation in FORM GST PCT-05;

RUD-9: Statement of Noticee No. 2 dated 20.08.2026;

RUD-10: Statement of Noticee No. 3 dated 22.08.2026;

RUD-11: Retraction letter of Noticee No. 3 dated 29.08.2026;

Annexure-A: Month-wise statement of ITC availed and utilised and interest base [as per the working in Part B].

(_____)
Deputy/Assistant Commissioner, CGST
Division - [•], Bengaluru West CGST Commissionerate

Copy to: The Additional/Joint Commissioner, Bengaluru West CGST Commissionerate, for information.

Drafting note (not part of the notice):

- *The addressee, jurisdictional range/officer, F. No./DIN and dates shown in square brackets/blanks are illustrative placeholders and must be completed with the correct particulars before issue.*
- *The tax, interest and penalty figures are worked out on the reasoned basis explained in Part B and remain subject to reconciliation with the seized/recorded documents.*
- ***Teaching twist - the abettor is not a taxable person.** Mr. CA owes no tax; there is no demand against him, only a penalty of up to Rs.25,000/- under Section 122(3)(a) (a ceiling, not a rate), against Rs.94.5 lakh each on the company (Section 74A(5)(ii)) and on Mr. Z (Section 122(1A)). The contrast is deliberate: abetment is penalised as an offence, not as a tax default. Trainees should not write 'penalty equal to tax' against the practitioner.*
- ***Evidence of abetment.** The case against Mr. CA does not rest on his statement (he has retracted). It rests on (i) forensically imaged chats and e-mails, with hash values and the Section 145 certificate; (ii) bank trail of the three instalments; (iii) filing through his login. Whether a certificate under the Bharatiya Sakshya Adhiniyam, 2023 is also required for electronic records before a court was not verified in this exercise; Section 145 of the CGST Act, 2017 was verified. Keep the original device and the forensic report in safe custody.*
- ***Section 137 and the director.** Section 137 (offences by companies) was verified and is limited to offences and prosecution; the personal penalty on the director is under Section 122(1A) and not under Section 137. Do not cite Section 137 in the charging paragraph.*
- ***Open point flagged.** Under Explanation 1 to Section 74A (as recorded in the Law Sheet) the Section 122 proceedings against Mr. Z and Mr. CA are deemed concluded if the main person concludes proceedings under Section 74A(8)/(9). This may produce a result that the abettor gets relief by the main noticee's payment; the draft says so expressly so that the position is transparent. The exact wording should be re-read from the Act before issue.*

- ***Penalty under the practitioner Rules.*** *Rule 83(4) was verified (show cause in PCT-03; order in PCT-04; appeal to the Commissioner under Rule 83(5)). It is a separate track and is not part of the SCN. Section 48(3) was verified: the registered person remains responsible for particulars filed by the practitioner.*
- ***Interest mechanics.*** *Rule 88B(3) (date-of-utilisation basis) is relied on from the Law Sheet and was not independently re-fetched; confirm the ledger-based computation before issue.* ***Fraud.*** *The facts show a designed arrangement (commission, advice to avoid e-way bill, cash withdrawal), hence Section 74A(5)(ii). Section 132 is not proposed because the credit is below the lowest monetary tier of Section 132(1) on the verified text (Finance Act, 2023 version; tiers (i) to (iii) and clause (f) tier (iv)). Consider Section 83 (provisional attachment) separately; the exact conditions and the applicability to Section 74A were not verified here.*
- ***Rate (UNCERTAIN).*** *The 18% rate is the rate shown on the 23 invoices. The invoices straddle the rate rationalisation of 22.09.2025; for any invoice dated on or after that date the officer should confirm the rate for the HSN concerned from the rate notification in force. The ITC availed is the tax actually shown on the invoices, so the demand is not affected by the rate, only the arithmetic check in this exercise.*
- *The draft should be settled by the jurisdictional Range/Division before issue (DRC-01), including verification of the monetary-limit-based issuing/adjudicating authority under Circular No. 31/05/2018-GST dated 09.02.2018 (Superintendent: central tax up to Rs.10 lakh; Deputy/Assistant Commissioner: above Rs.10 lakh up to Rs.1 crore; Additional/Joint Commissioner: above Rs.1 crore). Here the central tax demand is Rs.47,25,000/-, within the Deputy/Assistant Commissioner's limit.*
- *Return of non-RUDs (Non-Relied Upon Documents): When the SCN is issued to the taxpayer in the form of DRC-01 (uploaded on the portal if registered, as well as delivered as per the provisions of law), non-RUDs must be returned to the noticee under due acknowledgement within seven days of issuance of the SCN.*

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Exercise 41

Failure of an e-commerce operator to collect tax at source from a group of sellers and to pay the amounts collected from the other sellers

Exercise 41: Failure of an e-commerce operator to collect tax at source from a group of sellers and to pay the amounts collected from the other sellers

Situation in Brief:

1. M/s XXX Marketplace Pvt. Ltd., Gurugram, Haryana (the 'Company') operates the online marketplace 'XXXmart' for goods, and is registered under the CGST Act, 2017 and the Haryana GST Act, 2017 at YYYY, Gurugram, under Gurugram CGST Commissionerate, as an electronic commerce operator required to collect tax at source under Section 52 (compulsory registration under Section 24). The Company collects the consideration from buyers on its platform and, after deducting its commission and the tax to be collected at source, remits the balance to the sellers through periodic settlement statements. Mr. Z is its Director (Finance) and the person in charge of its tax compliance.

2. A representation dated 30.04.2026 from a sellers' association stated that the TCS shown as deducted in the settlement statements of many sellers for February and March 2026 was not reflected in their electronic cash ledgers. The Range found that the Company had not filed FORM GSTR-8 for February 2026 and March 2026. A notice dated 12.05.2026 under Section 52(12) of the CGST Act, 2017, issued by the Deputy Commissioner, called for seller-wise details of supplies through the platform from October 2025 to March 2026. The Company furnished the data on 02.06.2026 and Mr. Z produced, on summons under Section 70 dated 10.06.2026, the settlement engine configuration log, the internal e-mails, the bank statements of the escrow account and the returns.

3. The data and e-mails show that with effect from 01.10.2025 the Company launched a 'Premier Partner Programme' (PPP) for 312 Haryana-registered sellers; that by an e-mail of 29.09.2025 from Mr. Z to the Chief Technology Officer the settlement engine was configured with 'TCS_FLAG = N' for PPP sellers 'to keep their cash flow and as the tax is anyway payable by sellers'; that, as a result, no TCS was collected from the payouts of PPP sellers from October 2025 to March 2026; that the GSTR-8 statements for October 2025 to January 2026 were filed with TCS paid, but did not include the supplies of PPP sellers; that for February and March 2026 TCS was deducted from payouts of the other sellers (the amounts being retained in the Company's escrow account) but, on the instructions of Mr. Z by e-mail of 05.03.2026 ('hold the TCS, use for vendor payments this month'), was neither paid to the Government nor reported in GSTR-8.

4. In his statement recorded on 24.06.2026 under Section 70, Mr. Z admitted the e-mails and the PPP configuration; stated that he believed that, since the sellers were registered and paying their own tax, the non-collection caused no loss to the Government; admitted that the TCS of February and March 2026 had been deducted from payouts and used for working capital; and stated that the Company was willing to pay the amounts. All PPP sellers are registered and, on cross-verification, reported all supplies in their GSTR-1 and paid tax. The net value of taxable supplies of goods (after deducting supplies returned) through the platform, by category, is as under (intra-State = supplier and place of supply in the same State; services for which tax is payable by the operator under Section 9(5) are excluded):

Month	PPP sellers - intra-State (Rs.)	PPP sellers - inter-State (Rs.)	Other sellers - intra-State (Rs.)	Other sellers - inter-State (Rs.)
Oct-2025	3,40,00,000	5,10,00,000	TCS paid	TCS paid
Nov-2025	4,20,00,000	6,35,00,000	TCS paid	TCS paid
Dec-2025	5,05,00,000	7,60,00,000	TCS paid	TCS paid
Jan-2026	3,85,00,000	5,70,00,000	TCS paid	TCS paid
Feb-2026	3,60,00,000	5,25,00,000	9,20,00,000	14,80,00,000
Mar-2026	4,30,00,000	6,40,00,000	10,40,00,000	16,10,00,000
TOTAL	**24,40,00,000**	**36,40,00,000**	**19,60,00,000**	**30,90,00,000**

5. Now in the light of the above, -

(i) Identify the provision(s) of GST law contravened by M/s XXX Marketplace Pvt. Ltd. (under heading **Contravention**).

(ii) Identify the provision(s) of GST law under which action is to be taken against M/s XXX Marketplace Pvt. Ltd. (under heading **Consequences of Contravention of legal Provisions**).

(iii) Draft the **Charging Paragraph** of the Show Cause Notice proposed to be issued to M/s XXX Marketplace Pvt. Ltd., calling upon M/s XXX Marketplace Pvt. Ltd. and Mr. Z to show cause as to why action should not be taken against them, while listing the proposed action to be taken against M/s XXX Marketplace Pvt. Ltd. and Mr. Z.

(iv) Also prepare the **draft Show Cause Notice** for issuance to M/s XXX Marketplace Pvt. Ltd..

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SUGGESTED SOLUTION

(Representation, notice under Section 52(12), summons, Demand under Sections 74A and 76 with penalty, and Draft Show Cause Notice - M/s XXX Marketplace Pvt. Ltd. and Mr. Z, Gurugram CGST Commissionerate)

A. CONTRAVENTION

On the facts as recorded, the following provisions of law stand contravened (in each case read with the corresponding provisions of the Haryana Goods and Services Tax Act, 2017 [HGST Act], the Integrated Goods and Services Tax Act, 2017 [IGST Act] and the Rules made under the Acts):

1. **Section 52(1) of the CGST Act, 2017** read with **Notification No. 52/2018-Central Tax dated 20.09.2018** as amended by **Notification No. 15/2024-Central Tax dated 10.07.2024** (and, for inter-State supplies, Notification No. 02/2018-Integrated Tax as amended by Notification No. 01/2024-Integrated Tax dated 10.07.2024) - failure to collect tax at source at 0.25% (CGST) + 0.25% (HGST) on the net value of intra-State taxable supplies, and 0.5% (IGST) on inter-State supplies, made through the platform by the PPP sellers during October 2025 to March 2026 (net values Rs.24,40,00,000/- and Rs.36,40,00,000/-).
2. **Section 52(3) of the CGST Act, 2017** - failure to pay to the Government, within ten days after the end of the month, the amount collected from the other sellers in February 2026 and March 2026 (Rs.25,25,000/-).
3. **Section 52(4) of the CGST Act, 2017 read with Rule 67(1) of the CGST Rules, 2017** - failure to furnish FORM GSTR-8 for February and March 2026, and furnishing of incomplete statements for October 2025 to January 2026 omitting the supplies of PPP sellers.
4. **Section 122(1)(vi) of the CGST Act, 2017** - the Company failed to collect tax at source as required by Section 52, and failed to pay to the Government the amount collected as tax under Section 52. This - and not Section 122(1B) - is the penal clause for a defaulting operator.
5. **Section 122(3)(a) of the CGST Act, 2017** - Mr. Z aided and abetted the offence under Section 122(1)(vi) by instructing the switching-off of TCS for PPP sellers and the retention and use of the amounts collected for February and March 2026.

Note: *(a) Not invoked - Section 122(1B): that sub-section penalises an operator who allows supplies by unregistered or ineligible persons or who gives incorrect details of supplies by persons exempt from registration in the Section 52(4) statement; none of these arises here, because all the sellers are registered. (b) Section 52(6) (rectification) is not a defence: an omission to collect cannot be cured by a corrective statement without payment. (c) Section 137 is not invoked for penalty against Mr. Z; it concerns offences and prosecution. (d) No separate penalty for the failure to file GSTR-8 under Section 125 or late fee under Section 47 is proposed - the specific penalty is already proposed and stacking is avoided. (e) Section 9(5) (operator liable to pay tax on notified services) is not involved; the platform supplies are of goods by independent sellers.*

B. CONSEQUENCES OF CONTRAVENTION OF LEGAL PROVISIONS

The contraventions at (A) above expose the Company and Mr. Z to the following action under the CGST Act, 2017 (read with the corresponding provisions of the HGST Act and the IGST Act, 2017):

1. Amount collected but not paid - Section 76 - Rs.25,25,000/- (CGST Rs.4,90,000/-, HGST Rs.4,90,000/-, IGST Rs.15,45,000/-) was collected from the other sellers' payouts in February and March 2026 and not paid. Section 76(1) requires such amount to be paid forthwith, *irrespective of whether the supplies are taxable*; Section 76(2) provides for a notice to show cause why the amount should not be paid and why a penalty equal to the amount should not be imposed; Section 76(4) levies interest under Section 50 from the date of collection; the order must be passed within one year of the notice [Section 76(6)] after a hearing on request [Section 76(5)]. Section 76 and not Section 74A is used because the Act provides a direct mechanism for amounts collected and withheld.

2. Amount not collected - Section 74A read with Section 52 - Rs.30,40,000/- (CGST Rs.6,10,000/-, HGST Rs.6,10,000/-, IGST Rs.18,20,000/-) of TCS was not collected from PPP sellers. Section 52 contains *no counterpart of Section 51(7)* (which expressly provides that the amount in default of a deductor is determined under Sections 73, 74 or 74A), and Section 52(2) only preserves 'any other mode of recovery from the operator'. The draft proposes the demand under Section 74A(1) read with Section 52(1) and (2) for the reason that 74A(1) read with Section 50 is the general machinery for determination of tax, interest and penalty - but this is the least secure limb of the notice; see the drafting notes. The sellers' own tax on these supplies has been paid and is not in dispute; the demand is on the operator's statutory collection default. The notice may be issued within the period of Section 74A(2) and the order within twelve months [Section 74A(7); Section 74A(12)].

3. Interest - on the amount at 1 above, interest under Section 50 from the date of collection [Section 76(4)]; on the amount at 2 above, interest under Section 50(1) at 18% per annum from the day after the due date (10th of the next month) till payment [Section 52(3); Notification No. 13/2017-Central Tax].

4. Penalty - (a) on the amount collected but not paid, a penalty equivalent to the amount under **Section 76(2)** (Rs.25,25,000/-); (b) on the amount not collected, under **Section 74A(5)(i)**, ten per cent of the tax due or Rs.10,000/-, whichever is higher, under each head (Rs.3,04,000/-). *Why not Section 74A(5)(ii) for the non-collection?* The PPP programme was documented in the Company's own e-mails and configuration logs, the supplier-wise data was furnished promptly on notice, the PPP sellers paid their own tax in full, and the non-collection did not reduce the revenue; the omission of PPP supplies from the GSTR-8 of October to January is a defect of reporting but the intention to evade tax is not shown. A literal reading of Explanation 2 to Section 74A(12) (non-declaration of facts required to be declared in a statement) could support a fraud charge; the draft chooses the lower charge consciously. (c) Section 122(1)(vi) penalty is proposed only in the alternative and subject to Section 75(13) as the same amounts are already visited by the penalties at (a) and (b).

5. Penalty on Mr. Z - Section 122(3)(a): up to Rs.25,000/- under each Act (a ceiling). He gave the instruction in writing, approved the use of the collected amount, and answered summons, so the maximum is proposed only as the upper limit; the adjudicating officer should fix the amount after hearing, having regard to the proportionality principle in Section 126(2).

6. Prosecution - Section 132(1)(d) (collecting tax and not paying beyond three months) was considered; the amount collected and unpaid (Rs.25,25,000/-) is below Rs.1 crore, the lowest monetary tier of Section 132(1), and no tier of punishment is reached on the verified text. Not proposed.

7. Issuing authority - the combined demand of central tax and integrated tax is Rs.44,65,000/-, above Rs.20 lakh and up to Rs.2 crore, which is within the monetary limit of the Deputy/Assistant Commissioner under Circular No. 31/05/2018-GST dated 09.02.2018.

Illustrative working - (I) TCS not collected from PPP sellers (taxable at 0.25% + 0.25% intra-State and 0.5% inter-State; interest at 18% illustrated up to 31.10.2026, for each head):

Month	Intra-State (Rs.)	Inter-State (Rs.)	CGST 0.25% (Rs.)	HGST 0.25% (Rs.)	IGST 0.5% (Rs.)	Total (Rs.)	Due date	Interest to 31.10.26 (Rs.)
Oct-2025	3,40,00,000	5,10,00,000	85,000	85,000	2,55,000	4,25,000	10.11.2025	74,404
Nov-2025	4,20,00,000	6,35,00,000	1,05,000	1,05,000	3,17,500	5,27,500	10.12.2025	84,545
Dec-2025	5,05,00,000	7,60,00,000	1,26,250	1,26,250	3,80,000	6,32,500	10.01.2026	91,704
Jan-2026	3,85,00,000	5,70,00,000	96,250	96,250	2,85,000	4,77,500	10.02.2026	61,931
Feb-2026	3,60,00,000	5,25,00,000	90,000	90,000	2,62,500	4,42,500	10.03.2026	51,282
Mar-2026	4,30,00,000	6,40,00,000	1,07,500	1,07,500	3,20,000	5,35,000	10.04.2026	53,822
TOTAL	**24,40,00,000**	**36,40,00,000**	**6,10,000**	**6,10,000**	**18,20,000**	**30,40,000**		**4,17,688**

(II) TCS collected from other sellers and not paid (collection date taken, for illustration, as the last day of the month; actual dates to be taken from the settlement ledger):

Month	Intra-State (Rs.)	Inter-State (Rs.)	CGST 0.25% (Rs.)	HGST 0.25% (Rs.)	IGST 0.5% (Rs.)	Total (Rs.)	Collected (taken as)	Interest to 31.10.26 (Rs.)
Feb-2026	9,20,00,000	14,80,00,000	2,30,000	2,30,000	7,40,000	12,00,000	28.02.2026	1,44,986
Mar-2026	10,40,00,000	16,10,00,000	2,60,000	2,60,000	8,05,000	13,25,000	31.03.2026	1,39,833
TOTAL	**19,60,00,000**	**30,90,00,000**	**4,90,000**	**4,90,000**	**15,45,000**	**25,25,000**		**2,84,819**

Basis: *Total demand Rs.55,65,000/- (CGST Rs.11,00,000/-, HGST Rs.11,00,000/-, IGST Rs.33,65,000/-): Rs.30,40,000/- under Section 74A and Rs.25,25,000/- under Section 76. Penalties proposed: Rs.3,04,000/- under Section 74A(5)(i) + Rs.25,25,000/- under Section 76(2) + Rs.50,000/- under Section 122(3)(a) = Rs.28,79,000/-.*

C. CHARGING PARAGRAPH OF THE SHOW CAUSE NOTICE

[The following is the operative charging paragraph proposed for incorporation in the Show Cause Notice at Part D below.]

Now, therefore, (1) M/s XXX Marketplace Pvt. Ltd., a company registered as an electronic commerce operator at YYYY, Gurugram, Haryana, and (2) Mr. Z, Director (Finance) of M/s XXX Marketplace Pvt. Ltd., are hereby called upon to show cause in writing to the Deputy/Assistant Commissioner, CGST Division - [•], Gurugram CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) *the TCS of Rs.30,40,000/- (CGST Rs.6,10,000/-, HGST Rs.6,10,000/-, IGST Rs.18,20,000/-) on the net value of taxable supplies of Rs.24,40,00,000/- (intra-State) and Rs.36,40,00,000/- (inter-State) made by the PPP sellers through the platform during October 2025 to March 2026, which the Company did not collect, should not be held to be amounts that the Company was required to collect under Section 52(1) of the CGST Act, 2017/HGST Act, 2017 and Section 20 of the IGST Act, 2017, and should not be demanded and recovered from the Company under Section 74A(1) read with Section 52(1) and (2) of the CGST Act, 2017 and the corresponding provisions of the HGST Act, 2017/IGST Act, 2017;*

(ii) *the amount of Rs.25,25,000/- (CGST Rs.4,90,000/-, HGST Rs.4,90,000/-, IGST Rs.15,45,000/-), collected from the other sellers in February and March 2026 and not paid to the Government, should not be paid to the Government and recovered from the Company under Section 76 of the CGST Act, 2017/HGST Act, 2017 and Section 20 of the IGST Act, 2017;*

(iii) *interest under Section 50 of the CGST Act, 2017/HGST Act, 2017 should not be charged and recovered on the amounts at (i) above [Section 50(1), from the day after the 10th of the month following each month] and at (ii) above [Section 76(4), from the date of collection] till the date of payment;*

(iv) *a penalty of Rs.3,04,000/- (CGST Rs.61,000/-, HGST Rs.61,000/-, IGST Rs.1,82,000/-), being ten per cent of the amount at (i) above, should not be imposed on the Company under Section 74A(5)(i) of the CGST Act, 2017/HGST Act, 2017 (without prejudice to the benefit of nil penalty under Section 74A(8) on payment of tax and interest within the time therein specified);*

(v) *a penalty of Rs.25,25,000/-, equivalent to the amount at (ii) above, should not be imposed on the Company under Section 76(2) of the CGST Act, 2017/HGST Act, 2017;*

(vi) *a penalty of Rs.25,000/- under the CGST Act, 2017 and Rs.25,000/- under the HGST Act, 2017, being the maximum under each Act, should not be imposed on Mr. Z under Section 122(3)(a) of the CGST Act, 2017/HGST Act, 2017 for aiding and abetting the offence under Section 122(1)(vi); and*

(vii) *penalty should not separately be imposed on the Company under Section 122(1)(vi) of the CGST Act, 2017/HGST Act, 2017, without prejudice to (iv) and (v) above and subject to Section 75(13) and Section 126 of the CGST Act, 2017.*

D. DRAFT SHOW CAUSE NOTICE

F. No. GEXCOM/ADJN/SCN/[•]/2026-GURUGRAM

DIN: [Document Identification Number to be auto-generated on issue]

Office of the Deputy/Assistant Commissioner, CGST Division - [•], Gurugram CGST Commissionerate, Haryana

Date: [•].11.2026

SHOW CAUSE NOTICE

(Issued under Sections 74A, 76 and 122 of the Central Goods and Services Tax Act, 2017 read with the corresponding provisions of the Haryana Goods and Services Tax Act, 2017 and Section 20 of the Integrated Goods and Services Tax Act, 2017)

To,
1. M/s XXX Marketplace Pvt. Ltd., YYYY, Gurugram, Haryana;
2. Mr. Z, Director (Finance), M/s XXX Marketplace Pvt. Ltd., YYYY, Gurugram, Haryana.

(hereinafter referred to respectively as 'Noticee No. 1 (the Company)' and 'Noticee No. 2', and collectively as 'the Noticees')

WHEREAS M/s XXX Marketplace Pvt. Ltd. (GSTIN [•]) (the Company) operates the online marketplace 'XXXmart' for goods and is an electronic commerce operator required to collect tax at source under Section 52 of the CGST Act, 2017. It collects the consideration from buyers and remits it to the sellers after deducting its commission and the tax to be collected at source (RUD-1). Mr. Z (Noticee No. 2) is its Director (Finance) and the person in charge of tax compliance;

2. AND WHEREAS a representation dated 30.04.2026 of a sellers' association (RUD-2) stated that the TCS shown as deducted in the settlement statements for February and March 2026 was not reflected in the sellers' electronic cash ledgers; the Company was found not to have filed FORM GSTR-8 for those months (RUD-3); a notice dated 12.05.2026 under Section 52(12) of the CGST Act, 2017 (RUD-4) was served on the Company, which furnished the data on 02.06.2026 (RUD-5); and Noticee No. 2 produced documents on summons dated 10.06.2026 under Section 70 (RUD-6 to RUD-8);

3. AND WHEREAS the documents show that with effect from 01.10.2025 the settlement engine was configured with 'TCS_FLAG = N' for 312 sellers of the Premier Partner Programme (PPP) on the e-mail instruction of Noticee No. 2 dated 29.09.2025 (RUD-7); that no TCS was collected from the PPP sellers during October 2025 to March 2026; that the GSTR-8 for October 2025 to January 2026 did not include the supplies of PPP sellers (RUD-9); and that, for February and March 2026, TCS was deducted from the payouts of the other sellers but retained in the Company's escrow account and used for vendor payments on the e-mail instruction of Noticee No. 2 dated 05.03.2026 (RUD-10), without payment to the Government and without filing GSTR-8;

4. AND WHEREAS in his statement recorded on 24.06.2026 under Section 70 (RUD-11), Noticee No. 2 admitted the e-mails and the PPP configuration, stated that he believed that non-collection caused no loss to the Government as the sellers paid their own tax, admitted that the TCS of February and March 2026 was deducted and used for working capital, and expressed willingness to pay the amounts;

5. AND WHEREAS Section 52(1) of the CGST Act, 2017 requires the operator to collect, on the net value of taxable supplies made through it by other suppliers where the consideration is collected by the operator, an amount at the rate notified, namely 0.25% (central tax) and 0.25% (State tax) on intra-State supplies, and 0.5% (integrated tax) on inter-State supplies with effect from 10.07.2024 [Notification No. 52/2018-Central Tax as amended by Notification No. 15/2024-Central Tax;

Notification No. 02/2018-Integrated Tax as amended by Notification No. 01/2024-Integrated Tax], and Section 52(3) requires it to be paid within ten days after the end of the month; the details of the net value of supplies made by PPP sellers and the other sellers are in Annexure-A;

6. AND WHEREAS the amounts are worked out as under:

Particulars	Net value of supplies (Rs.)	CGST (Rs.)	HGST (Rs.)	IGST (Rs.)
(I) TCS not collected - PPP sellers: intra-State	24,40,00,000	6,10,000	6,10,000	-
(I) TCS not collected - PPP sellers: inter-State	36,40,00,000	-	-	18,20,000
(II) TCS collected, not paid - other sellers: intra-State (Feb-Mar 2026)	19,60,00,000	4,90,000	4,90,000	-
(II) TCS collected, not paid - other sellers: inter-State (Feb-Mar 2026)	30,90,00,000	-	-	15,45,000
TOTAL		**11,00,000**	**11,00,000**	**33,65,000**

7. AND WHEREAS the Company disclosed the PPP programme in its own e-mails and furnished the seller-wise data promptly on notice, and the PPP sellers reported and paid tax on their own supplies in full. It is not established that the non-collection of Rs.30,40,000/- was by reason of fraud, wilful misstatement or suppression of facts to evade tax; penalty under Section 74A(5)(i) is therefore proposed for it. The amount of Rs.25,25,000/- collected and not paid is, however, covered by Section 76 and attracts a penalty equal to the amount under Section 76(2);

8. AND WHEREAS it thus appears that the Company has contravened Section 52(1), Section 52(3) and Section 52(4) of the CGST Act, 2017 read with Rule 67(1) of the CGST Rules, 2017 (and the corresponding provisions of the HGST Act and the IGST Act), and is liable to penalty under Section 122(1)(vi); and that Noticee No. 2 has aided and abetted the offence under Section 122(1)(vi) and is liable to penalty under Section 122(3)(a);

NOW, THEREFORE

(1) M/s XXX Marketplace Pvt. Ltd. and (2) Mr. Z are hereby called upon to show cause in writing to the Deputy/Assistant Commissioner, CGST Division - [•], Gurugram CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) the TCS of Rs.30,40,000/- (CGST Rs.6,10,000/-, HGST Rs.6,10,000/-, IGST Rs.18,20,000/-) on the net value of taxable supplies of Rs.24,40,00,000/- (intra-State) and Rs.36,40,00,000/- (inter-State) made by the PPP sellers through the platform during October 2025 to March 2026, which the Company did not collect, should not be held to be amounts that the Company was required to collect under Section 52(1) of the CGST Act, 2017/HGST Act, 2017 and Section 20 of the IGST Act, 2017, and should not be demanded and recovered from the Company under Section 74A(1) read with Section 52(1) and (2) of the CGST Act, 2017 and the corresponding provisions of the HGST Act, 2017/IGST Act, 2017;

(ii) the amount of Rs.25,25,000/- (CGST Rs.4,90,000/-, HGST Rs.4,90,000/-, IGST Rs.15,45,000/-), collected from the other sellers in February and March 2026 and not paid to the Government, should not be paid to the Government and recovered from the Company under Section 76 of the CGST Act, 2017/HGST Act, 2017 and Section 20 of the IGST Act, 2017;

(iii) interest under Section 50 of the CGST Act, 2017/HGST Act, 2017 should not be charged and recovered on the amounts at (i) above [Section 50(1), from the day after the 10th of the month following each month] and at (ii) above [Section 76(4), from the date of collection] till the date of payment;

(iv) a penalty of Rs.3,04,000/- (CGST Rs.61,000/-, HGST Rs.61,000/-, IGST Rs.1,82,000/-), being ten per cent of the amount at (i) above, should not be imposed on the Company under Section 74A(5)(i) of the CGST Act, 2017/HGST Act, 2017 (without prejudice to the benefit of nil penalty under Section 74A(8) on payment of tax and interest within the time therein specified);

(v) a penalty of Rs.25,25,000/-, equivalent to the amount at (ii) above, should not be imposed on the Company under Section 76(2) of the CGST Act, 2017/HGST Act, 2017;

(vi) a penalty of Rs.25,000/- under the CGST Act, 2017 and Rs.25,000/- under the HGST Act, 2017, being the maximum under each Act, should not be imposed on Mr. Z under Section 122(3)(a) of the CGST Act, 2017/HGST Act, 2017 for aiding and abetting the offence under Section 122(1)(vi); and

(vii) penalty should not separately be imposed on the Company under Section 122(1)(vi) of the CGST Act, 2017/HGST Act, 2017, without prejudice to (iv) and (v) above and subject to Section 75(13) and Section 126 of the CGST Act, 2017.

9. The Noticees are further informed that:

- a written reply to this notice, along with all documents relied upon, must be furnished within thirty (30) days of receipt of this notice, failing which the case will be decided ex parte on the basis of available records, on merits;
- an opportunity of personal hearing will be granted before adjudication, and in respect of Section 76 the Company may request a hearing in writing under Section 76(5); the date will be separately intimated, and each Noticee (or an authorised representative) may appear in person or through counsel;
- attention is drawn to the benefit available to Noticee No. 1 under Section 74A(8) of the CGST Act, 2017/HGST Act, 2017 in respect of the amount at (i) above, whereby, if the tax and interest are paid before the issue of this notice, no notice shall be served in respect of the said tax; and if they are paid within sixty (60) days of the issue of this notice, no penalty shall be payable under Section 74A(5)(i) and all proceedings in respect of the said notice shall be deemed to be concluded; the amount collected and not paid at (ii) above must in any case be paid forthwith under Section 76(1);
- this notice is issued without prejudice to any other action that may be taken against the Noticees or any other person under the CGST Act, 2017/HGST Act, 2017, the IGST Act, 2017 or any other law for the time being in force.

List of Relied Upon Documents (RUDs):

RUD-1: Seller agreement/terms of the marketplace and settlement statements (specimen);

RUD-2: Representation dated 30.04.2026 of the sellers' association;

RUD-3: GSTR-8 filing status for October 2025 to March 2026;

RUD-4: Notice dated 12.05.2026 under Section 52(12) of the CGST Act, 2017;

RUD-5: Seller-wise data furnished on 02.06.2026;

RUD-6: Summons dated 10.06.2026 under Section 70, with proof of service;

RUD-7: Settlement engine configuration log and e-mail dated 29.09.2025;

RUD-8: Bank statements of the escrow account;

RUD-9: GSTR-8 statements filed for October 2025 to January 2026;

RUD-10: E-mail dated 05.03.2026;

RUD-11: Statement of Mr. Z recorded on 24.06.2026 under Section 70;

Annexure-A: Month-wise statement of net value of supplies, TCS and interest base [as per the working in Part B].

(_____)
Deputy/Assistant Commissioner, CGST
Division - [•], Gurugram CGST Commissionerate

Copy to: The Additional/Joint Commissioner, Gurugram CGST Commissionerate, for information.

Drafting note (not part of the notice):

- *The addressee, jurisdictional range/officer, F. No./DIN and dates shown in square brackets/blanks are illustrative placeholders and must be completed with the correct particulars before issue.*
- *The tax, interest and penalty figures are worked out on the reasoned basis explained in Part B and remain subject to reconciliation with the seized/recorded documents.*
- ***Rates (verified from notifications for the period).*** *TCS under Section 52 is 0.25% central tax + 0.25% State tax (0.5% in all) for intra-State supplies and 0.5% integrated tax for inter-State supplies, from Notification No. 15/2024-Central Tax dated 10.07.2024 (substituting 0.25% for half per cent in Notification No. 52/2018-CT) and Notification No. 01/2024-Integrated Tax dated 10.07.2024 (half per cent for one per cent in Notification No. 02/2018-IT). Both notifications take effect from publication in the Gazette. The corresponding **Haryana** notification for the State-tax component was not located; the State rate is taken as 0.25% by parity, and the Haryana notification number and date must be inserted before issue. A secondary source (October 2026) reports no later change; confirm that no notification has altered the rate for FY 2025-26.*
- ***Teaching twist - the gap in Section 52.*** *Section 51(7) says that the amount in default of a deductor is determined under Section 73, 74 or 74A; Section 52 has no such sub-section and speaks of an 'amount' to be collected, not 'tax'. Commentary argues that non-collection by an operator is hence not recoverable as a demand, while the TCS is only an advance against the supplier's own tax which stands paid. A recent High Court decision reported only in secondary sources (not fetched or read in full; hence not relied upon or cited in the notice) is said to have quashed a Section 74 notice on an operator that had not collected consideration. The present draft differs on the facts (the Company did collect consideration) but the legal risk is real. Reviewers should therefore treat item (i) of the charging paragraph (demand of uncollected TCS under Section 74A read with Section 52) as **UNCERTAIN**; the Section 122(1)(vi) penalty and the Section 76 demand are the secure charges. If the authority is not persuaded, item (i) may be dropped without disturbing the rest of the notice.*
- ***Section 76 versus Section 122(1)(vi).*** *Both reach the amount collected and not paid. Section 76(2) gives a penalty equal to the amount; Section 122(1)(vi) is the offence-based penalty (higher of Rs.10,000/- or the amount). Only one is to be finally imposed for the same default (Section 75(13), house style as in Exercise-01).*
- ***Time limit - UNCERTAIN.*** *Section 74A(2) counts forty-two months from the due date of the annual return, but persons paying tax under Section 51 or 52 are outside the annual return requirement of Section 44(1). The operator's annual statement under Section 52(5) is due by 31 December following the financial year (31.12.2026 for FY 2025-26); the notice here is far within time on that or any other reckoning, but the reference date is not free from doubt and should be recorded in the file. The period of Section 76 is governed only by the one-year order limit of Section 76(6).*

- ***Circular 194/06/2023-GST*** *(multiple operators in one transaction) was verified but is not engaged: the Company is the only operator in the chain. Mr. Z is charged under Section 122(3)(a), not Section 137; the notes on the State-tax penalty follow Exercise-40.*
- *The draft should be settled by the jurisdictional Range/Division before issue (DRC-01), including verification of the monetary-limit-based issuing/adjudicating authority under Circular No. 31/05/2018-GST dated 09.02.2018 (Superintendent: central tax up to Rs.10 lakh; Deputy/Assistant Commissioner: above Rs.10 lakh up to Rs.1 crore; Additional/Joint Commissioner: above Rs.1 crore). Here the combined central tax and integrated tax demand is Rs.44,65,000/-; the limit for such demands is up to Rs.2 crore for the Deputy/Assistant Commissioner (Circular No. 31/05/2018-GST: IGST or combined demand - Superintendent up to Rs.20 lakh; Deputy/Assistant Commissioner up to Rs.2 crore).*
- *Return of non-RUDs (Non-Relied Upon Documents): When the SCN is issued to the taxpayer in the form of DRC-01 (uploaded on the portal if registered, as well as delivered as per the provisions of law), non-RUDs must be returned to the noticee under due acknowledgement within seven days of issuance of the SCN.*

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Exercise 42

Failure of a public sector undertaking to deduct tax at source (TDS) on payments to contractors - threshold applied per bill instead of per contract

Exercise 42: Failure of a public sector undertaking to deduct tax at source (TDS) on payments to contractors - threshold applied per bill instead of per contract

Situation in Brief:

1. M/s XXX Ltd. is a public sector undertaking wholly owned by the Government of Odisha, with its registered office at YYYY, Bhubaneswar, Odisha, under Bhubaneswar CGST Commissionerate. It is registered under the CGST Act, 2017 and the Odisha GST Act, 2017 as a person required to deduct tax at source under Section 51 (GSTIN [•]) and files FORM GSTR-7 every month. Mr. Z, General Manager (Finance), is its authorised signatory for GSTR-7 and is in charge of its vendor payments.

2. The Range Superintendent, comparing the GSTR-7 returns of the PSU for FY 2024-25 with the receipts reported by contractors from it in their GSTR-1 and with the contract award list published on the State e-procurement portal, found that TDS had been shown only against a few contractors, and that GSTR-7 showed total deductions of Rs.4,58,000/- against payments of Rs.8,16,10,000/- to contractors under 10 contracts. A letter dated 14.07.2026 followed by a summons dated 28.07.2026 under Section 70 of the CGST Act, 2017 was issued to Mr. Z, who produced on 12.08.2026 the contract register, letters of award, vendor ledgers, payment vouchers, the vendor master and the GSTR-7 returns.

3. In his statement recorded on 12.08.2026 under Section 70, Mr. Z stated that the PSU is wholly Government-owned and was aware of its obligation under Section 51; that for contracts C-02 and C-07 the accounts section had applied the Rs.2.5 lakh threshold to each running bill and not to the total contract value; that for contracts C-05 and C-06 the vendors had been on-boarded before 01.10.2018 with the flag 'TDS-GST = N' in the vendor master, which was never reviewed; that for contract C-03 the software was configured to deduct 1% for central tax only; that he is willing to pay the tax short deducted; and that all payments were made through the PSU's bank accounts to the contractors, whose invoices carried GST at the applicable rate. Mr. P, Manager (Accounts), in his statement dated 13.08.2026, confirmed the above.

4. Cross-verification of the contractors' returns showed that M/s BBB, M/s EEE and M/s FFF had reported the invoices in GSTR-1 and paid the full tax on them through GSTR-3B (no credit having been claimed from the PSU's GSTR-7), whereas M/s CCC and M/s GGG had not filed their GSTR-3B returns for the relevant months; their registrations are under separate proceedings. All the contracts are for taxable supplies of works and goods to the PSU's units in Odisha by contractors located in Odisha; no contract with a contractor located in another State exists. The contract-wise position (values exclude tax) is as under:

Contract	Contractor	Contract value excl. tax (Rs.)	Paid in FY 2024-25 excl. tax (Rs.)	TDS deducted and deposited (Rs.)	Remark in the PSU's records
C-01	M/s AAA	1,80,00,000	1,12,00,000	2,24,000	TDS @1% + 1% deducted and deposited
C-02	M/s BBB	64,00,000	42,00,000	Nil	No TDS: each running bill below Rs.2.5 lakh
C-03	M/s CCC	3,20,00,000	2,10,00,000	2,10,000	TDS 1% only (CGST) deducted; State component not configured
C-04	M/s DDD	2,10,000	2,10,000	Nil	No TDS: contract value Rs.2,10,000
C-05	M/s EEE	95,00,000	61,00,000	Nil	No TDS: vendor master flag 'TDS-GST = N' (legacy vendor)
C-06	M/s FFF	1,42,00,000	88,00,000	Nil	No TDS: vendor master flag 'TDS-GST = N' (legacy vendor)
C-07	M/s GGG	38,00,000	26,50,000	Nil	No TDS: each running bill below Rs.2.5 lakh

C-08	M/s HHH Ltd. (another Odisha PSU)	4,00,00,000	2,60,00,000	Nil	No TDS: supply by another public sector undertaking
C-09	M/s JJJ	18,00,000	12,00,000	24,000	TDS @1% + 1% deducted and deposited
C-10	M/s KKK	2,50,000	2,50,000	Nil	No TDS: contract value exactly Rs.2,50,000
TOTAL		**12,61,60,000**	**8,16,10,000**	**4,58,000**	

5. Now in the light of the above, -

(i) Identify the provision(s) of GST law contravened by M/s XXX Ltd. (under heading **Contravention**).

(ii) Identify the provision(s) of GST law under which action is to be taken against M/s XXX Ltd. (under heading **Consequences of Contravention of legal Provisions**).

(iii) Draft the **Charging Paragraph** of the Show Cause Notice proposed to be issued to M/s XXX Ltd., calling upon M/s XXX Ltd. to show cause as to why action should not be taken against them, while listing the proposed action to be taken against M/s XXX Ltd..

(iv) Also prepare the **draft Show Cause Notice** for issuance to M/s XXX Ltd..

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SUGGESTED SOLUTION

(Data comparison, inquiry on summons, Determination of amount in default under Sections 51(7) and 74A, and Draft Show Cause Notice - M/s XXX Ltd. (Odisha PSU), Bhubaneswar CGST Commissionerate)

A. CONTRAVENTION

On the facts as recorded, the following provisions of law stand contravened (in each case read with the corresponding provisions of the Odisha Goods and Services Tax Act, 2017 [OGST Act] and the Rules made under the two Acts):

1. **Section 51(1) of the CGST Act, 2017** read with **Notification No. 33/2017-Central Tax dated 15.09.2017 and Notification No. 50/2018-Central Tax dated 13.09.2018** (public sector undertakings notified as deductors, with effect from 01.10.2018) - failure to deduct tax at the rate of one per cent (central tax) and one per cent (State tax) from the payments made to the suppliers on contracts C-02, C-05, C-06 and C-07, whose total value under each contract exceeds Rs.2,50,000/- (excluding tax), and short deduction on contract C-03 (State tax component Rs.2,10,000/- not deducted).
2. **Section 122(1)(v) of the CGST Act, 2017** - the PSU failed to deduct tax in accordance with Section 51(1), or deducted less than the required amount.

Note: *(a) The threshold is on the contract, not on the bill. Section 51(1) applies where 'the total value of such supply, under a contract, exceeds' Rs.2,50,000/-. The accounts section's per-bill practice for C-02 and C-07 and the vendor-master flag for C-05 and C-06 are not defences. (b) Where no TDS was due - do not charge: contracts C-04 (Rs.2,10,000/-) and C-10 (exactly Rs.2,50,000/-, which does not 'exceed') are within the threshold; contract C-08 is a supply by another public sector undertaking, which is outside Notification No. 50/2018-Central Tax by its second proviso (inserted by Notification No. 61/2018-Central Tax). (c) Inter-State supplies: Section 51(1) bars deduction where the location of the supplier and the place of supply are in a State different from the State of registration of the recipient; none of the contracts is of that kind, and no IGST deduction is proposed. (d) Sections 51(2) and 39(3) / Rule 66(1) are not contravened: the amounts actually deducted (contracts C-01, C-03 in part and C-09) were deposited, and GSTR-7 was filed monthly. (e) The deductor is the PSU; Mr. Z is not charged. A salaried authorised signatory has no 'personal act' beyond the corporate default recorded here; Section 122(3)(a) is not attracted on these facts and Section 137 relates to offences and prosecution. His role is to be addressed in the notice as the person through whom the PSU is served.*

B. CONSEQUENCES OF CONTRAVENTION OF LEGAL PROVISIONS

The contraventions at (A) above expose M/s XXX Ltd. to the following action under the CGST Act, 2017 (read with the corresponding provisions of the OGST Act, 2017):

1. Determination of the amount in default - under **Section 51(7) of the CGST Act, 2017**, which provides that the determination of the amount in default under Section 51 shall be made in the manner specified in Section 73, Section 74 or Section 74A (the reference to Section 74A having been added by the Finance (No. 2) Act, 2024 with effect from 01.11.2024). For FY 2024-25 the demand is therefore made under **Section 74A(1)** [Section 74A(12); Notification No. 17/2024-Central Tax dated 27.09.2024]. The amount in default is Rs.6,45,000/- (CGST Rs.2,17,500/- and OGST Rs.4,27,500/-); payments by the PSU on which TDS was correctly not deducted are excluded.
2. Time limit - UNCERTAIN - Section 74A(2) counts forty-two months from the due date of the annual return for the financial year; persons paying tax under Section 51 are outside the annual-return requirement of Section 44(1), so the statutory reference date is not free from doubt. The conservative course (31.12.2025, the date by which an annual return for FY 2024-25 would otherwise fall due, plus forty-two months, i.e. 30.06.2029) is adopted; the notice is far within time on any reckoning. The order is to be passed within twelve months of the notice [Section 74A(7)].

3. Interest - under **Section 50(1)** read with Section 74A(1), at 18% per annum [Notification No. 13/2017-Central Tax] from the day after the 10th of the month following the month of each payment [Section 51(2)] till the date of payment. Section 51(6) (interest where deducted tax is not paid) is not the operative provision for amounts that were never deducted.

4. Penalty - under **Section 74A(5)(i)**, ten per cent of the tax due or Rs.10,000/-, whichever is higher, under each Act. *Why not Section 74A(5)(ii)?* The default arises from a misreading of the threshold and legacy settings in the vendor master, the PSU deducted and deposited TDS on other contracts, all records were produced on the first summons and willingness to pay was shown; there is no suppression or intent to evade. The concession under **Section 74A(8)** is available. **Section 122(1)(v)** (penalty of the higher of Rs.10,000/- or the amount not deducted: Rs.6,45,000/-) is proposed only in the alternative and subject to Section 75(13), as the same default is already visited by the penalty under Section 74A(5)(i).

5. Who bears the demand? The notice goes to the PSU as a 'person' and 'deductor'. The funds of a Government undertaking are not exempt from the Act; the PSU's liability under Section 51 is its own. Mr. Z is described as the authorised signatory only. The PSU, as a Government company, may seek the benefit of Section 74A(8) as readily as any private taxpayer.

6. Deductee side - UNCERTAIN - three of the five contractors paid the full tax on the same supplies from their own funds, while two did not file returns. The statutory text of Section 51(7) makes the deductor's default independent of the deductee's compliance, but a double recovery from the same supplies is possible and no verified provision for adjustment or refund to the deductor in this situation was found (Section 51(8) deals only with excess or erroneous deduction). The Range should obtain the contractor-wise tax paid before the notice is issued, and the adjudicating authority should deal with the point in the order.

7. Prosecution - not proposed; the amount is far below the thresholds of Section 132(1).

8. Issuing authority - the central tax demand is Rs.2,17,500/-, within the monetary limit of the Superintendent under Circular No. 31/05/2018-GST dated 09.02.2018.

Illustrative working of the TDS short deducted, month-wise on payments under C-02, C-05, C-06, C-07 (nothing deducted) and C-03 (CGST 1% only deducted):

Month of payment	Payments - no TDS (Rs.)	Payments - CGST only deducted (Rs.)	CGST short (Rs.)	OGST short (Rs.)	Total (Rs.)	Due date	Interest to 31.10.2026 (Rs.)
Apr-2024	15,00,000	15,00,000	15,000	30,000	45,000	10.05.2024	20,061
May-2024	16,00,000	16,00,000	16,000	32,000	48,000	10.06.2024	20,665
Jun-2024	17,00,000	17,00,000	17,000	34,000	51,000	10.07.2024	21,202
Jul-2024	18,00,000	17,50,000	18,000	35,500	53,500	10.08.2024	21,423
Aug-2024	19,00,000	18,00,000	19,000	37,000	56,000	10.09.2024	21,568
Sep-2024	20,00,000	19,00,000	20,000	39,000	59,000	10.10.2024	21,851
Oct-2024	18,00,000	18,50,000	18,000	36,500	54,500	10.11.2024	19,351
Nov-2024	17,00,000	17,50,000	17,000	34,500	51,500	10.12.2024	17,524
Dec-2024	19,00,000	18,00,000	19,000	37,000	56,000	10.01.2025	18,199
Jan-2025	20,00,000	18,00,000	20,000	38,000	58,000	10.02.2025	17,963
Feb-2025	21,00,000	17,00,000	21,000	38,000	59,000	10.03.2025	17,458
Mar-2025	17,50,000	18,50,000	17,500	36,000	53,500	10.04.2025	15,012
TOTAL	**2,17,50,000**	**2,10,00,000**	**2,17,500**	**4,27,500**	**6,45,000**		**2,32,277**

Basis: *Contract-wise: C-02 Rs.84,000/-; C-03 Rs.2,10,000/- (OGST only); C-05 Rs.1,22,000/-; C-06 Rs.1,76,000/-; C-07 Rs.53,000/-; total Rs.6,45,000/-. Penalty under Section 74A(5)(i): Rs.21,750/- (CGST) + Rs.42,750/- (OGST) = Rs.64,500/-. Interest is shown to 31.10.2026 for illustration only (simple interest, 18%).*

C. CHARGING PARAGRAPH OF THE SHOW CAUSE NOTICE

[The following is the operative charging paragraph proposed for incorporation in the Show Cause Notice at Part D below.]

Now, therefore, M/s XXX Ltd., a public sector undertaking of the Government of Odisha, having its registered office at YYYY, Bhubaneswar, Odisha, a person required to deduct tax at source under Section 51 of the CGST Act, 2017, acting through Mr. Z, General Manager (Finance) and its authorised signatory (the PSU), is hereby called upon to show cause in writing to the Superintendent, CGST Range - [•], Bhubaneswar CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) *the PSU should not be held to have failed to deduct tax at source, as required by Section 51(1) of the CGST Act, 2017/OGST Act, 2017 read with Notification Nos. 33/2017-Central Tax and 50/2018-Central Tax, on payments of Rs.2,17,50,000/- made during FY 2024-25 to the suppliers under contracts C-02, C-05, C-06 and C-07, and to have short deducted tax on payments of Rs.2,10,00,000/- under contract C-03;*

(ii) *an amount of Rs.2,17,500/- (Central tax) and Rs.4,27,500/- (Odisha State tax), total Rs.6,45,000/- (Rupees Six Lakh Forty-Five Thousand only), being the amount in default under Section 51, as detailed in Annexure-A to this notice, should not be determined, demanded and recovered from the PSU under Section 51(7) read with Section 74A(1) of the CGST Act, 2017 and the corresponding provisions of the OGST Act, 2017;*

(iii) *interest at the applicable rate under Section 50(1) of the CGST Act, 2017/OGST Act, 2017 should not be charged and recovered on the amount at (ii) above from the day following the due date for payment of each month till the date of payment;*

(iv) *a penalty of Rs.21,750/- (Central tax) and Rs.42,750/- (Odisha State tax), total Rs.64,500/-, being ten per cent of the amount in default, should not be imposed on the PSU under Section 74A(5)(i) of the CGST Act, 2017/OGST Act, 2017 (without prejudice to the benefit of nil penalty under Section 74A(8) on payment of the amount and interest within the time therein specified); and*

(v) *penalty should not separately be imposed on the PSU under Section 122(1)(v) of the CGST Act, 2017/OGST Act, 2017, without prejudice to (iv) above and subject to Section 75(13) of the CGST Act, 2017.*

D. DRAFT SHOW CAUSE NOTICE

F. No. GEXCOM/ADJN/SCN/[•]/2026-BHUBANESWAR

DIN: [Document Identification Number to be auto-generated on issue]

Office of the Superintendent, CGST Range - [•], Division - [•], Bhubaneswar CGST Commissionerate, Odisha

Date: [•].11.2026

SHOW CAUSE NOTICE

(Issued under Section 51(7) and Section 74A of the Central Goods and Services Tax Act, 2017 read with the corresponding provisions of the Odisha Goods and Services Tax Act, 2017)

To,
M/s XXX Ltd. (a Government of Odisha undertaking),
through Mr. Z, General Manager (Finance) and authorised signatory,
YYYY, Bhubaneswar, Odisha.

(hereinafter referred to as 'the Noticee' or 'the PSU', which expression shall, unless the context otherwise requires, include M/s XXX Ltd. acting through its authorised officers)

WHEREAS M/s XXX Ltd. (GSTIN [•]) is a public sector undertaking wholly owned by the Government of Odisha and is a person notified to deduct tax at source under Section 51(1) of the CGST Act, 2017 by Notification Nos. 33/2017-Central Tax dated 15.09.2017 and 50/2018-Central Tax dated 13.09.2018, with effect from 01.10.2018. It is registered as a deductor and files FORM GSTR-7 monthly; Mr. Z, General Manager (Finance), is its authorised signatory for GSTR-7 and is in charge of its vendor payments (RUD-1);

2. AND WHEREAS comparison of the GSTR-7 returns of the PSU for FY 2024-25 with the receipts reported by contractors in their GSTR-1 and with the contract award list on the State e-procurement portal (RUD-2) showed that tax had been deducted only against a few contractors. A letter dated 14.07.2026 and a summons dated 28.07.2026 under Section 70 of the CGST Act, 2017 (RUD-3) were issued, in response to which Mr. Z appeared on 12.08.2026 and produced the contract register, letters of award, vendor ledgers, payment vouchers, the vendor master and the GSTR-7 returns (RUD-4 to RUD-8);

3. AND WHEREAS in his statement dated 12.08.2026 under Section 70 (RUD-9), Mr. Z admitted, inter alia, that:

- for contracts C-02 and C-07 the Rs.2.5 lakh threshold was applied to each running bill and not to the total value of the contract;
- for contracts C-05 and C-06 the vendors had been on-boarded before 01.10.2018 with the flag 'TDS-GST = N' in the vendor master, which was never reviewed;
- for contract C-03 the software was configured to deduct 1% for central tax only; and
- he was aware of the obligation under Section 51 and is willing to pay the tax short deducted;

4. AND WHEREAS Mr. P, Manager (Accounts), in his statement dated 13.08.2026 (RUD-10), confirmed the above, and the contract-wise examination of the records (RUD-4 to RUD-8) shows that the total value of each of contracts C-02, C-03, C-05, C-06 and C-07 exceeds Rs.2,50,000/- (excluding tax), that all the suppliers are located in Odisha and the supplies were made to the PSU's units in Odisha, and that no tax was deducted on payments of Rs.2,17,50,000/- under C-02, C-05, C-06 and C-07 and tax of only 1% (central tax) was deducted on payments of Rs.2,10,00,000/- under C-03. Contracts C-04 and C-10 (value not exceeding Rs.2,50,000/-) and C-08 (supply by another public sector undertaking) have been examined and excluded from this notice, and contracts C-01 and C-09 stand fully complied with;

5. AND WHEREAS the tax short deducted is worked out as follows (month-wise basis in Annexure-A):

Contract (contractor)	Payments (Rs.)	CGST @1% short (Rs.)	OGST @1% short (Rs.)
C-02 (M/s BBB)	42,00,000	42,000	42,000
C-03 (M/s CCC)	2,10,00,000	-	2,10,000
C-05 (M/s EEE)	61,00,000	61,000	61,000
C-06 (M/s FFF)	88,00,000	88,000	88,000
C-07 (M/s GGG)	26,50,000	26,500	26,500
TOTAL	**4,27,50,000**	**2,17,500**	**4,27,500**

6. AND WHEREAS the default is not shown to have been by reason of fraud, wilful misstatement or suppression of facts to evade tax: the contracts and payments were recorded in the PSU's books, tax was deducted and deposited on other contracts, the records were produced on the first summons and willingness to pay was expressed. The amount in default is therefore determined under Section 51(7) read with Section 74A, and penalty under Section 74A(5)(i) of the CGST Act, 2017/OGST Act, 2017 is proposed;

7. AND WHEREAS it thus appears that the PSU has contravened Section 51(1) of the CGST Act, 2017/OGST Act, 2017 read with Notification Nos. 33/2017-Central Tax and 50/2018-Central Tax, and is liable to:

(a) determination and recovery of the amount in default under Section 51(7) read with Section 74A of the CGST Act, 2017/OGST Act, 2017;

(b) interest under Section 50(1) of the CGST Act, 2017/OGST Act, 2017;

(c) penalty under Section 74A(5)(i) of the CGST Act, 2017/OGST Act, 2017; and

(d) penalty under Section 122(1)(v) of the CGST Act, 2017/OGST Act, 2017 (without prejudice to, and subject to Section 75(13) in relation to, the penalty at (c) above);

NOW, THEREFORE

M/s XXX Ltd., a public sector undertaking of the Government of Odisha, acting through Mr. Z, General Manager (Finance) and authorised signatory, is hereby called upon to show cause in writing to the Superintendent, CGST Range - [•], Bhubaneswar CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) the PSU should not be held to have failed to deduct tax at source, as required by Section 51(1) of the CGST Act, 2017/OGST Act, 2017 read with Notification Nos. 33/2017-Central Tax and 50/2018-Central Tax, on payments of Rs.2,17,50,000/- made during FY 2024-25 to the suppliers under contracts C-02, C-05, C-06 and C-07, and to have short deducted tax on payments of Rs.2,10,00,000/- under contract C-03;

(ii) an amount of Rs.2,17,500/- (Central tax) and Rs.4,27,500/- (Odisha State tax), total Rs.6,45,000/- (Rupees Six Lakh Forty-Five Thousand only), being the amount in default under Section 51, as detailed in Annexure-A to this notice, should not be determined, demanded and recovered from the PSU under Section 51(7) read with Section 74A(1) of the CGST Act, 2017 and the corresponding provisions of the OGST Act, 2017;

(iii) interest at the applicable rate under Section 50(1) of the CGST Act, 2017/OGST Act, 2017 should not be charged and recovered on the amount at (ii) above from the day following the due date for payment of each month till the date of payment;

(iv) a penalty of Rs.21,750/- (Central tax) and Rs.42,750/- (Odisha State tax), total Rs.64,500/-, being ten per cent of the amount in default, should not be imposed on the PSU under Section 74A(5)(i) of the CGST Act, 2017/OGST Act, 2017 (without prejudice to the benefit of nil penalty under Section 74A(8) on payment of the amount and interest within the time therein specified); and

(v) penalty should not separately be imposed on the PSU under Section 122(1)(v) of the CGST Act, 2017/OGST Act, 2017, without prejudice to (iv) above and subject to Section 75(13) of the CGST Act, 2017.

8. The Noticee is further informed that:

- a written reply to this notice, along with all documents relied upon, must be furnished within thirty (30) days of receipt of this notice, failing which the case will be decided ex parte on the basis of available records, on merits;
- an opportunity of personal hearing will be granted before adjudication, on a date to be separately intimated, and the Noticee (through an authorised representative) may appear in person or through counsel;
- attention is drawn to the benefit available under Section 74A(8) of the CGST Act, 2017/OGST Act, 2017, whereby, if the amount at (ii) above and the interest at (iii) above are paid before the issue of this notice, no notice shall be served in respect of the said amount; and if they are paid within sixty (60) days of the issue of this notice, no penalty shall be payable and all proceedings in respect of the said notice shall be deemed to be concluded;
- this notice is issued without prejudice to any other action that may be taken against the Noticee or any other person under the CGST Act, 2017/OGST Act, 2017, or any other law for the time being in force.

List of Relied Upon Documents (RUDs):

RUD-1: Registration certificate of the PSU as deductor and authorisation of Mr. Z;

RUD-2: Range comparison statement (GSTR-7 vs contractors' GSTR-1 vs e-procurement award list);

RUD-3: Letter dated 14.07.2026 and summons dated 28.07.2026 under Section 70, with proof of service;

RUD-4: Contract register and letters of award for contracts C-01 to C-10;

RUD-5: Vendor ledgers and payment vouchers for FY 2024-25;

RUD-6: Vendor master extract showing the flag 'TDS-GST = N';

RUD-7: Software configuration record for contract C-03;

RUD-8: FORM GSTR-7 returns of the PSU for April 2024 to March 2025;

RUD-9: Statement of Mr. Z recorded on 12.08.2026 under Section 70;

RUD-10: Statement of Mr. P recorded on 13.08.2026 under Section 70;

Annexure-A: Contract-wise and month-wise statement of TDS short deducted and interest base [as per the working in Part B].

(_____)
Superintendent, CGST
Range - [•], Division - [•], Bhubaneswar CGST Commissionerate

Copy to: The Deputy/Assistant Commissioner, CGST Division, Bhubaneswar, for information.

Drafting note (not part of the notice):

- *The addressee, jurisdictional range/officer, F. No./DIN and dates shown in square brackets/blanks are illustrative placeholders and must be completed with the correct particulars before issue.*

- *The tax, interest and penalty figures are worked out on the reasoned basis explained in Part B and remain subject to reconciliation with the seized/recorded documents.*
- ***Rate and threshold (verified).*** *Section 51(1) itself prescribes deduction at one per cent (and a like one per cent under the State Act), on payments to a supplier of taxable goods or services where the total value of supply under a contract exceeds Rs.2,50,000/- excluding taxes; the proviso excludes supplies where the supplier's location and the place of supply are in a State different from that of registration of the recipient. The combined rate of 2% is therefore 1% central plus 1% State. PSUs were notified as deductors by Notification No. 33/2017-Central Tax (deferred) and brought in from 01.10.2018 by Notification No. 50/2018-Central Tax, as amended by Notification Nos. 57/2018, 61/2018 and 73/2018 (which exclude certain Defence authorities, PSU-to-PSU supplies and supplies between notified deductors).*
- ***Teaching twist - the 'person' and the 'authorised officer'.*** *The deductor is the PSU as an entity (a registered person under Section 24(vi)); Mr. Z signs GSTR-7 and receives the notice but is not a noticee in his personal capacity. Trainees should not reflexively add Section 122(3)(a) or Section 137 against the officer; consider them only if there is evidence of knowing complicity. The SCN is served on the PSU as a corporate body and the reply is by a competent authorised representative.*
- ***Do not over-charge.*** *Of ten contracts the draft demands on five. Three correct non-deduction cases (C-04, C-10, C-08) and two compliant contracts (C-01, C-09) appear in the facts to test whether trainees read the threshold ('exceeds'), the PSU-to-PSU proviso and the correct base (value excluding tax).*
- ***Section 51(7) and Section 74A.*** *The mention of Section 74A in Section 51(7) was verified from a current reproduction of the section with its amendment footnote (Finance (No. 2) Act, 2024; effective 01.11.2024 per Notification No. 17/2024-Central Tax). Compare Exercise-41: Section 52 has no counterpart provision, which is why a TCS demand is less secure than a TDS demand.*
- ***UNCERTAIN items:*** *(1) Reference date for the Section 74A(2) time limit for a deductor outside Section 44 (see B-2). (2) Double recovery where the deductee has paid its own tax (see B-6) - no authority was verified, and no case law is cited. (3) The interplay of the Section 74A(5)(i) penalty with the penalty under Section 122(1)(v) follows the house style of Exercise-01 (Section 75(13)); whether Section 75(13) names Section 74A could not be confirmed.*
- ***Fraud or non-fraud?*** *Non-fraud is proposed. If a vendor flag had been set deliberately to avoid deduction for favoured contractors (for example, a flag changed after 01.10.2018 without any reason on file), the charge could be raised to Section 74A(5)(ii) and the individual who made the change examined under Section 122(3)(a).*
- *The draft should be settled by the jurisdictional Range/Division before issue (DRC-01), including verification of the monetary-limit-based issuing/adjudicating authority under Circular No. 31/05/2018-GST dated 09.02.2018 (Superintendent: central tax up to Rs.10 lakh; Deputy/Assistant Commissioner: above Rs.10 lakh up to Rs.1 crore; Additional/Joint Commissioner: above Rs.1 crore). Here the central tax demand is Rs.2,17,500/-, within the Superintendent's limit.*
- *Return of non-RUDs (Non-Relied Upon Documents): When the SCN is issued to the taxpayer in the form of DRC-01 (uploaded on the portal if registered, as well as delivered as per the provisions of law), non-RUDs must be returned to the noticee under due acknowledgement within seven days of issuance of the SCN.*

***

Exercise 43

Input tax credit availed twice on the same invoices and partly utilised - demand under Section 74A and interest under Section 50(3) read with Rule 88B(3)

Exercise 43: Input tax credit availed twice on the same invoices and partly utilised - demand under Section 74A and interest under Section 50(3) read with Rule 88B(3)

Situation in Brief:

1. M/s XXX Pvt. Ltd. (hereinafter 'the Company') is a registered person (GSTIN of Haryana) engaged in the manufacture of sheet-metal auto components at YYYY, IMT Manesar, Gurugram, Haryana, and supplies them to vehicle manufacturers in Haryana and other States. Its Director (Finance), Mr. Z, is responsible for the accounts and GST compliance of the Company. The Company procures a substantial part of its steel and tooling from suppliers located outside Haryana and therefore claims large amounts of input tax credit of integrated tax (IGST) every month.

2. The Commissioner, CGST Gurugram, authorised an audit of the Company under Section 65 of the CGST Act, 2017 for the financial year 2024-25. Notice in FORM GST ADT-01 dated 02.06.2025 was served, and the audit commenced at the Company's premises on 25.06.2025. While reconciling the purchase register and the invoice-wise ITC claimed in FORM GSTR-3B with the details auto-populated in FORM GSTR-2B, the audit team found that 41 invoices of six suppliers located outside Haryana (aggregate IGST Rs.60,00,000/-) had been credited in the Company's electronic credit ledger twice: first in the return for July 2024 and again in the return for August 2024. The invoices appear in the Company's ERP purchase register under their original voucher numbers and again under a fresh voucher series created on 28.08.2024, when the accounts team re-uploaded the goods-receipt-based vendor ledger. The invoice details were communicated in FORM GSTR-2B for July 2024 only; no invoice-level details for the second set appear in the GSTR-2B for August 2024. A discrepancy memo was issued to the Company on 15.07.2025.

3. The statement of Mr. Z was recorded on 22.07.2025 under Section 70 of the CGST Act, 2017, wherein he stated that the second claim was a posting error in the ERP made by the accounts team; that the same 41 invoices had been entered twice; that no additional supply of goods had been received against the second set; that the Company's tax consultants had not reconciled GSTR-3B with GSTR-2B for August 2024 at the time of filing; that the Company accepts that the credit of Rs.60,00,000/- is not admissible; and that, as the Company's ledger balance had remained low during the months after August 2024, 'the credit must have been used up'. The Company's written reply dated 28.07.2025 to the discrepancy memo substantially reiterated these points.

4. The month-wise position of the IGST balance in the Company's electronic credit ledger, as per the ledger statement and FORM GSTR-3B for the months August 2024 to March 2025 (the amounts debited being the IGST credit set off towards integrated tax, central tax and State tax payable for the month, in the order prescribed by Rule 88A), is as follows (all returns are monthly; due date is the 20th of the following month):

Return month	GSTR-3B filed on	Opening balance (Rs.)	Genuine IGST ITC credited (Rs.)	IGST ITC claimed again on same invoices (Rs.)	Debited towards tax payable (Rs.)	Closing balance (Rs.)
Aug-2024	19.09.2024	15,00,000	40,00,000	60,00,000	62,00,000	53,00,000
Sep-2024	18.10.2024	53,00,000	35,00,000	-	70,00,000	18,00,000
Oct-2024	19.11.2024	18,00,000	38,00,000	-	46,00,000	10,00,000
Nov-2024	18.12.2024	10,00,000	36,00,000	-	38,00,000	8,00,000
Dec-2024	20.01.2025	8,00,000	40,00,000	-	30,00,000	18,00,000
Jan-2025	19.02.2025	18,00,000	34,00,000	-	36,00,000	16,00,000
Feb-2025	20.03.2025	16,00,000	37,00,000	-	38,00,000	15,00,000
Mar-2025	17.04.2025	15,00,000	39,00,000	-	40,00,000	14,00,000

5. The ledger extract for April 2025 to September 2026 shows that the IGST balance never fell below Rs.8,00,000/- in any month of that period (lowest closing balance Rs.8,40,000/-). On 28.08.2025 the Company paid Rs.36,00,000/- through FORM GST DRC-03 as 'reversal of excess ITC availed in August 2024' and, along with it, interest of Rs.5,53,907/-, which it had worked out at 18% per annum on the amount paid for the period from 20.10.2024 (due date of the September 2024 return) to the date of payment. No other amount has been paid or reversed. In the final audit report in FORM GST ADT-02 dated 18.09.2025 (communicated on 17.10.2025) the audit team treated the balance ITC of Rs.24,00,000/- as ITC wrongly availed and the interest as short paid. The proper officer communicated the amount payable in FORM GST DRC-01A (Part A) on 21.11.2025; in Part B dated 05.12.2025 the Company contended that interest under Section 50(3) cannot be charged at 24%, and that unutilised credit lying in the ledger cannot be demanded, but made no payment.

6. Now in the light of the above, -

(i) Identify the provision(s) of GST law contravened by M/s XXX Pvt. Ltd. (under heading **Contravention**).

(ii) Identify the provision(s) of GST law under which action is to be taken against M/s XXX Pvt. Ltd. (under heading **Consequences of Contravention of legal Provisions**).

(iii) Draft the **Charging Paragraph** of the Show Cause Notice proposed to be issued to M/s XXX Pvt. Ltd., calling upon M/s XXX Pvt. Ltd. (acting through its Director Mr. Z) to show cause as to why action should not be taken against them, while listing the proposed action to be taken against M/s XXX Pvt. Ltd. (acting through its Director Mr. Z).

(iv) Also prepare the **draft Show Cause Notice** for issuance to M/s XXX Pvt. Ltd..

***

SUGGESTED SOLUTION

(Audit under Section 65, Determination of ITC wrongly availed and utilised under Section 74A, Computation of interest under Rule 88B(3), and Draft Show Cause Notice - M/s XXX Pvt. Ltd., Gurugram CGST Commissionerate)

A. CONTRAVENTION

On the facts as recorded, the following provisions of law stand contravened (in each case read with Section 20 of the Integrated Goods and Services Tax Act, 2017 [IGST Act] as the credit involved is of integrated tax, with the corresponding provisions of the Haryana Goods and Services Tax Act, 2017 [HGST Act] and the Rules made thereunder):

1. **Section 16(1) and Section 41(1) of the CGST Act, 2017** - input tax credit is allowed only in respect of the tax charged on a supply, and only 'eligible' credit may be taken in the return as self-assessed. Credit of IGST of Rs.60,00,000/- was taken twice on the same 41 invoices; the second availment has no supply behind it and is not eligible credit.
2. **Section 16(2)(aa) of the CGST Act, 2017** - the second availment was not supported by invoice details furnished by the suppliers in their statements of outward supplies and communicated to the Company in FORM GSTR-2B for August 2024; the details had already been communicated, and credit taken, for July 2024.
3. **Section 50(3) of the CGST Act, 2017 read with Rule 88B(3) of the CGST Rules, 2017** - failure to pay interest, at the rate notified under Section 50(3), on the ITC that was wrongly availed *and utilised*, for the period from the date of utilisation to the date of reversal or payment. Interest paid by the Company (at 18% and on the whole amount from a single date) is not in accordance with this provision.

Note: *Section 122(1)(vii) (taking ITC without actual receipt of goods) is not invoked: the goods covered by the 41 invoices were actually received, and credit on them was properly taken in July 2024. The fault lies in the second claim on the same supply, which is an error of availment and not a case of invoices without supply. Section 122(2)(a) is not separately invoked, since penalty is proposed under Section 74A(5)(i) for the same default and Section 75(13) bars a second penalty for the same act or omission. Rule 86A (blocking of credit) was considered and is not proposed: the unutilised balance is small, the error is admitted, and the proper course is to demand and recover it in these proceedings. Section 73 and Section 74 are not applicable because the period is FY 2024-25; Section 74A governs [Section 74A(12); Notification No. 17/2024-Central Tax dated 27.09.2024].*

B. CONSEQUENCES OF CONTRAVENTION OF LEGAL PROVISIONS

The contraventions at (A) above expose the Company to the following action under the CGST Act, 2017 read with Section 20 of the IGST Act, 2017 (and the corresponding provisions of the HGST Act, 2017):

1. Route chosen - The matter arose in audit under Section 65, where detection of ITC wrongly availed or utilised permits proceedings under Section 73, 74 or 74A [Section 65(7)]. For FY 2024-25 the applicable provision is **Section 74A(1)**, which covers ITC wrongly availed or utilised together with interest under Section 50 and penalty, so a stand-alone demand of interest is not needed. Pre-notice intimation in FORM GST DRC-01A under Rule 142(1A) (discretionary) has been made. The notice may be issued within forty-two months from the due date of the annual return for FY 2024-25 (31.12.2025), and the order within twelve months of the notice [Section 74A(2) and (7)].
2. Demand of ITC (tax) - IGST of Rs.60,00,000/- was availed twice; the Company paid Rs.36,00,000/- on 28.08.2025. The balance of Rs.24,00,000/- is demanded. It consists of Rs.16,00,000/- which stands *utilised* against output tax liability and Rs.8,00,000/- which is still *unutilised* and lies in the electronic credit ledger. Both parts are 'wrongly availed' credit and are demandable under Section 74A(1); the unutilised part can be discharged by reversal (debit of the electronic credit ledger), while the utilised part must be paid in cash. The pre-notice payment of Rs.36,00,000/- is not a payment of 'tax and

interest' in full, and so it does not take the case out of the notice; the notice is issued for the balance [Section 74A(10)].

3. Interest - availed versus utilised - Interest under **Section 50(3)** is leviable only on credit that is wrongly availed *and utilised*, at the rate notified under that sub-section (24% per annum), and runs from the date of utilisation to the date of reversal or payment [Rule 88B(3)]. Under the Explanation to Rule 88B(3), credit is treated as utilised when the balance in the electronic credit ledger falls below the amount wrongly availed, and the extent of utilisation is the amount of the fall; the date of utilisation is the earlier of the due date and the actual date of filing of the return, where the fall occurs on payment of tax through the return. The ledger balance is the test, whatever the order of set-off of the heads of credit under Rule 88A. Applying this to the ledger, utilisation occurred in four tranches totalling Rs.52,00,000/-; the balance of Rs.8,00,000/- never became utilised, and no interest under Section 50(3) is charged on it (this does not reduce the amount to be reversed). Interest is charged on each tranche up to the date of payment of the tax in respect of it (for the paid part) or up to 31.10.2026 for the working (unpaid part), and will be recalculated up to the date of actual payment.

4. Penalty - **Section 74A(5)(i)**: ten per cent of the tax due or Rs.10,000/-, whichever is higher, i.e. Rs.2,40,000/-. *Why not Section 74A(5)(ii)?* A penalty equal to the tax requires fraud, wilful misstatement or suppression of facts to evade tax. The credit was claimed openly in FORM GSTR-3B on invoices that were genuine; the duplication arose from an ERP re-upload; the Company admitted the error on the first query, and reversed a substantial part on its own before any notice. There is no evidence of intent. The concession in **Section 74A(8)(ii)** is available: if the tax and interest are paid within sixty days of issue of the notice, no penalty is payable and the proceedings are concluded (Rule 142(3), FORM GST DRC-03 and DRC-05).

5. Recovery - under Sections 78 and 79 of the CGST Act, 2017 if the amount confirmed is not paid in time.

6. Prosecution - Section 132 has been considered and is not proposed; the default arises from an admitted posting error and no intention to evade tax is established.

7. Issuing authority - the demand of integrated tax (Rs.24,00,000/-) is above Rs.20 lakh and below Rs.2 crore, so the notice is issued by the Deputy/Assistant Commissioner (see notes).

Illustrative working (a) - utilisation of wrongly availed ITC (Rule 88B(3), Explanation) on the ledger balances:

Return	Due date	Filed on	Closing balance (Rs.)	Shortfall below Rs.60,00,000 (Rs.)	Fresh utilisation (Rs.)	Date of utilisation
Aug-2024	20.09.2024	19.09.2024	53,00,000	7,00,000	7,00,000	19.09.2024
Sep-2024	20.10.2024	18.10.2024	18,00,000	42,00,000	35,00,000	18.10.2024
Oct-2024	20.11.2024	19.11.2024	10,00,000	50,00,000	8,00,000	19.11.2024
Nov-2024	20.12.2024	18.12.2024	8,00,000	52,00,000	2,00,000	18.12.2024
Dec-2024	20.01.2025	20.01.2025	18,00,000	42,00,000	-	-
Jan-2025	20.02.2025	19.02.2025	16,00,000	44,00,000	-	-
Feb-2025	20.03.2025	20.03.2025	15,00,000	45,00,000	-	-
Mar-2025	20.04.2025	17.04.2025	14,00,000	46,00,000	-	-
TOTAL					**52,00,000**	

Illustrative working (b) - interest under Section 50(3) at 24% per annum (days = date to which interest is charged minus date of utilisation):

Tranche (return)	Amount (Rs.)	From	To	Days	Interest @24% (Rs.)	Status
Aug-2024	7,00,000	19.09.2024	28.08.2025	343	1,57,874	tax paid 28.08.2025
Sep-2024	29,00,000	18.10.2024	28.08.2025	314	5,98,751	tax paid 28.08.2025
Sep-2024	6,00,000	18.10.2024	31.10.2026	743	2,93,129	tax unpaid
Oct-2024	8,00,000	19.11.2024	31.10.2026	711	3,74,005	tax unpaid
Nov-2024	2,00,000	18.12.2024	31.10.2026	682	89,688	tax unpaid
Unutilised balance	8,00,000	-	-	-	Nil	no utilisation; s.50(3) not attracted
TOTAL	**60,00,000**				**15,13,447**	

Basis: *The Company paid interest of Rs.5,53,907/- on 28.08.2025; the interest properly payable up to that date on the part for which tax was paid is Rs.7,56,625/-, leaving a short payment of Rs.2,02,718/-. Interest on the unpaid utilised tranches is Rs.7,56,822/- up to 31.10.2026. Total interest demanded is Rs.9,59,540/-.*

Summary of the amount proposed to be demanded:

Particulars	Amount (Rs.)	Remarks
IGST ITC wrongly availed (Aug-2024)	60,00,000	duplicate claim
Less: tax paid through FORM GST DRC-03 on 28.08.2025	36,00,000	to be appropriated
Tax (ITC) now to be demanded - Section 74A(1)	24,00,000	16,00,000 utilised + 8,00,000 unutilised
Interest u/s 50(3) on the part already paid - at 24% less Rs.5,53,907 paid by Noticee	2,02,718	differential
Interest u/s 50(3) on the utilised part still unpaid (up to 31.10.2026)	7,56,822	continues till payment
Penalty - Section 74A(5)(i) (10% of tax due)	2,40,000	non-fraud
TOTAL (tax + interest + penalty)	**35,99,540**	

C. CHARGING PARAGRAPH OF THE SHOW CAUSE NOTICE

[The following is the operative charging paragraph proposed for incorporation in the Show Cause Notice at Part D below.]

Now, therefore, M/s XXX Pvt. Ltd., a company registered in Haryana and having its factory at YYYY, IMT Manesar, Gurugram (acting through its Director, Mr. Z), is hereby called upon to show cause in writing to the Deputy/Assistant Commissioner, CGST Division - [•], Gurugram CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) *the integrated tax credit of Rs.60,00,000/- availed by them in the return for August 2024 on invoices on which credit had already been taken in July 2024 should not be held to be input tax credit wrongly availed in contravention of Sections 16(1), 16(2)(aa) and 41(1) of the CGST Act, 2017, read with Section 20 of the IGST Act, 2017/HGST Act, 2017;*

(ii) *the payment of Rs.36,00,000/- made by them through FORM GST DRC-03 on 28.08.2025 should not be appropriated against the above tax; and the balance integrated tax credit of Rs.24,00,000/- (of which Rs.16,00,000/- has been utilised and Rs.8,00,000/- is unutilised) should not be demanded and recovered from them under Section 74A(1) of the CGST Act, 2017 read with*

Section 20 of the IGST Act, 2017 (the unutilised part being liable to be discharged by reversal through debit of the electronic credit ledger);

(iii) *interest under Section 50(3) of the CGST Act, 2017 read with Rule 88B(3) of the CGST Rules, 2017 and Section 20 of the IGST Act, 2017, at 24% per annum on the credit utilised, amounting to Rs.9,59,540/- up to 31.10.2026 (Rs.2,02,718/- being the short payment on the part for which tax was paid on 28.08.2025, after giving credit for the interest of Rs.5,53,907/- paid, and Rs.7,56,822/- on the utilised part still unpaid), should not be demanded and recovered from them, together with further interest up to the date of payment;*

(iv) *a penalty of Rs.2,40,000/-, being ten per cent of the tax due, should not be imposed on them under Section 74A(5)(i) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017/HGST Act, 2017 (without prejudice to the benefit of nil penalty under Section 74A(8)(ii) on payment of tax and interest within sixty days of issue of the notice).*

D. DRAFT SHOW CAUSE NOTICE

F. No. GEXCOM/ADJN/SCN/[•]/2026-GURUGRAM

DIN: [Document Identification Number to be auto-generated on issue]

Office of the Deputy/Assistant Commissioner, CGST Division - [•], Gurugram CGST Commissionerate, Haryana

Date: [•].11.2026

SHOW CAUSE NOTICE

(Issued under Section 74A of the Central Goods and Services Tax Act, 2017 read with Section 20 of the Integrated Goods and Services Tax Act, 2017 and the corresponding provisions of the Haryana Goods and Services Tax Act, 2017)

To,
M/s XXX Pvt. Ltd.,
(through its Director, Mr. Z),
YYYY, IMT Manesar, Gurugram, Haryana.

(hereinafter referred to as 'the Noticee' or 'the Company')

WHEREAS the Noticee, M/s XXX Pvt. Ltd., is registered in Haryana and is engaged in the manufacture and supply of sheet-metal auto components from YYYY, IMT Manesar, Gurugram, and claims input tax credit of integrated tax on inward supplies received from suppliers outside Haryana;

2. AND WHEREAS the Commissioner, CGST Gurugram, authorised an audit of the Noticee for FY 2024-25 under Section 65 of the CGST Act, 2017; notice in FORM GST ADT-01 dated 02.06.2025 was served (RUD-1) and the audit commenced on 25.06.2025. On reconciliation of the purchase register and the ITC claimed in FORM GSTR-3B with FORM GSTR-2B (RUD-2 and RUD-3), the audit team found that 41 invoices of six suppliers outside Haryana, carrying IGST of Rs.60,00,000/-, were taken as credit in the return for July 2024 and again in the return for August 2024; the invoices appear in the ERP purchase register under their original voucher numbers and again under a new voucher series created on 28.08.2024, and invoice details for the second set were not communicated in the Noticee's FORM GSTR-2B for August 2024 (RUD-4). A discrepancy memo was issued on 15.07.2025 (RUD-5);

3. AND WHEREAS the statement of Mr. Z, Director (Finance), was recorded on 22.07.2025 under Section 70 of the CGST Act, 2017 (RUD-6), wherein he, inter alia, admitted and stated that:

- the same 41 invoices were entered twice in the ERP and credit was taken twice, and no additional goods were received against the second set;
- the Noticee's consultants did not reconcile FORM GSTR-3B with FORM GSTR-2B for August 2024 before filing;
- the Noticee accepts that credit of Rs.60,00,000/- is not admissible; and
- as the ledger balance remained low in the following months, the credit 'must have been used up'; the Noticee's written reply dated 28.07.2025 (RUD-7) substantially reiterated these points;

4. AND WHEREAS the Noticee's electronic credit ledger for the period August 2024 to September 2026 (RUD-8) shows that, in the return for August 2024 filed on 19.09.2024, the closing IGST balance after debit of Rs.62,00,000/- towards tax payable was Rs.53,00,000/-, i.e. below the amount of Rs.60,00,000/- wrongly availed; and that the balance fell further in the returns for September, October and November 2024, the lowest closing balance (Rs.8,00,000/-) being on 18.12.2024. The credit wrongly availed has accordingly been utilised, within the meaning of the Explanation to Rule 88B(3) of the CGST Rules, 2017, to the extent of Rs.52,00,000/-, in the four tranches shown in the table below,

and the balance of Rs.8,00,000/- has remained unutilised, the ledger balance in all later months, up to September 2026, having stayed above Rs.8,00,000/-;

Tranche (return of)	Date of utilisation	Amount utilised (Rs.)	Paid on 28.08.2025 (Rs.)	Unpaid (Rs.)
Aug-2024	19.09.2024	7,00,000	7,00,000	0
Sep-2024	18.10.2024	35,00,000	29,00,000	6,00,000
Oct-2024	19.11.2024	8,00,000	0	8,00,000
Nov-2024	18.12.2024	2,00,000	0	2,00,000
TOTAL		**52,00,000**	**36,00,000**	**16,00,000**

5. AND WHEREAS the Noticee paid Rs.36,00,000/- through FORM GST DRC-03 on 28.08.2025 (RUD-9) towards the credit wrongly availed, and interest of Rs.5,53,907/-, which it computed at 18% on the amount paid from 20.10.2024; no other payment has been made. The interest leviable under Section 50(3) read with Rule 88B(3), at 24% per annum from the respective dates of utilisation, is Rs.7,56,625/- on the part for which tax was paid (a short payment of Rs.2,02,718/-) and Rs.7,56,822/- on the utilised part which is still unpaid, being Rs.9,59,540/- in all up to 31.10.2026, as shown in Annexure-A;

6. AND WHEREAS the final audit report in FORM GST ADT-02 dated 18.09.2025 (RUD-10) and the intimation in FORM GST DRC-01A dated 21.11.2025 (RUD-11) communicated these findings; the Noticee's submission dated 05.12.2025 (RUD-12) did not dispute the duplication but raised contentions as to rate of interest and demand of unutilised credit. These contentions are not tenable: the rate of interest is fixed under Section 50(3) as notified and not by the Noticee's choice, and credit wrongly availed is demandable under Section 74A(1) whether or not it has been utilised, though interest under Section 50(3) is charged only on the utilised part;

7. AND WHEREAS the tax involved arose from an error in the Noticee's accounting system, which the Noticee admitted at the first instance and partly rectified on its own; the credit was claimed openly in its return on genuine invoices; and no evidence of fraud, wilful misstatement or suppression of facts to evade tax is available. The case is accordingly one for penalty under Section 74A(5)(i) and not Section 74A(5)(ii) of the CGST Act, 2017;

8. AND WHEREAS it thus appears that the Noticee has contravened the following provisions of the CGST Act, 2017, read with Section 20 of the IGST Act, 2017 (and the corresponding provisions of the HGST Act, 2017):

- Sections 16(1) and 41(1) - taking credit of integrated tax twice on the same supplies;
- Section 16(2)(aa) - second claim not supported by invoice details communicated in FORM GSTR-2B for the period;
- Section 50(3) read with Rule 88B(3) - non-payment of interest at the notified rate on credit wrongly availed and utilised;

9. AND WHEREAS the aforesaid acts and omissions of the Noticee render it liable to:

(a) demand and recovery of the balance integrated tax credit of Rs.24,00,000/- under Section 74A(1) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017;

(b) interest under Section 50(3) of the CGST Act, 2017 read with Rule 88B(3), as applied by Section 20 of the IGST Act, 2017; and

(c) penalty under Section 74A(5)(i) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017/HGST Act, 2017;

NOW, THEREFORE

M/s XXX Pvt. Ltd., through its Director Mr. Z, is hereby called upon to show cause in writing to the Deputy/Assistant Commissioner, CGST Division - [•], Gurugram CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) the integrated tax credit of Rs.60,00,000/- availed by them in the return for August 2024 on invoices on which credit had already been taken in July 2024 should not be held to be input tax credit wrongly availed in contravention of Sections 16(1), 16(2)(aa) and 41(1) of the CGST Act, 2017, read with Section 20 of the IGST Act, 2017/HGST Act, 2017;

(ii) the payment of Rs.36,00,000/- made by them through FORM GST DRC-03 on 28.08.2025 should not be appropriated against the above tax; and the balance integrated tax credit of Rs.24,00,000/- (of which Rs.16,00,000/- has been utilised and Rs.8,00,000/- is unutilised) should not be demanded and recovered from them under Section 74A(1) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017 (the unutilised part being liable to be discharged by reversal through debit of the electronic credit ledger);

(iii) interest under Section 50(3) of the CGST Act, 2017 read with Rule 88B(3) of the CGST Rules, 2017 and Section 20 of the IGST Act, 2017, at 24% per annum on the credit utilised, amounting to Rs.9,59,540/- up to 31.10.2026 (Rs.2,02,718/- being the short payment on the part for which tax was paid on 28.08.2025, after giving credit for the interest of Rs.5,53,907/- paid, and Rs.7,56,822/- on the utilised part still unpaid), should not be demanded and recovered from them, together with further interest up to the date of payment;

(iv) a penalty of Rs.2,40,000/-, being ten per cent of the tax due, should not be imposed on them under Section 74A(5)(i) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017/HGST Act, 2017 (without prejudice to the benefit of nil penalty under Section 74A(8)(ii) on payment of tax and interest within sixty days of issue of the notice).

10. The Noticee is further informed that:

- a written reply to this notice, along with all documents relied upon, must be furnished within thirty (30) days of receipt of this notice, failing which the case will be decided ex parte on merits on the basis of the available records;
- an opportunity of personal hearing will be granted before adjudication, on a date to be separately intimated;
- attention is drawn to Section 74A(8) of the CGST Act, 2017: if the tax at (ii) above and the interest at (iii) above are paid within sixty (60) days of the issue of this notice, no penalty shall be payable and all proceedings in respect of this notice shall be deemed to be concluded; and the Noticee is entitled to credit for the amounts already paid on 28.08.2025;
- interest will continue to accrue up to the date of actual payment or reversal; and
- this notice is issued without prejudice to any other action that may be taken against the Noticee or any other person under the CGST Act, 2017, the IGST Act, 2017, the HGST Act, 2017 or any other law for the time being in force.

List of Relied Upon Documents (RUDs):

RUD-1: Notice of audit in FORM GST ADT-01 dated 02.06.2025, with proof of service;

RUD-2: Purchase register (ERP extract) of the Noticee for July and August 2024, with the voucher-series listing of 28.08.2024;

RUD-3: FORM GSTR-3B for July 2024 and August 2024 and FORM GSTR-2B for July 2024 and August 2024;

RUD-4: Invoice-wise reconciliation of 41 duplicate invoices (six suppliers) prepared by the audit team;

RUD-5: Discrepancy memo dated 15.07.2025;

RUD-6: Statement of Mr. Z recorded on 22.07.2025 under Section 70;

RUD-7: Reply of the Noticee dated 28.07.2025;

RUD-8: Statement of the electronic credit ledger (IGST) for August 2024 to September 2026;

RUD-9: FORM GST DRC-03 and challan dated 28.08.2025;

RUD-10: Final audit report in FORM GST ADT-02 dated 18.09.2025 and its communication dated 17.10.2025;

RUD-11: FORM GST DRC-01A (Part A) dated 21.11.2025 and the Noticee's Part B dated 05.12.2025;

RUD-12: Written submission of the Noticee dated 05.12.2025;

Annexure-A: Computation of utilisation and interest under Rule 88B(3) [as per the workings in Part B].

(_____)
Deputy/Assistant Commissioner, CGST
CGST Division - [•], Gurugram CGST Commissionerate

Copy to: The Assistant Commissioner (Audit), for information.

Drafting note (not part of the notice):

- *The addressee, jurisdictional range/officer, F. No./DIN and dates shown in square brackets/blanks are illustrative placeholders and must be completed with the correct particulars before issue.*
- *The tax, interest and penalty figures are worked out on the reasoned basis explained in Part B and remain subject to reconciliation with the seized/recorded documents. Interest is worked out up to 31.10.2026 for illustration; recalculate up to the date of issue and, in the order, up to the date of payment.*
- ***Teaching twist - availed versus utilised.*** *Tax (ITC) is demandable under Section 74A(1) in full, but Section 50(3) interest is charged only on the part wrongly availed and utilised, from the date of utilisation fixed by the Explanation to Rule 88B(3) (ledger balance falling below the amount wrongly availed; earlier of due date and actual filing date). The ledger balance is the test, so the order of set-off under Rule 88A (IGST first) does not change the result.*
- ***Assumptions flagged.*** *(a) The extent of utilisation is carried forward at the largest fall reached; later genuine credits do not undo it. (b) The rule does not say which tranche a part-payment extinguishes; the draft uses earliest-first (favourable to the Noticee). (c) The cash payment of 28.08.2025 is treated as 'payment of tax in respect of such amount' under Rule 88B(3). (d) Penalty is computed on the balance tax of Rs.24,00,000/- and not on the whole Rs.60,00,000/-; the text of Section 74A(5) does not settle the point.*
- ***Pre-notice payment.*** *As tax and interest were not paid in full, Section 74A(8)(i) is not satisfied and the notice is for the balance [Section 74A(10)].*
- ***Rate of interest - UNVERIFIED NOTIFICATION.*** *Section 50(3) fixes only the ceiling (24%). The 24% rate is taken from the project law sheet; the notification text (and the IGST counterpart) could not be fetched and its number is deliberately not quoted in the notice. Check before issue.*
- ***Authority.*** *Circular No. 31/05/2018-GST is framed for Sections 73 and 74 and does not mention Section 74A; its limits are applied by analogy (IGST: Superintendent up to Rs.20 lakh; Deputy/Assistant Commissioner above Rs.20 lakh up to Rs.2 crore; Additional/Joint Commissioner above Rs.2 crore). The demand of Rs.24,00,000/- falls in the Deputy/Assistant Commissioner band. The draft should be settled*

by the jurisdictional Range/Division before issue (DRC-01), including verification of the monetary-limit-based issuing/adjudicating authority under Circular No. 31/05/2018-GST dated 09.02.2018 (Superintendent: central tax up to Rs.10 lakh; Deputy/Assistant Commissioner: above Rs.10 lakh up to Rs.1 crore; Additional/Joint Commissioner: above Rs.1 crore).

- *Return of non-RUDs (Non-Relied Upon Documents): When the SCN is issued to the taxpayer in the form of DRC-01 (uploaded on the portal if registered, as well as delivered as per the provisions of law), non-RUDs must be returned to the noticee under due acknowledgement within seven days of issuance of the SCN.*

***

Exercise 44

Sale of used plant and machinery on which input tax credit was taken - failure to pay the higher of credit-based amount and tax on transaction value under Section 18(6)

Exercise 44: Sale of used plant and machinery on which input tax credit was taken - failure to pay the higher of credit-based amount and tax on transaction value under Section 18(6)

Situation in Brief:

1. M/s XXX is a partnership firm, registered in Rajasthan, with Mr. Z as its Managing Partner, engaged in the manufacture of granite and marble slabs and tiles at YYYY, Sitapura Industrial Area, Jaipur, Rajasthan. The firm files monthly returns and its aggregate turnover in FY 2024-25 was about Rs.62 crore. Analysis of e-way bill data and of the GSTR-2B of registered buyers in Rajasthan showed that the firm had sold three high-value machines during FY 2024-25 to registered buyers within Rajasthan on tax invoices, with GST charged on the invoice value, but no reversal of input tax credit relating to these capital goods was found in the firm's FORM GSTR-3B for any month of the year.

2. A summons dated 15.07.2026 under Section 70 of the CGST Act, 2017 was issued to Mr. Z, who appeared on 31.07.2026 and produced (a) the fixed asset register of the firm for FY 2021-22 to FY 2024-25, (b) the three purchase invoices of the machines with the corresponding entries of ITC in the monthly FORM GSTR-3B, (c) the three sale invoices of FY 2024-25 and (d) a valuation report dated 12.02.2025 of an approved valuer, obtained by the firm's bank for a loan renewal, giving the market value of the stone-polishing line as Rs.52,00,000/-.

3. The statement of Mr. Z was recorded on 31.07.2026 under Section 70 of the CGST Act, 2017, wherein he stated that the three machines were purchased and capitalised in the fixed asset register as plant and machinery used in the manufacture of taxable goods; that full input tax credit of CGST and RGST on the purchase invoices was taken in the month of purchase and no depreciation was claimed on the tax component; that the machines were sold in FY 2024-25 after their replacement with newer lines; that GST was charged on the sale invoices on the price realised, as advised by the firm's accountant; that the firm did not reverse any input tax credit as he was not aware of any requirement to do so on the sale of old machinery; that the stone-polishing line was sold to M/s AAA, a partnership firm in which he holds a 60% profit share along with his wife and brother, at the price shown in the books of the firm after depreciation; and that the firm will pay any tax found due.

4. The particulars of the three machines, as per the documents produced, are as under (all the sales are intra-State; GST was charged at 9% CGST + 9% RGST on the sale value; the purchase invoices of the machines also carried tax at the same rate):

Machine	Purchase invoice date	Taxable value (Rs.)	ITC taken - CGST + RGST (Rs.)	Sale date / buyer	Sale value (Rs.)	GST charged - CGST + RGST (Rs.)
Machine A - CNC bridge-saw / profile-cutting centre	12.03.2022	1,20,00,000	21,60,000	10.11.2024 / M/s BBB	70,00,000	12,60,000
Machine B - Multi-blade gang-saw machine	05.08.2021	2,40,00,000	43,20,000	22.01.2025 / M/s CCC	60,00,000	10,80,000
Machine C - Imported stone-polishing line	11.07.2023	2,20,00,000	39,60,000	15.02.2025 / M/s AAA	36,00,000	6,48,000

5. The firm's tax liability for each month was discharged in the monthly return filed by the due date, the GST charged on the three sale invoices having been paid in the return for the month of sale (November 2024, January 2025 and February 2025). No additional amount, with reference to the input tax credit taken on the machines, has been paid. A pre-notice intimation in FORM GST DRC-01A was issued on 02.09.2026; Mr. Z, in Part B of that form dated 15.09.2026, stated that the firm is not able to pay and requested that the matter be decided on the available documents.

6. Now in the light of the above, -

(i) Identify the provision(s) of GST law contravened by M/s XXX (under heading **Contravention**).

(ii) Identify the provision(s) of GST law under which action is to be taken against M/s XXX (under heading **Consequences of Contravention of legal Provisions**).

(iii) Draft the **Charging Paragraph** of the Show Cause Notice proposed to be issued to M/s XXX, calling upon M/s XXX (through its Managing Partner Mr. Z) to show cause as to why action should not be taken against them, while listing the proposed action to be taken against M/s XXX (through its Managing Partner Mr. Z).

(iv) Also prepare the **draft Show Cause Notice** for issuance to M/s XXX.

***

SUGGESTED SOLUTION

(Inquiry on summons, Determination of Tax Liability under Section 74A, and Draft Show Cause Notice - M/s XXX, a partnership firm, Jaipur CGST Commissionerate)

A. CONTRAVENTION

On the facts as recorded, the following provisions of law stand contravened (in each case read with the corresponding provisions of the Rajasthan Goods and Services Tax Act, 2017 [RGST Act] and the Rules made under the two Acts):

1. **Section 18(6) of the CGST Act, 2017 read with Rule 40(2) of the CGST Rules, 2017** - on supply of capital goods or plant and machinery on which input tax credit has been taken, the registered person must pay an amount equal to the input tax credit taken, reduced by the prescribed percentage points (five percentage points for every quarter or part thereof from the date of the invoice for the goods), *or* the tax on the transaction value determined under Section 15, whichever is higher. On the sale of machines B and C the firm paid only the tax on the transaction value, which was lower than the credit-based amount.

2. **Section 39(7) of the CGST Act, 2017** (and Section 9(1)) - failure to pay the tax payable, as determined under Section 18(6), by the due date of the return for the month of supply, the shortfall being part of the output tax liability for the month.

Note: *Section 15 (value of supply between related persons) and Rule 28 are not invoked to re-value the sale of machine C to M/s AAA, even though the parties appear to be related (both firms are controlled by Mr. Z) and the price (Rs.36,00,000/-) is well below the valuer's market value (Rs.52,00,000/-). The reason is practical: under Section 18(6) the higher of the credit-based amount and the tax on the transaction value is payable, and the credit-based amount for machine C (Rs.25,74,000/-) exceeds even the tax on the valuer's figure (Rs.9,36,000/-); the valuation question cannot change the demand and a dispute on it is avoided. Section 17(5) and Section 16(3) are not in issue - the credit was admissible when taken and no depreciation was claimed on the tax component. Section 74 and Section 122(1)(x)/(xv) are not invoked: all the three sales were invoiced, accounted and taxed, and no suppression is established.*

B. CONSEQUENCES OF CONTRAVENTION OF LEGAL PROVISIONS

The contraventions at (A) above expose M/s XXX to the following action under the CGST Act, 2017 (read with the corresponding provisions of the RGST Act, 2017):

1. Nature of the amount - Section 18(6) fixes the amount payable on the supply of used capital goods: the supplier pays the higher of (i) credit taken less five percentage points for each quarter or part thereof from the date of invoice and (ii) the tax on the transaction value. The tax already paid on the sale invoice is therefore credited, and the difference, if any, is the amount short paid. The reduction is counted in quarters of three months *or part thereof* from the date of the invoice for the goods to the date of supply (Rule 40(2), inserted w.e.f. 10.07.2024; all three sales are after that date).

2. Determination and recovery of tax - under **Section 74A(1) of the CGST Act, 2017** (and the RGST Act). The supplies are of FY 2024-25, to which Section 74A applies [Section 74A(12); Notification No. 17/2024-Central Tax dated 27.09.2024]. The notice may be issued within forty-two months from the due date of the annual return for FY 2024-25 (31.12.2025) [Section 74A(2)], and the order within twelve months of the notice [Section 74A(7)].

3. Interest - under **Section 50(1)** at the notified rate of 18% per annum, from the day after the due date of the return for the month of supply to the date of payment. *Why not Section 50(3)?* Interest at the higher rate applies to credit wrongly availed and utilised. The credit on the machines was properly

taken when purchased; what is short paid is the output liability that arose on supply. Section 50(1) is therefore the correct provision.

4. Penalty - under **Section 74A(5)(i)**: ten per cent of the tax due or Rs.10,000/-, whichever is higher, under each Act. *Why not Section 74A(5)(ii)?* Every sale was invoiced, tax was charged and paid on the invoice value, the machines were capitalised and sales appear in the books, the documents were produced voluntarily, and the firm's failure results from a misunderstanding of Section 18(6). The sale of machine C to a related firm at a low price does not change the amount payable and is not evidence of intent to evade tax. Section 74A(8): if the tax and interest are paid before notice, no notice is to be issued; if paid within sixty days of the notice, no penalty is payable.

5. Recovery and prosecution - under Sections 78 and 79 if the amount confirmed is not paid in time. Section 132 is considered and not proposed.

6. Issuing authority - the central tax demand is Rs.10,71,000/-, which is above Rs.10 lakh; the notice is issued by the Deputy/Assistant Commissioner (see notes).

Illustrative working (a) - amount payable under Section 18(6), item-wise (CGST and RGST together; each Act bears half):

Item	Invoice to sale	Quarters or part	ITC left after reduction (Rs.)	Tax on transaction value (Rs.)	Higher (Rs.)	Already paid (Rs.)	Still payable (Rs.)
A	12.03.2022 to 10.11.2024	11 (-55pp)	9,72,000	12,60,000	12,60,000	12,60,000	Nil
B	05.08.2021 to 22.01.2025	14 (-70pp)	12,96,000	10,80,000	12,96,000	10,80,000	2,16,000
C	11.07.2023 to 15.02.2025	7 (-35pp)	25,74,000	6,48,000	25,74,000	6,48,000	19,26,000
TOTAL			**48,42,000**	**29,88,000**			**21,42,000**

Basis: *Machine A: credit-based amount (Rs.9,72,000/-) is lower than the tax charged on the sale invoice (Rs.12,60,000/-); the tax on transaction value is the higher amount, was paid, and nothing is demanded. Higher-of must be applied machine by machine; it cannot be applied to the three machines together, or the excess on A would wrongly set off the shortfall on B and C.*

Illustrative working (b) - interest under Section 50(1) at 18% per annum on the shortfall, from the day after the due date to 31.10.2026:

Item	Month of supply / due date of GSTR-3B	Short payment - per head (Rs.)	Days up to 31.10.2026	Interest @18% - CGST (Rs.)	Interest @18% - RGST (Rs.)
B	Jan-2025 / 20.02.2025	1,08,000	618	32,915	32,915
C	Feb-2025 / 20.03.2025	9,63,000	590	2,80,193	2,80,193
TOTAL		**10,71,000**		**3,13,108**	**3,13,108**

Summary of the amount proposed to be demanded:

Particulars	CGST (Rs.)	RGST (Rs.)	Total (Rs.)
Tax - Section 74A(1)	10,71,000	10,71,000	21,42,000
Interest - Section 50(1) up to 31.10.2026	3,13,108	3,13,108	6,26,216
Penalty - Section 74A(5)(i)	1,07,100	1,07,100	2,14,200
TOTAL	**14,91,208**	**14,91,208**	**29,82,416**

C. CHARGING PARAGRAPH OF THE SHOW CAUSE NOTICE

[The following is the operative charging paragraph proposed for incorporation in the Show Cause Notice at Part D below.]

Now, therefore, M/s XXX, a partnership firm, situated at YYYY, Sitapura Industrial Area, Jaipur, Rajasthan, through its Managing Partner Mr. Z, is hereby called upon to show cause in writing to the Deputy/Assistant Commissioner, CGST Division - [•], Jaipur CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) *the sale of the capital goods described at items B and C of Annexure-A, on which input tax credit had been taken, during January 2025 and February 2025 should not be held to be supplies on which the amount payable under Section 18(6) of the CGST Act, 2017/RGST Act, 2017 read with Rule 40(2) of the CGST Rules, 2017 is the credit taken reduced by five percentage points per quarter or part thereof, being higher than the tax on the transaction value;*

(ii) *an amount of Rs.10,71,000/- (Central tax) and Rs.10,71,000/- (Rajasthan State tax), total Rs.21,42,000/- (Rupees Twenty-One Lakh Forty-Two Thousand only), being the amount short paid on the said supplies, should not be demanded and recovered from them under Section 74A(1) of the CGST Act, 2017 and the corresponding provisions of the RGST Act, 2017;*

(iii) *interest at the applicable rate under Section 50(1) of the CGST Act, 2017/RGST Act, 2017 (Rs.3,13,108/- each, total Rs.6,26,216/-, calculated up to 31.10.2026) should not be demanded and recovered from them on the tax at (ii) above, up to the date of actual payment;*

(iv) *a penalty of Rs.1,07,100/- (Central tax) and Rs.1,07,100/- (Rajasthan State tax), total Rs.2,14,200/-, being ten per cent of the tax due, should not be imposed on them under Section 74A(5)(i) of the CGST Act, 2017/RGST Act, 2017 (without prejudice to nil penalty under Section 74A(8) on payment of tax and interest within the time specified).*

D. DRAFT SHOW CAUSE NOTICE

F. No. GEXCOM/ADJN/SCN/[•]/2026-JAIPUR

DIN: [Document Identification Number to be auto-generated on issue]

Office of the Deputy/Assistant Commissioner, CGST Division - [•], Jaipur CGST Commissionerate, Rajasthan

Date: [•].11.2026

SHOW CAUSE NOTICE

(Issued under Section 74A of the Central Goods and Services Tax Act, 2017 read with Section 74A of the Rajasthan Goods and Services Tax Act, 2017)

To,
M/s XXX,
(through its Managing Partner, Mr. Z),
YYYY, Sitapura Industrial Area, Jaipur, Rajasthan.

(hereinafter referred to as 'the Noticee', which expression includes the partnership firm M/s XXX acting through its Managing Partner Mr. Z)

WHEREAS M/s XXX, a partnership firm registered in Rajasthan with Mr. Z as Managing Partner, is engaged in the manufacture of granite and marble slabs and tiles at YYYY, Sitapura Industrial Area, Jaipur. Analysis of e-way bill data and of the returns of registered buyers showed that the Noticee had sold three high-value machines during FY 2024-25 on tax invoices, with GST charged on the invoice value, but had not reversed any input tax credit relating to them (RUD-1);

2. AND WHEREAS a summons dated 15.07.2026 under Section 70 of the CGST Act, 2017 was issued to Mr. Z (RUD-2), who appeared on 31.07.2026 and produced the fixed asset register, the purchase invoices and corresponding FORM GSTR-3B entries, the three sale invoices, and a valuation report dated 12.02.2025 (RUD-4 to RUD-7);

3. AND WHEREAS the statement of Mr. Z was recorded on 31.07.2026 under Section 70 of the CGST Act, 2017 (RUD-3), wherein he, inter alia, admitted and stated that:

- the three machines were capitalised as plant and machinery, full CGST and RGST credit was taken on the purchase invoices in the month of purchase, and no depreciation was claimed on the tax component;
- the machines were sold in FY 2024-25, GST was charged only on the sale price, and no input tax credit was reversed as he was not aware of any such requirement;
- the stone-polishing line was sold to M/s AAA, a partnership firm in which he holds a 60% profit share, at the book value after depreciation; and
- the Noticee will pay any tax found due;

4. AND WHEREAS the particulars of the machines and of the supplies, as per RUD-4 to RUD-6, are tabulated in Annexure-A to this notice and are summarised below; the date of the invoice, the date of the supply, the number of quarters or part thereof, the credit reduced by five percentage points for each such quarter, and the tax on the transaction value being shown in respect of each machine:

Item	Invoice to sale	Quarters or part	ITC left after reduction (Rs.)	Tax on transaction value (Rs.)	Higher (Rs.)	Already paid (Rs.)	Still payable (Rs.)
A	12.03.2022 to 10.11.2024	11 (-55pp)	9,72,000	12,60,000	12,60,000	12,60,000	Nil
B	05.08.2021 to 22.01.2025	14 (-70pp)	12,96,000	10,80,000	12,96,000	10,80,000	2,16,000

C	11.07.2023 to 15.02.2025	7 (-35pp)	25,74,000	6,48,000	25,74,000	6,48,000	19,26,000
TOTAL			**48,42,000**	**29,88,000**			**21,42,000**

5. AND WHEREAS Section 18(6) of the CGST Act, 2017 requires the registered person who supplies capital goods or plant and machinery on which input tax credit has been taken to pay an amount equal to the credit taken, reduced by such percentage points as may be prescribed, or the tax on the transaction value determined under Section 15, whichever is higher; and Rule 40(2) of the CGST Rules, 2017, as inserted w.e.f. 10.07.2024, prescribes the reduction as five percentage points for every quarter or part thereof from the date of issue of the invoice. In the case of machine A the tax on the transaction value was higher and was paid; but in the case of machine B the Noticee paid Rs.10,80,000/- against the amount of Rs.12,96,000/-, and in the case of machine C Rs.6,48,000/- against Rs.25,74,000/-. The short payment is Rs.21,42,000/- (Rs.10,71,000/- each under the CGST Act and the RGST Act);

6. AND WHEREAS the sale of machine C was made to M/s AAA, a related firm controlled by the same person, at Rs.36,00,000/-, whereas the valuer's report dated 12.02.2025 records its market value as Rs.52,00,000/-. The amount payable under Section 18(6) in respect of machine C (Rs.25,74,000/-) exceeds the tax on the market value (Rs.9,36,000/-) as well. The valuation under Section 15 and Rule 28 is therefore not required to be determined in this notice and the right of the department to do so in any other proceedings is reserved;

7. AND WHEREAS the Noticee issued tax invoices on all the three sales, charged and paid tax on the invoice value, recorded the transactions in its books, and produced the documents voluntarily; the failure to pay the balance amount under Section 18(6) appears to result from ignorance of the provision and not from fraud, wilful misstatement or suppression of facts to evade tax. The case is therefore one under Section 74A(5)(i) of the CGST Act, 2017/RGST Act, 2017;

8. AND WHEREAS it thus appears that the Noticee has contravened the following provisions of the CGST Act, 2017 (and the corresponding provisions of the RGST Act, 2017):

- Section 18(6) read with Rule 40(2) - non-payment of the higher amount payable on supply of capital goods on which input tax credit was taken;
- Section 39(7) and Section 9(1) - non-payment of the resulting tax by the due date of the return for the month of supply;

9. AND WHEREAS the aforesaid acts and omissions of the Noticee render it liable to:

(a) demand and recovery of tax under Section 74A(1) of the CGST Act, 2017/RGST Act, 2017;

(b) interest under Section 50(1) of the CGST Act, 2017/RGST Act, 2017; and

(c) penalty under Section 74A(5)(i) of the CGST Act, 2017/RGST Act, 2017;

NOW, THEREFORE

M/s XXX, a partnership firm, through its Managing Partner Mr. Z, situated at YYYY, Sitapura Industrial Area, Jaipur, Rajasthan, is hereby called upon to show cause in writing to the Deputy/Assistant Commissioner, CGST Division - [•], Jaipur CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) the sale of the capital goods described at items B and C of Annexure-A, on which input tax credit had been taken, during January 2025 and February 2025 should not be held to be supplies on which the amount payable under Section 18(6) of the CGST Act, 2017/RGST Act, 2017 read with Rule 40(2) of the CGST Rules, 2017 is the credit taken reduced by five percentage points per quarter or part thereof, being higher than the tax on the transaction value;

(ii) an amount of Rs.10,71,000/- (Central tax) and Rs.10,71,000/- (Rajasthan State tax), total Rs.21,42,000/- (Rupees Twenty-One Lakh Forty-Two Thousand only), being the amount short paid on the said supplies, should not be demanded and recovered from them under Section 74A(1) of the CGST Act, 2017 and the corresponding provisions of the RGST Act, 2017;

(iii) interest at the applicable rate under Section 50(1) of the CGST Act, 2017/RGST Act, 2017 (Rs.3,13,108/- each, total Rs.6,26,216/-, calculated up to 31.10.2026) should not be demanded and recovered from them on the tax at (ii) above, up to the date of actual payment;

(iv) a penalty of Rs.1,07,100/- (Central tax) and Rs.1,07,100/- (Rajasthan State tax), total Rs.2,14,200/-, being ten per cent of the tax due, should not be imposed on them under Section 74A(5)(i) of the CGST Act, 2017/RGST Act, 2017 (without prejudice to nil penalty under Section 74A(8) on payment of tax and interest within the time specified).

10. The Noticee is further informed that:

- a written reply to this notice, along with all documents relied upon, must be furnished within thirty (30) days of receipt of this notice, failing which the case will be decided ex parte on merits on the basis of available records;
- an opportunity of personal hearing will be granted before adjudication, on a date to be separately intimated;
- attention is drawn to Section 74A(8) of the CGST Act, 2017/RGST Act, 2017: if the tax at (ii) above and interest at (iii) above are paid before the issue of this notice, no notice shall be served in respect of the said tax; and if they are paid within sixty (60) days of the issue of this notice, no penalty shall be payable and all proceedings in respect of the notice shall be deemed to be concluded;
- this notice is issued without prejudice to any other action that may be taken against the Noticee or any other person under the CGST Act, 2017/RGST Act, 2017 or any other law for the time being in force.

List of Relied Upon Documents (RUDs):

RUD-1: Analysis report of e-way bill data and buyers' returns for the three machine sales of FY 2024-25;

RUD-2: Summons dated 15.07.2026 under Section 70, with proof of service;

RUD-3: Statement of Mr. Z recorded under Section 70 on 31.07.2026;

RUD-4: Fixed asset register of the Noticee for FY 2021-22 to FY 2024-25;

RUD-5: Three purchase invoices of the machines and the corresponding FORM GSTR-3B entries of credit;

RUD-6: Three sale invoices of FY 2024-25 and FORM GSTR-3B for November 2024, January 2025 and February 2025;

RUD-7: Valuation report dated 12.02.2025 of the approved valuer (machine C);

RUD-8: FORM GST DRC-01A (Part A) dated 02.09.2026 and the Noticee's Part B dated 15.09.2026;

Annexure-A: Item-wise statement of credit taken, reduction per quarter or part thereof, tax on transaction value, amount payable under Section 18(6), and interest [as per the workings in Part B].

(_____)
Deputy/Assistant Commissioner, CGST
CGST Division - [•], Jaipur CGST Commissionerate

Copy to: The Additional/Joint Commissioner, CGST Jaipur, for information.

Drafting note (not part of the notice):

- *The addressee, jurisdictional range/officer, F. No./DIN and dates shown in square brackets/blanks are illustrative placeholders and must be completed with the correct particulars before issue.*
- *The tax, interest and penalty figures are worked out on the reasoned basis explained in Part B and remain subject to reconciliation with the seized/recorded documents. Interest is worked out up to 31.10.2026 for illustration; recalculate up to the date of issue and, in the order, up to the date of payment.*
- ***Teaching twist - higher of, item by item.*** *The statute (Section 18(6)) compares, for each capital good, (i) credit reduced by percentage points and (ii) tax on the transaction value. Where (ii) is higher (machine A), nothing further is payable; the excess cannot be set off against the shortfall on other machines. Trainees should also note that the credit-based amount is not 'tax on the sale': it is computed from the original purchase invoice.*
- ***Which rule gives the reduction - FLAG.*** *The reduction used here is Rule 40(2) (five percentage points for every quarter or part thereof from the date of issue of the invoice), which, as published on the cggst.com rules page, was inserted by Notification No. 12/2024-Central Tax dated 10.07.2024 w.e.f. 10.07.2024. The same page still shows Rule 44(6), which determines the amount for Section 18(6) 'in the same manner as specified in clause (b) of sub-rule (1)' (remaining useful life in months out of 60), with a proviso on tax on transaction value, and shows no amendment of Rule 44(6). Whether Rule 44(6) was omitted or remains in force alongside Rule 40(2), and which prevails for sales on or after 10.07.2024, could not be settled from the sources available. On the Rule 44(1)(b) method the credit-based amounts (CGST + RGST together) would be: A Rs.10,08,000/-, B Rs.12,96,000/-, C Rs.26,40,000/-; the conclusion (shortfall on B and C, none on A) is the same but the figures differ. Resolve before issue. For supplies before 10.07.2024 only Rule 44(6) would be available.*
- ***Related-party sale (machine C).*** *Persons controlled by a common person are deemed related in the Explanation to Section 15, so the transaction value may not be accepted under Section 15(1) and Rule 28 (open market value first) would apply. It is not pursued here because the credit-based amount exceeds even the tax at the valuer's market value. If the facts were such that the market value tax exceeded the credit-based amount, valuation would drive the demand and Rule 28 would have to be applied in the notice.*
- ***Rate.*** *The 9% + 9% rate is taken from the sale invoices and is not independently tested against the rate notification; the demand does not depend on it (the credit-based amount is rate-neutral).*
- *The draft should be settled by the jurisdictional Range/Division before issue (DRC-01), including verification of the monetary-limit-based issuing/adjudicating authority under Circular No. 31/05/2018-GST dated 09.02.2018 (Superintendent: central tax up to Rs.10 lakh; Deputy/Assistant Commissioner: above Rs.10 lakh up to Rs.1 crore; Additional/Joint Commissioner: above Rs.1 crore). The central tax demand of Rs.10,71,000/- falls in the Deputy/Assistant Commissioner band. The circular is framed for Sections 73 and 74 and does not mention Section 74A; it is applied by analogy.*
- *Return of non-RUDs (Non-Relied Upon Documents): When the SCN is issued to the taxpayer in the form of DRC-01 (uploaded on the portal if registered, as well as delivered as per the provisions of law), non-RUDs must be returned to the noticee under due acknowledgement within seven days of issuance of the SCN.*

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Exercise 45

Cancellation of registration on closure of business - under-payment of the amount equal to input tax credit on stock and capital goods under Section 29(5) and Rule 44

Exercise 45: Cancellation of registration on closure of business - under-payment of the amount equal to input tax credit on stock and capital goods under Section 29(5) and Rule 44

Situation in Brief:

1. M/s XXX is a proprietary concern of Mr. Z, registered in Uttar Pradesh, carrying on the business of wholesale and retail trading in electrical goods and accessories (cables, switchgear, fans and lighting) from YYYY, Aminabad, Lucknow. On 10.01.2026 Mr. Z applied for cancellation of registration in FORM GST REG-16 on the ground of discontinuance of business, seeking cancellation w.e.f. 31.01.2026. In the application he declared stock of inputs (trading goods) of Rs.6,20,000/- at cost, nil capital goods, and a resulting input tax credit liability of Rs.1,11,600/- (CGST Rs.55,800/- and UPGST Rs.55,800/-), which he paid through FORM GST DRC-03 on 28.01.2026.

2. In connection with the application, the Superintendent, CGST Range - [•], visited the premises on 24.01.2026 in the presence of Mr. Z and prepared a signed inventory of the goods lying in the shop and godown. The inventory, valued at cost on the basis of purchase invoices, came to Rs.31,60,000/-; the stock sold from 25.01.2026 to 30.01.2026 at cost was Rs.1,50,000/-. No purchases were made after 24.01.2026. The proper officer cancelled the registration by an order in FORM GST REG-19 dated 06.02.2026, w.e.f. 31.01.2026, and directed payment of arrears, including the amount payable under Section 29(5). FORM GSTR-10 (final return) was filed on 22.06.2026, and showed the same stock and liability as declared in the application and nil capital goods.

3. A summons dated 28.07.2026 was issued to Mr. Z under Section 70 of the CGST Act, 2017, in response to which he appeared on 12.08.2026 and produced (a) the purchase register and invoices for FY 2025-26, (b) the fixed asset register, and (c) a hand-written diary (cash book) covering February to April 2026. The diary records sales of goods without any bill to local electricians and contractors, aggregating Rs.27,80,000/-, and the items listed in the diary correspond to the goods in the inventory of 24.01.2026.

4. The statement of Mr. Z was recorded on 12.08.2026 under Section 70, wherein he stated that he had decided to wind up the business in December 2025; that he nonetheless purchased goods under invoice B-5 dated 08.01.2026 and C-6 dated 20.01.2026, since the suppliers were offering a scheme; that he showed in the application only the stock of lower-value items, as he intended to sell the remaining goods for cash after closure and did not wish to pay tax on them; that he sold the stock during February to April 2026 without issuing bills; that the computers, display racks and generator were used in the shop until closure and were not mentioned in the application, as he considered that only goods in stock were relevant; and that he is ready to pay the tax found due.

5. The books and records show the position of closing stock on 30.01.2026 (the day before the date of cancellation) as follows; the stock lying at that date is made up of the six purchase invoices shown below, the earlier lots having been sold, as confirmed by the sales register. The tax on all purchase invoices was charged at 18% (9% CGST + 9% UPGST) and credit was taken in full:

Particulars	At cost (Rs.)
Opening stock on 01.04.2025 (books)	22,40,000
Add: purchases 01.04.2025 to 30.01.2026 (GSTR-2B / purchase register)	1,48,60,000
Less: cost of goods sold up to 30.01.2026 (GSTR-1 / sales register)	(1,40,90,000)
Closing stock on 30.01.2026 (day before cancellation)	**30,10,000**

Invoice (supplier)	Date	Goods	Qty bought	Taxable value (Rs.)	Qty in stock on 30.01.2026
A-1 (M/s AAA)	07.10.2025	Cables and wires (coils)	600	12,00,000	250
B-2 (M/s BBB)	29.10.2025	Switchgear and MCBs	1,600	9,60,000	700
A-3 (M/s AAA)	21.11.2025	Ceiling fans	840	8,40,000	340
C-4 (M/s CCC)	15.12.2025	Lighting fixtures	1,500	7,50,000	900
B-5 (M/s BBB)	08.01.2026	Switchgear and MCBs	2,000	10,00,000	1,500
C-6 (M/s CCC)	20.01.2026	Fans and accessories	1,200	6,00,000	1,100

6. The capital goods owned by the firm on the date of cancellation, as per the fixed asset register and the purchase invoices (full credit taken in the month of purchase, no depreciation claimed on tax component), are as follows:

Capital goods	Invoice date	Taxable value (Rs.)	Credit taken, CGST + UPGST (Rs.)
Desktop computers and server (8 units)	18.04.2023	3,20,000	57,600
Steel display racks and counters	12.09.2024	4,10,000	73,800
Generator set 15 kVA	03.02.2025	2,60,000	46,800

7. FORM GST DRC-01A (Part A) was issued on 14.09.2026; in Part B dated 28.09.2026 Mr. Z stated that the stock in question was sold off, that he has no funds, and that the matter may be decided on the records.

8. Now in the light of the above, -

(i) Identify the provision(s) of GST law contravened by M/s XXX (under heading **Contravention**).

(ii) Identify the provision(s) of GST law under which action is to be taken against M/s XXX (under heading **Consequences of Contravention of legal Provisions**).

(iii) Draft the **Charging Paragraph** of the Show Cause Notice proposed to be issued to M/s XXX, calling upon M/s XXX and Mr. Z to show cause as to why action should not be taken against them, while listing the proposed action to be taken against M/s XXX and Mr. Z.

(iv) Also prepare the **draft Show Cause Notice** for issuance to M/s XXX.

***

SUGGESTED SOLUTION

(Verification on cancellation, Inquiry on summons, Determination of Tax Liability under Section 74A, and Draft Show Cause Notice - M/s XXX, Prop. Mr. Z, Lucknow CGST Commissionerate)

A. CONTRAVENTION

On the facts as recorded, the following provisions of law stand contravened (in each case read with the corresponding provisions of the Uttar Pradesh Goods and Services Tax Act, 2017 [UPGST Act] and the Rules made under the two Acts):

1. **Section 29(5) of the CGST Act, 2017 read with Rule 44(1) and (4) of the CGST Rules, 2017** - a registered person whose registration is cancelled must pay an amount equal to the input tax credit in respect of inputs held in stock, inputs contained in semi-finished or finished goods held in stock, and capital goods or plant and machinery, on the day immediately preceding the date of cancellation (or the output tax payable on such goods, whichever is higher). The Noticee paid on Rs.6,20,000/- of stock and nothing for capital goods, against stock of Rs.30,10,000/- and three items of capital goods held on 30.01.2026.
2. **Rule 20 of the CGST Rules, 2017** - the application for cancellation in FORM GST REG-16 must give details of stock (including capital goods) held on the date from which cancellation is sought, the liability arising on it, and the payment made; the details given were incomplete and incorrect.
3. **Section 45 of the CGST Act, 2017 read with Rule 81** - the final return in FORM GSTR-10 was due within three months of the later of the date of cancellation and the date of the order of cancellation (i.e. by 06.05.2026), but was filed on 22.06.2026, and with the same incorrect particulars. (Late fee under Section 47 at the notified rate is separately leviable and is not part of this notice.)
4. **Section 29(3) of the CGST Act, 2017** - cancellation does not affect the liability to pay tax and other dues for any period before the date of cancellation, whether determined before or after cancellation; the demand is therefore valid though the registration has ceased.

Note: *Section 18(4) (reversal on opting for composition or when supplies become exempt) is not the provision; Section 29(5) governs cancellation. Section 29(2) (cancellation by the officer, including retrospective, for fraud) is not relevant as the registration was cancelled at the Noticee's own request and no retrospective cancellation is proposed. Sections 73 and 74 are not applicable as the period is FY 2025-26. No separate tax is demanded on the sales of the stock made without bills after the date of cancellation: the amount under Section 29(5) takes the place of output tax on the closing stock, and demanding both would levy tax twice on the same goods. Section 130 (confiscation) is not invoked as the goods have been sold and are not available; Section 132 has been considered and is not proposed, the tax involved being far below the monetary limits specified in it.*

B. CONSEQUENCES OF CONTRAVENTION OF LEGAL PROVISIONS

The contraventions at (A) above expose M/s XXX/Mr. Z to the following action under the CGST Act, 2017 (read with the corresponding provisions of the UPGST Act, 2017):

1. Date of reckoning - the amount is determined on the stock and capital goods held on the day *immediately preceding the date of cancellation*, i.e. 30.01.2026 - not on the date of the application (10.01.2026), the date of the physical inventory (24.01.2026) or the date of the order (06.02.2026). Stock on 30.01.2026 is therefore rolled forward from the inventory of 24.01.2026 for the sales of 25.01.2026 to 30.01.2026, and reconciles with the books (opening stock + purchases - cost of goods sold).
2. Computation - *stock*: the credit is taken proportionately from the invoices on which it was availed (Rule 44(1)(a)), i.e. the credit on each invoice multiplied by the quantity of the goods of that invoice in stock out of the quantity purchased. *Capital goods*: the credit for the remaining useful life in months, taking the useful life as five years, computed on a pro-rata basis, part of a month being ignored, i.e. credit x

remaining months/60 (Rule 44(1)(b) and its Illustration). The amounts are determined separately for central tax and State tax (Rule 44(2)). *Output tax limb*: the amount is the higher of the credit-based figure and the output tax on the goods. For the stock, the tax at 18% on the value realised by the Noticee (Rs.27,80,000/-, per his diary) is Rs.5,00,400/-, which is less than the credit-based figure of Rs.5,41,800/-; the credit-based figure is therefore adopted. For the capital goods, no valuation has been produced; the credit-based figure is adopted and the right to revise the amount, if the output tax on the value of those goods is higher, is reserved.

3. Demand - under **Section 74A(1) of the CGST Act, 2017** (and the UPGST Act). The amount payable under Section 29(5) is tax not paid, and forms part of the output tax liability [Rule 44(4)]. For FY 2025-26 Section 74A applies [Section 74A(12); Notification No. 17/2024-Central Tax dated 27.09.2024]; the notice is within forty-two months from the due date of the annual return for FY 2025-26 (31.12.2026) [Section 74A(2)] (see notes), and the order is to be passed within twelve months of the notice [Section 74A(7)].

4. Interest - under **Section 50(1)** at the notified rate of 18% per annum on the short-paid amount, from the day after the due date of the final return (06.05.2026) up to the date of payment. The amount of Rs.1,11,600/- paid on 28.01.2026 was made before the due date and carries no interest.

5. Penalty - split by amount - *(a) stock (Rs.4,30,200/-): fraud - Section 74A(5)(ii)*, penalty equal to the tax due. The Noticee bought goods of Rs.16,00,000/- on 08.01.2026 and 20.01.2026 after resolving to close, declared in the application only Rs.6,20,000/- of stock although the inventory signed by him on 24.01.2026 showed Rs.31,60,000/-, repeated the figure in the final return, and by his own admission did so to sell the balance for cash without bills and to avoid the tax. Non-declaration of the stock in the application and the return is 'suppression' within Explanation 2 to Section 74A (non-declaration of facts required to be declared in a return, statement or document), and is intentional. *(b) capital goods (Rs.1,15,290/-): non-fraud - Section 74A(5)(i)*, ten per cent of the tax due or Rs.10,000/-, whichever is higher, under each Act. The capital goods were recorded in the fixed asset register which was produced voluntarily, and the Noticee believed that only stock was relevant; no intent is shown. A single notice can carry different penalty clauses for different components of the demand, each supported by its own evidence.

6. Concessions - for the stock (fraud): payment of tax and interest with penalty of 15% of the tax before the notice, 25% within sixty days of issue of the notice, or 50% within sixty days of communication of the order, concludes the proceedings [Section 74A(9)(i), (ii), (iii)]; for the capital goods (non-fraud): tax and interest within sixty days of issue of notice - no penalty [Section 74A(8)(ii)].

7. Specific offence penalty - Section 122(1)(x) (furnishing false information with intent to evade tax - the incorrect stock particulars in the application and the final return) is attracted; since a penalty is proposed under Section 74A(5)(ii) for the same act, it is proposed in the alternative and without prejudice, subject to Section 75(13) and Section 126.

8. Recovery - under Sections 78 and 79 of the CGST Act, 2017, if the amount confirmed is not paid. The Noticee is no longer registered; recovery, if needed, is against Mr. Z in his capacity as proprietor, the proprietary concern and the proprietor being one 'person'.

9. Issuing authority - the central tax demand is Rs.2,72,745/-, within the Superintendent's limit (see notes).

Illustrative working (a) - credit on stock held on 30.01.2026 (CGST; UPGST is equal):

Invoice (supplier)	Date	Goods	Qty bought	Taxable value (Rs.)	Qty in stock	Cost of stock (Rs.)	ITC on stock, CGST (Rs.)
A-1 (M/s AAA)	07.10.2025	Cables and wires (coils)	600	12,00,000	250	5,00,000	45,000

B-2 (M/s BBB)	29.10.2025	Switchgear and MCBs	1,600	9,60,000	700	4,20,000	37,800
A-3 (M/s AAA)	21.11.2025	Ceiling fans	840	8,40,000	340	3,40,000	30,600
C-4 (M/s CCC)	15.12.2025	Lighting fixtures	1,500	7,50,000	900	4,50,000	40,500
B-5 (M/s BBB)	08.01.2026	Switchgear and MCBs	2,000	10,00,000	1,500	7,50,000	67,500
C-6 (M/s CCC)	20.01.2026	Fans and accessories	1,200	6,00,000	1,100	5,50,000	49,500
TOTAL						**30,10,000**	**2,70,900**

Illustrative working (b) - credit on capital goods held on 30.01.2026 (CGST; UPGST is equal):

Capital goods	Invoice date	Taxable value (Rs.)	ITC taken, CGST (Rs.)	Months used (part counted)	Remaining life (of 60)	ITC attributable, CGST (Rs.)
Desktop computers and server (8 units)	18.04.2023	3,20,000	28,800	34	26	12,480
Steel display racks and counters	12.09.2024	4,10,000	36,900	17	43	26,445
Generator set 15 kVA	03.02.2025	2,60,000	23,400	12	48	18,720
TOTAL						**57,645**

Illustrative working (c) - amount short paid under Section 29(5), and the demand:

Particulars	Declared (Rs.)	Correct (Rs.)	Short (Rs.)	CGST (Rs.)	UPGST (Rs.)
ITC on stock - invoice-wise (Rule 44(1)(a))	1,11,600	5,41,800	4,30,200	2,15,100	2,15,100
ITC on capital goods (Rule 44(1)(b))	Nil	1,15,290	1,15,290	57,645	57,645
TOTAL	**1,11,600**	**6,57,090**	**5,45,490**	**2,72,745**	**2,72,745**

Basis: *Interest on the short-paid amount of Rs.2,72,745/- per head runs for 178 days (06.05.2026 to 31.10.2026) at 18% and is Rs.23,942/- per head.*

Particulars	CGST (Rs.)	UPGST (Rs.)	Total (Rs.)
Tax - Section 74A(1) (stock Rs.4,30,200 + capital goods Rs.1,15,290)	2,72,745	2,72,745	5,45,490
Interest - Section 50(1) from 07.05.2026 to 31.10.2026	23,942	23,942	47,884
Penalty - stock: Section 74A(5)(ii) (equal to tax)	2,15,100	2,15,100	4,30,200
Penalty - capital goods: Section 74A(5)(i)	10,000	10,000	20,000
TOTAL	**5,21,787**	**5,21,787**	**10,43,574**

C. CHARGING PARAGRAPH OF THE SHOW CAUSE NOTICE

[The following is the operative charging paragraph proposed for incorporation in the Show Cause Notice at Part D below.]

Now, therefore, M/s XXX, a proprietary concern of Mr. Z, formerly situated at YYYY, Aminabad, Lucknow, Uttar Pradesh (registration cancelled w.e.f. 31.01.2026), and Mr. Z, Proprietor of M/s XXX, in his personal capacity (M/s XXX and Mr. Z being one and the same person in law), are hereby called upon to show cause in writing to the Superintendent, CGST Range - [•], Lucknow CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) *the stock of trading goods of the cost of Rs.30,10,000/- and the capital goods described in Annexure-A held by them on 30.01.2026, on which input tax credit had been taken, should not be*

held to be goods in respect of which an amount equal to the input tax credit was payable under Section 29(5) of the CGST Act, 2017/UPGST Act, 2017 read with Rule 44 of the CGST Rules, 2017 on the cancellation of their registration w.e.f. 31.01.2026;

(ii) *an amount of Rs.2,72,745/- (Central tax) and Rs.2,72,745/- (Uttar Pradesh State tax), total Rs.5,45,490/- (Rupees Five Lakh Forty-Five Thousand Four Hundred Ninety only), being the short-paid amount under Section 29(5) (stock Rs.4,30,200/- and capital goods Rs.1,15,290/-), as detailed in Annexure-A, should not be demanded and recovered from them under Section 74A(1) of the CGST Act, 2017 and the corresponding provisions of the UPGST Act, 2017;*

(iii) *interest at the applicable rate under Section 50(1) of the CGST Act, 2017/UPGST Act, 2017 (Rs.23,942/- each, total Rs.47,884/-, calculated up to 31.10.2026) should not be demanded and recovered from them, from the day after 06.05.2026 up to the date of actual payment;*

(iv) *a penalty equal to the tax on the stock, i.e. Rs.2,15,100/- (Central tax) and Rs.2,15,100/- (Uttar Pradesh State tax), total Rs.4,30,200/-, should not be imposed on them under Section 74A(5)(ii) of the CGST Act, 2017/UPGST Act, 2017, the non-payment being by reason of suppression of facts to evade tax;*

(v) *a penalty of Rs.10,000/- (Central tax) and Rs.10,000/- (Uttar Pradesh State tax), total Rs.20,000/- , should not be imposed on them under Section 74A(5)(i) of the CGST Act, 2017/UPGST Act, 2017 in respect of the tax on the capital goods;*

(vi) *penalty should not separately be imposed on them under Section 122(1)(x) of the CGST Act, 2017/UPGST Act, 2017 for furnishing false information as to stock, without prejudice to (iv) above and subject to Section 75(13) and Section 126 of the CGST Act, 2017.*

D. DRAFT SHOW CAUSE NOTICE

F. No. GEXCOM/ADJN/SCN/[•]/2026-LUCKNOW

DIN: [Document Identification Number to be auto-generated on issue]

Office of the Superintendent, CGST Range - [•], Division - [•], Lucknow CGST Commissionerate, Uttar Pradesh

Date: [•].11.2026

SHOW CAUSE NOTICE

(Issued under Section 74A of the Central Goods and Services Tax Act, 2017 read with Section 74A of the Uttar Pradesh Goods and Services Tax Act, 2017)

To,
Mr. Z,
Proprietor, M/s XXX,
YYYY, Aminabad, Lucknow, Uttar Pradesh (registration cancelled w.e.f. 31.01.2026).

(hereinafter referred to as 'the Noticee', which expression shall, unless the context otherwise requires, include M/s XXX and Mr. Z, the two being one and the same 'person' within the meaning of Section 2(84) of the CGST Act, 2017)

WHEREAS M/s XXX, a proprietary concern of Mr. Z, was registered in Uttar Pradesh and traded in electrical goods and accessories at YYYY, Aminabad, Lucknow. On 10.01.2026 the Noticee applied for cancellation of registration in FORM GST REG-16 on closure of business, declaring stock of Rs.6,20,000/- at cost, nil capital goods and a credit liability of Rs.1,11,600/-, paid on 28.01.2026 (RUD-1). The registration was cancelled by order in FORM GST REG-19 dated 06.02.2026 w.e.f. 31.01.2026 (RUD-2);

2. AND WHEREAS the Superintendent visited the premises on 24.01.2026 in the presence of Mr. Z and prepared a signed inventory of the goods, which, valued at cost on the basis of purchase invoices, came to Rs.31,60,000/- (RUD-3); the stock sold from 25.01.2026 to 30.01.2026 was Rs.1,50,000/- at cost, leaving Rs.30,10,000/- on 30.01.2026, the day immediately preceding the date of cancellation, which agrees with the books (opening stock Rs.22,40,000/- + purchases Rs.1,48,60,000/- - cost of goods sold Rs.1,40,90,000/-) (RUD-4 and RUD-5);

3. AND WHEREAS the final return in FORM GSTR-10, due on 06.05.2026, was filed on 22.06.2026, showing the same stock and nil capital goods (RUD-6); and a summons dated 28.07.2026 under Section 70 was issued to Mr. Z (RUD-7), who appeared on 12.08.2026 and produced the purchase register, the fixed asset register and a hand-written diary of cash sales of February to April 2026, which records sales of goods without any bill of Rs.27,80,000/-, the items corresponding with those in the inventory of 24.01.2026 (RUD-8 to RUD-10);

4. AND WHEREAS the statement of Mr. Z was recorded on 12.08.2026 under Section 70 of the CGST Act, 2017 (RUD-11), wherein he, inter alia, admitted and stated that:

- he decided to wind up the business in December 2025, yet purchased goods under invoices dated 08.01.2026 and 20.01.2026;
- he showed in the application only the lower-value items, intending to sell the remaining goods for cash after closure without paying tax on them;
- he sold the stock during February to April 2026 without issuing bills;
- the computers, racks and generator were used in the shop until closure and were omitted from the application as he considered that only stock was relevant; and

- he is ready to pay the tax found due;

5. AND WHEREAS the input tax credit attributable to the stock held on 30.01.2026, worked out invoice-wise in the proportion of the quantity in stock to the quantity purchased, is Rs.5,41,800/- (Rs.2,70,900/- each of CGST and UPGST), against Rs.1,11,600/- paid; and the credit attributable to the capital goods for the remaining useful life, taking the useful life as five years, is Rs.1,15,290/- (Rs.57,645/- each), against nil paid. The tax on the value realised from the sale of the stock (Rs.5,00,400/-) is lower than the credit-based amount; the credit-based amount, being higher, is adopted. The short-paid amount is accordingly as follows (details in Annexure-A):

Particulars	Declared (Rs.)	Correct (Rs.)	Short (Rs.)	CGST (Rs.)	UPGST (Rs.)
ITC on stock - invoice-wise (Rule 44(1)(a))	1,11,600	5,41,800	4,30,200	2,15,100	2,15,100
ITC on capital goods (Rule 44(1)(b))	Nil	1,15,290	1,15,290	57,645	57,645
TOTAL	**1,11,600**	**6,57,090**	**5,45,490**	**2,72,745**	**2,72,745**

6. AND WHEREAS the Noticee's non-declaration of the true stock in the application and the final return was deliberate, to avoid payment of the tax on the stock which he intended to sell for cash without bills, and amounts to suppression of facts to evade tax within the meaning of Explanation 2 to Section 74A of the CGST Act, 2017, attracting penalty under Section 74A(5)(ii) in respect of the tax on stock (Rs.4,30,200/-). The omission of the capital goods, which were recorded in the fixed asset register produced voluntarily, appears to be due to a misunderstanding of the law, and attracts penalty under Section 74A(5)(i) in respect of the tax on capital goods (Rs.1,15,290/-);

7. AND WHEREAS it thus appears that the Noticee has contravened the following provisions of the CGST Act, 2017 and the Rules (and the corresponding provisions of the UPGST Act, 2017):

- Section 29(5) read with Rule 44 - non-payment of the amount payable on cancellation on stock and capital goods held on 30.01.2026;
- Rule 20 - incorrect details of stock and capital goods in the application for cancellation;
- Section 45 read with Rule 81 - late filing of the final return with incorrect particulars;

8. AND WHEREAS the aforesaid acts and omissions of the Noticee render him liable to:

(a) demand and recovery of tax under Section 74A(1) of the CGST Act, 2017/UPGST Act, 2017;

(b) interest under Section 50(1) of the CGST Act, 2017/UPGST Act, 2017;

(c) penalty under Section 74A(5)(ii) (stock) and Section 74A(5)(i) (capital goods) of the CGST Act, 2017/UPGST Act, 2017; and

(d) penalty under Section 122(1)(x) of the CGST Act, 2017/UPGST Act, 2017 (without prejudice to, and subject to Section 75(13) in relation to, the penalty at (c) above);

NOW, THEREFORE

M/s XXX, a proprietary concern of Mr. Z, formerly situated at YYYY, Aminabad, Lucknow, Uttar Pradesh, and Mr. Z, Proprietor of M/s XXX, are hereby called upon to show cause in writing to the Superintendent, CGST Range - [•], Lucknow CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) the stock of trading goods of the cost of Rs.30,10,000/- and the capital goods described in Annexure-A held by them on 30.01.2026, on which input tax credit had been taken, should not be held to be goods in respect of which an amount equal to the input tax credit was payable under Section 29(5) of the CGST Act, 2017/UPGST Act, 2017 read with Rule 44 of the CGST Rules, 2017 on the cancellation of their registration w.e.f. 31.01.2026;

(ii) an amount of Rs.2,72,745/- (Central tax) and Rs.2,72,745/- (Uttar Pradesh State tax), total Rs.5,45,490/- (Rupees Five Lakh Forty-Five Thousand Four Hundred Ninety only), being the short-paid amount under Section 29(5) (stock Rs.4,30,200/- and capital goods Rs.1,15,290/-), as detailed in Annexure-A, should not be demanded and recovered from them under Section 74A(1) of the CGST Act, 2017 and the corresponding provisions of the UPGST Act, 2017;

(iii) interest at the applicable rate under Section 50(1) of the CGST Act, 2017/UPGST Act, 2017 (Rs.23,942/- each, total Rs.47,884/-, calculated up to 31.10.2026) should not be demanded and recovered from them, from the day after 06.05.2026 up to the date of actual payment;

(iv) a penalty equal to the tax on the stock, i.e. Rs.2,15,100/- (Central tax) and Rs.2,15,100/- (Uttar Pradesh State tax), total Rs.4,30,200/-, should not be imposed on them under Section 74A(5)(ii) of the CGST Act, 2017/UPGST Act, 2017, the non-payment being by reason of suppression of facts to evade tax;

(v) a penalty of Rs.10,000/- (Central tax) and Rs.10,000/- (Uttar Pradesh State tax), total Rs.20,000/-, should not be imposed on them under Section 74A(5)(i) of the CGST Act, 2017/UPGST Act, 2017 in respect of the tax on the capital goods;

(vi) penalty should not separately be imposed on them under Section 122(1)(x) of the CGST Act, 2017/UPGST Act, 2017 for furnishing false information as to stock, without prejudice to (iv) above and subject to Section 75(13) and Section 126 of the CGST Act, 2017.

9. The Noticee is further informed that:

- a written reply to this notice, along with all documents relied upon, must be furnished within thirty (30) days of receipt of this notice, failing which the case will be decided ex parte on merits on the basis of available records;
- an opportunity of personal hearing will be granted before adjudication, on a date to be separately intimated;
- attention is drawn to Section 74A of the CGST Act, 2017/UPGST Act, 2017: in respect of the tax on stock (fraud), if the tax, interest and penalty at fifteen per cent of the tax are paid before issue of this notice, or penalty at twenty-five per cent of the tax is paid together with tax and interest within sixty (60) days of issue of this notice [Section 74A(9)(i), (ii)], or penalty at fifty per cent is paid within sixty (60) days of communication of the order [Section 74A(9)(iii)], the proceedings shall be deemed to be concluded; and in respect of the tax on capital goods (non-fraud), if tax and interest are paid within sixty (60) days of issue of this notice, no penalty shall be payable [Section 74A(8)(ii)];
- this notice is issued without prejudice to any other action that may be taken against the Noticee or any other person under the CGST Act, 2017/UPGST Act, 2017 or any other law for the time being in force.

List of Relied Upon Documents (RUDs):

RUD-1: Application for cancellation in FORM GST REG-16 dated 10.01.2026 and FORM GST DRC-03 dated 28.01.2026;

RUD-2: Order of cancellation in FORM GST REG-19 dated 06.02.2026;

RUD-3: Inventory of goods prepared on 24.01.2026, signed by Mr. Z, with the officer's visit report;

RUD-4: Purchase register and six purchase invoices (A-1, B-2, A-3, C-4, B-5, C-6) and FORM GSTR-2B for October 2025 to January 2026;

RUD-5: Sales register, FORM GSTR-1 and FORM GSTR-3B for April 2025 to January 2026 and the stock reconciliation;

RUD-6: FORM GSTR-10 filed on 22.06.2026;

RUD-7: Summons dated 28.07.2026 under Section 70, with proof of service;

RUD-8: Fixed asset register and purchase invoices of the three items of capital goods;

RUD-9: Hand-written diary (cash book) of February to April 2026;

RUD-10: Statement of the diary entries matched with the inventory of 24.01.2026;

RUD-11: Statement of Mr. Z recorded under Section 70 on 12.08.2026;

RUD-12: FORM GST DRC-01A (Part A) dated 14.09.2026 and the Noticee's Part B dated 28.09.2026;

Annexure-A: Invoice-wise computation of credit on stock, computation for capital goods, short payment and interest [as per the workings in Part B].

(_____)
Superintendent, CGST
Range - [•], Division - [•], Lucknow CGST Commissionerate

Copy to: The Deputy/Assistant Commissioner, CGST Division, Lucknow, for information.

Drafting note (not part of the notice):

- *The addressee, jurisdictional range/officer, F. No./DIN and dates shown in square brackets/blanks are illustrative placeholders and must be completed with the correct particulars before issue.*
- *The tax, interest and penalty figures are worked out on the reasoned basis explained in Part B and remain subject to reconciliation with the seized/recorded documents. Interest is worked out up to 31.10.2026 for illustration; recalculate up to the date of issue and, in the order, up to the date of payment.*
- ***Teaching twist - the date and the quantum.*** *(1) The reckoning date is the day before the date of cancellation, which is neither the date of the REG-16 application, nor the date of the officer's inventory, nor the date of the REG-19 order: stock is rolled forward from the inventory and tied to the books. (2) Stock is valued invoice-wise (credit on each invoice x quantity in stock/quantity bought), not by applying 18% to the cost at random; the invoice route is what Rule 44(1)(a) prescribes (Rule 44(3) permits estimation at market price only where invoices are not available). (3) Capital goods use the 60-month pro-rata (Rule 44(1)(b)), with the part-month ignored as in the Illustration; the starting point of the 'use' is taken as the invoice date, which the rule text does not define - flag.*
- ***Fraud for one component, non-fraud for another.*** *The notice carries penalty under Section 74A(5)(ii) for stock (deliberate suppression, evidenced by purchases after the closure decision, the signed inventory, the diary and the admission) and Section 74A(5)(i) for capital goods (no intent shown). The concession clauses therefore differ for the two amounts. If the evidence of intent is thin, do not allege fraud; an unsupported fraud charge will not survive.*
- ***Time limit - FLAG.*** *Section 74A(2) counts forty-two months from the due date of the annual return for the financial year. A person whose registration is cancelled files a final return (GSTR-10); whether an annual return falls due for FY 2025-26 in his case is unclear. The notice is within time on any reading (the final return was due on 06.05.2026), and the draft cites the normal annual-return date (31.12.2026) as the reference point.*
- ***Output-tax limb.*** *Section 29(5) takes the higher of the credit and the output tax on the goods, but neither the Act nor Rule 44 says how the goods are to be valued where no supply takes place. The draft uses the value actually realised (diary) for the stock and compares; for the capital goods no value is available and the credit-based amount is taken, with the right to revise reserved. Rates (9% + 9%) are taken from the*

invoices and were not tested against the rate notification; the quantum does not depend on them for the credit-based amount.

- ***Authority.*** *The draft should be settled by the jurisdictional Range/Division before issue (DRC-01), including verification of the monetary-limit-based issuing/adjudicating authority under Circular No. 31/05/2018-GST dated 09.02.2018 (Superintendent: central tax up to Rs.10 lakh; Deputy/Assistant Commissioner: above Rs.10 lakh up to Rs.1 crore; Additional/Joint Commissioner: above Rs.1 crore). Here the central tax demand is Rs.2,72,745/-, within the Superintendent's limit; the circular is framed for Sections 73 and 74 and does not mention Section 74A (applied by analogy).*
- *Return of non-RUDs (Non-Relied Upon Documents): When the SCN is issued to the taxpayer in the form of DRC-01 (uploaded on the portal if registered, as well as delivered as per the provisions of law), non-RUDs must be returned to the noticee under due acknowledgement within seven days of issuance of the SCN.*

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Exercise 46

Failure to reverse input tax credit on goods lost, stolen, destroyed, written off and distributed as free samples and gifts - Section 17(5)(h)

Exercise 46: Failure to reverse input tax credit on goods lost, stolen, destroyed, written off and distributed as free samples and gifts - Section 17(5)(h)

Situation in Brief:

1. M/s XXX Pvt. Ltd. (hereinafter 'the Company') is registered in Maharashtra and manufactures packaged snack foods at its plant at YYYY, MIDC, Ambad, Nashik, and sells them through dealers in Maharashtra and neighbouring States. Mr. Z is its Chief Financial Officer and looks after GST compliance. The Company takes full input tax credit on purchases of edible oil, flour, spices and packing material. Its annual report for FY 2025-26 (filed with the Registrar of Companies in August 2026) mentioned a fire loss, an inventory write-off and expenditure on 'sales promotion by way of free samples'.

2. A summons dated 02.09.2026 under Section 70 of the CGST Act, 2017 was issued to Mr. Z. On 17.09.2026 he appeared and produced (a) the stock registers, the loss register and the Board resolution of 31.03.2026, (b) the FIR dated 02.01.2026 for theft and the fire brigade report, (c) the insurer's survey report and settlement letter dated 12.02.2026 (claim of Rs.61,50,000/- settled), (d) the free-sample and gift registers, (e) the cost sheet certified by a cost accountant, which shows the input tax credit embedded in the inputs per carton of finished goods as Rs.54/-, and (f) the electronic credit ledger and FORM GSTR-3B for October 2025 to September 2026.

3. The records show the following events in FY 2025-26, in respect of which input tax credit had been taken on the inputs and goods concerned, and no credit has been reversed in any return:

Event	Date	Description	Quantity	Return month
E1	14.10.2025	Fire in finished-goods warehouse - finished goods destroyed	9,000 cartons	Oct-2025
E2	14.10.2025	Same fire - raw and packing materials in adjoining store destroyed (credit per purchase invoices)	invoice-wise	Oct-2025
E3	18.10.2025	Diwali hampers (purchased dry-fruit boxes) gifted to 300 dealers (credit per purchase invoices)	300 hampers	Oct-2025
E4	31.12.2025	Refined oil stolen from storage tank, found on stock-taking (FIR dated 02.01.2026)	12,000 kg	Dec-2025
E5	12.12.2025	Finished goods distributed as free samples at dealer meet (Nashik)	2,000 cartons	Dec-2025
E6	20.02.2026	Finished goods distributed as free samples at dealer meet (Pune)	2,500 cartons	Feb-2026
E7	31.03.2026	Expired finished goods written off and destroyed (Board resolution dated 31.03.2026)	3,800 cartons	Mar-2026

4. The statement of Mr. Z was recorded on 17.09.2026 under Section 70, wherein he stated that credit had not been reversed because the loss in the fire had been compensated by the insurer; that the theft and the write-off were business losses; that free samples and dealer hampers were marketing costs; that the credit per carton in the cost sheet is correct and the invoice-wise figures are as per the purchase invoices; that the Company's own norm for process loss (evaporation and absorption in frying) is 1.8% of the oil consumed, and that the oil consumed in FY 2025-26 was 1,95,000 kg; and that he has no objection to the figures if the credit is held ineligible.

5. The Company's CGST and MGST ledgers moved identically (all inputs are purchased intra-State). The closing balance in the CGST ledger after payment of tax through each return is as under; in every month from April 2026 to September 2026 the closing balance stayed at or above Rs.20,000/- (lowest closing balance Rs.21,500/-); the Company has not made any reversal or payment on this account:

Return	GSTR-3B filed on	Closing CGST balance after filing (Rs.)
Oct-2025	19.11.2025	1,20,000
Nov-2025	19.12.2025	40,000

Dec-2025	20.01.2026	30,000
Jan-2026	19.02.2026	45,000
Feb-2026	19.03.2026	60,000
Mar-2026	17.04.2026	20,000

6. Now in the light of the above, -

(i) Identify the provision(s) of GST law contravened by M/s XXX Pvt. Ltd. (under heading **Contravention**).

(ii) Identify the provision(s) of GST law under which action is to be taken against M/s XXX Pvt. Ltd. (under heading **Consequences of Contravention of legal Provisions**).

(iii) Draft the **Charging Paragraph** of the Show Cause Notice proposed to be issued to M/s XXX Pvt. Ltd., calling upon M/s XXX Pvt. Ltd. (acting through its Chief Financial Officer Mr. Z) to show cause as to why action should not be taken against them, while listing the proposed action to be taken against M/s XXX Pvt. Ltd. (acting through its Chief Financial Officer Mr. Z).

(iv) Also prepare the **draft Show Cause Notice** for issuance to M/s XXX Pvt. Ltd..

***

SUGGESTED SOLUTION

(Inquiry on summons, Determination of Credit Wrongly Availed under Section 74A, Interest under Rule 88B(3), and Draft Show Cause Notice - M/s XXX Pvt. Ltd., Nashik CGST Commissionerate)

A. CONTRAVENTION

On the facts as recorded, the following provisions of law stand contravened (in each case read with the corresponding provisions of the Maharashtra Goods and Services Tax Act, 2017 [MGST Act] and the Rules made under the two Acts):

1. **Section 17(5)(h) of the CGST Act, 2017** - input tax credit is not available in respect of goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples. Credit on the goods covered by events E1 to E7 (destroyed in fire, stolen, written off, gifted to dealers, given as free samples) was retained and used in FORM GSTR-3B instead of being reversed.
2. **Section 16(1) read with Section 41(1) of the CGST Act, 2017** - only eligible credit may be taken as self-assessed in the return; credit blocked by Section 17(5) is not eligible, and its retention in the ledger and set-off against output tax in the returns is wrongful availment and utilisation.
3. **Section 50(3) of the CGST Act, 2017 read with Rule 88B(3) of the CGST Rules, 2017** - failure to pay interest, at the notified rate, on credit wrongly availed and utilised, from the date of utilisation.

Note: *Considered and not invoked: (i) Section 122(1)(vii) (credit without receipt of goods) - the goods were received and the credit was valid when taken; the credit became ineligible later, by reason of Section 17(5)(h). (ii) Schedule I, entry 2 proviso (gifts to employees up to Rs.50,000 in a year are not supply) - dealers are not employees, and in any case the point is not about supply but about credit; the free samples and the hampers are not taxed as supplies in this notice. (iii) Rule 42/43 and Section 18(4) - not applicable. (iv) Process loss within the Company's own norm - see Part B; it is not 'lost' goods in the sense of Section 17(5)(h) and credit on it is not demanded. (v) No tax is demanded on the insurance pay-out - it is not consideration for a supply. Section 122(2)(a) is not separately invoked as penalty is proposed under Section 74A(5)(i) for the same default (Section 75(13)).*

B. CONSEQUENCES OF CONTRAVENTION OF LEGAL PROVISIONS

The contraventions at (A) above expose M/s XXX Pvt. Ltd. to the following action under the CGST Act, 2017 (read with the corresponding provisions of the MGST Act, 2017):

1. Amount of credit to be reversed - what is in, what is out - Credit is demanded on goods that were *lost, stolen, destroyed, written off, or given away as gifts or free samples* (E1 to E7), at the credit actually embedded in them: for finished goods, the credit on the inputs contained (cost-sheet figure of Rs.54 per carton); for raw and packing materials and hampers, the credit on the purchase invoices; for stolen oil, the tax per kg on the purchase invoices. The cost-sheet apportionment is by analogy with the invoice-proportion approach of Rule 44(1)(a), which governs another situation and does not bind here. Credit on normal process loss (3,510 kg at the Company's norm of 1.8% of oil consumed, credit Rs.22,815/-) is *excluded* as the inputs are consumed in the process of manufacture and are embedded in the output sold; this is a view taken on the text and is flagged in the notes.
2. Insurance is irrelevant - Section 17(5)(h) turns on what happened to the goods, not on whether the loss was compensated. The insurer's pay-out is not a supply and attracts no tax, and it does not restore eligibility of the credit.
3. Demand - under **Section 74A(1) of the CGST Act, 2017** (and the MGST Act), as credit wrongly availed (and utilised). The period is FY 2025-26 (Section 74A applies from FY 2024-25 [Section 74A(12); Notification No. 17/2024-Central Tax dated 27.09.2024]); the notice may be issued within forty-two months from the due date of the annual return for FY 2025-26 (31.12.2026) [Section 74A(2)], and the order is to be passed within twelve months of the notice [Section 74A(7)].

4. Interest - under **Section 50(3)** at the notified rate of 24% per annum, only on credit wrongly availed *and utilised*, from the date of utilisation fixed by the Explanation to Rule 88B(3) (the earlier of the due date and actual filing date of the return in which the balance falls below the amount wrongly availed) to the date of reversal or payment. The ineligible credit builds up month by month (events fall in different months), so the test is applied on the cumulative ineligible amount against each month's closing balance. The credit of Rs.20,000/- per head that has not been utilised (the lowest ledger balance) attracts no interest at present, but must be reversed.

5. Penalty - under **Section 74A(5)(i)**: ten per cent of the tax due or Rs.10,000/-, whichever is higher, under each Act. *Why not Section 74A(5)(ii)?* All events were recorded in the stock and loss registers, a Board resolution, an FIR, an insurer's survey and the annual report; the records were produced at once; the Company's view that insured loss and marketing costs do not call for reversal is a mistaken reading of Section 17(5)(h) and not suppression. Section 74A(8): payment of tax and interest within sixty days of issue of the notice carries no penalty.

6. Recovery and prosecution - Sections 78 and 79; Section 132 considered and not proposed (no intent; amounts are small).

7. Issuing authority - the central tax demand is Rs.6,42,600/-, within the Superintendent's limit (see notes).

Illustrative working (a) - credit on the lost, destroyed, written-off and gifted goods:

Event	Basis of credit	ITC - CGST + MGST (Rs.)	CGST (Rs.)	MGST (Rs.)
E1	9,000 cartons x Rs.54 (cost-sheet credit per carton)	4,86,000	2,43,000	2,43,000
E2	Purchase invoices of destroyed materials	2,10,000	1,05,000	1,05,000
E3	Tax charged on purchase invoices of 300 hampers	63,000	31,500	31,500
E4	12,000 kg x Rs.6.50 tax per kg on purchase invoices	78,000	39,000	39,000
E5	2,000 cartons x Rs.54	1,08,000	54,000	54,000
E6	2,500 cartons x Rs.54	1,35,000	67,500	67,500
E7	3,800 cartons x Rs.54	2,05,200	1,02,600	1,02,600
TOTAL		**12,85,200**	**6,42,600**	**6,42,600**

Illustrative working (b) - utilisation of the ineligible credit (CGST; MGST is identical), Rule 88B(3), Explanation:

Return	Due	Filed	Closing balance (Rs.)	Ineligible ITC arising (Rs.)	Cumulative (Rs.)	Balance short of cumulative (Rs.)	Fresh utilisation (Rs.)	Date of utilisation
Oct-2025	20.11.2025	19.11.2025	1,20,000	3,79,500	3,79,500	2,59,500	2,59,500	19.11.2025
Nov-2025	20.12.2025	19.12.2025	40,000	-	3,79,500	3,39,500	80,000	19.12.2025
Dec-2025	20.01.2026	20.01.2026	30,000	93,000	4,72,500	4,42,500	1,03,000	20.01.2026
Jan-2026	20.02.2026	19.02.2026	45,000	-	4,72,500	4,27,500	-	-
Feb-2026	20.03.2026	19.03.2026	60,000	67,500	5,40,000	4,80,000	37,500	19.03.2026
Mar-2026	20.04.2026	17.04.2026	20,000	1,02,600	6,42,600	6,22,600	1,42,600	17.04.2026
TOTAL				**6,42,600**			**6,22,600**	

Illustrative working (c) - interest under Section 50(3) at 24% per annum (days = 31.10.2026 minus date of utilisation):

Tranche (return of)	Date of utilisation	Amount - per head (Rs.)	Days to 31.10.2026	Interest @24% - per head (Rs.)
Oct-2025	19.11.2025	2,59,500	346	59,038
Nov-2025	19.12.2025	80,000	316	16,622
Dec-2025	20.01.2026	1,03,000	284	19,234
Feb-2026	19.03.2026	37,500	226	5,573
Mar-2026	17.04.2026	1,42,600	197	18,472
TOTAL		**6,22,600**		**1,18,939**

Summary of the amount proposed to be demanded:

Particulars	CGST (Rs.)	MGST (Rs.)	Total (Rs.)
Tax (ineligible ITC) - Section 74A(1)	6,42,600	6,42,600	12,85,200
Interest - Section 50(3), up to 31.10.2026	1,18,939	1,18,939	2,37,878
Penalty - Section 74A(5)(i)	64,260	64,260	1,28,520
TOTAL	**8,25,799**	**8,25,799**	**16,51,598**

C. CHARGING PARAGRAPH OF THE SHOW CAUSE NOTICE

[The following is the operative charging paragraph proposed for incorporation in the Show Cause Notice at Part D below.]

Now, therefore, M/s XXX Pvt. Ltd., a company registered in Maharashtra and having its plant at YYYY, MIDC, Ambad, Nashik (acting through its Chief Financial Officer, Mr. Z), is hereby called upon to show cause in writing to the Superintendent, CGST Range - [•], Nashik CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) *the input tax credit of Rs.12,85,200/- taken on the goods described at events E1 to E7 of Annexure-A (goods destroyed in fire, stolen, written off, gifted to dealers and distributed as free samples) should not be held to be credit not available under Section 17(5)(h) of the CGST Act, 2017/MGST Act, 2017, and wrongly availed and utilised in contravention of Sections 16(1) and 41(1);*

(ii) *an amount of Rs.6,42,600/- (Central tax) and Rs.6,42,600/- (Maharashtra State tax), total Rs.12,85,200/- (Rupees Twelve Lakh Eighty-Five Thousand Two Hundred only), being the input tax credit wrongly availed, should not be demanded and recovered from them under Section 74A(1) of the CGST Act, 2017 and the corresponding provisions of the MGST Act, 2017 (the unutilised part of Rs.20,000/- under each Act being liable to be discharged by reversal through debit of the electronic credit ledger);*

(iii) *interest under Section 50(3) of the CGST Act, 2017/MGST Act, 2017 read with Rule 88B(3) of the CGST Rules, 2017 at 24% per annum on the credit utilised (Rs.1,18,939/- each under the two Acts, total Rs.2,37,878/-, calculated up to 31.10.2026) should not be demanded and recovered from them, up to the date of payment;*

(iv) *a penalty of Rs.64,260/- (Central tax) and Rs.64,260/- (Maharashtra State tax), total Rs.1,28,520/-, being ten per cent of the tax due, should not be imposed on them under Section*

74A(5)(i) of the CGST Act, 2017/MGST Act, 2017 (without prejudice to nil penalty under Section 74A(8) on payment of tax and interest within the time specified).

D. DRAFT SHOW CAUSE NOTICE

F. No. GEXCOM/ADJN/SCN/[•]/2026-NASHIK

DIN: [Document Identification Number to be auto-generated on issue]

Office of the Superintendent, CGST Range - [•], Division - [•], Nashik CGST Commissionerate, Maharashtra

Date: [•].11.2026

SHOW CAUSE NOTICE

(Issued under Section 74A of the Central Goods and Services Tax Act, 2017 read with Section 74A of the Maharashtra Goods and Services Tax Act, 2017)

To,
M/s XXX Pvt. Ltd.,
(through its Chief Financial Officer, Mr. Z),
YYYY, MIDC, Ambad, Nashik, Maharashtra.

(hereinafter referred to as 'the Noticee' or 'the Company')

WHEREAS the Noticee, M/s XXX Pvt. Ltd., is registered in Maharashtra and is engaged in the manufacture and supply of packaged snack foods from its plant at YYYY, MIDC, Ambad, Nashik, and takes input tax credit on its purchases of raw materials and packing material. The Noticee's annual report for FY 2025-26 referred to a fire loss, an inventory write-off and free-sample expenditure, but its returns for the year showed no reversal of credit (RUD-1 and RUD-2);

2. AND WHEREAS a summons dated 02.09.2026 under Section 70 of the CGST Act, 2017 was issued to Mr. Z, Chief Financial Officer (RUD-3), who appeared on 17.09.2026 and produced the stock and loss registers, the Board resolution of 31.03.2026, the FIR dated 02.01.2026, the fire brigade report, the insurer's survey report and settlement letter dated 12.02.2026, the free-sample and gift registers, the certified cost sheet, the purchase invoices and the electronic credit ledger (RUD-5 to RUD-12);

3. AND WHEREAS the statement of Mr. Z was recorded on 17.09.2026 under Section 70 (RUD-4), wherein he, inter alia, admitted and stated that:

- credit had not been reversed because the fire loss was compensated by the insurer and the other items were regarded as business or marketing cost;
- the cost-sheet credit of Rs.54/- per carton and the invoice-wise credit on the destroyed materials, hampers and oil are correct; and
- the Noticee has no objection to the figures if the credit is held to be ineligible;

4. AND WHEREAS the records show that, in FY 2025-26, finished goods, raw and packing materials and purchased goods on which input tax credit of Rs.12,85,200/- (Rs.6,42,600/- each of CGST and MGST) had been taken were lost, stolen, destroyed, written off or disposed of by way of gifts or free samples, as set out in the following table (Annexure-A), and credit on them was neither reversed nor paid. Credit on normal process loss (Rs.22,815/-), within the Noticee's own norm, has not been included:

Event	Basis of credit	ITC - CGST + MGST (Rs.)	CGST (Rs.)	MGST (Rs.)
E1	9,000 cartons x Rs.54 (cost-sheet credit per carton)	4,86,000	2,43,000	2,43,000
E2	Purchase invoices of destroyed materials	2,10,000	1,05,000	1,05,000
E3	Tax charged on purchase invoices of 300 hampers	63,000	31,500	31,500
E4	12,000 kg x Rs.6.50 tax per kg on purchase invoices	78,000	39,000	39,000
E5	2,000 cartons x Rs.54	1,08,000	54,000	54,000

E6	2,500 cartons x Rs.54	1,35,000	67,500	67,500
E7	3,800 cartons x Rs.54	2,05,200	1,02,600	1,02,600
TOTAL		**12,85,200**	**6,42,600**	**6,42,600**

5. AND WHEREAS the Noticee's CGST ledger (RUD-12) shows that, on the cumulative ineligible credit, the balance in the ledger after payment of tax through the returns for October 2025 to March 2026 fell below the amount of credit wrongly availed, with the consequence that, within the meaning of the Explanation to Rule 88B(3), credit of Rs.6,22,600/- per head has been utilised on the dates shown in Annexure-A, while Rs.20,000/- per head remains unutilised. The interest under Section 50(3) at 24% per annum works out to Rs.1,18,939/- per head (Rs.2,37,878/- under the two Acts) up to 31.10.2026;

6. AND WHEREAS the events were recorded in the registers, the Board resolution, an FIR, the insurer's report and the annual report, the Noticee produced all the records on the first summons, and its failure to reverse the credit appears to result from the belief that compensated or marketing losses do not call for reversal. No fraud, wilful misstatement or suppression of facts to evade tax is established; the case is therefore one under Section 74A(5)(i) of the CGST Act, 2017;

7. AND WHEREAS it thus appears that the Noticee has contravened the following provisions of the CGST Act, 2017 (and the corresponding provisions of the MGST Act, 2017):

- Section 17(5)(h) - retention and use of credit on goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples;
- Sections 16(1) and 41(1) - taking and using credit that is not eligible;
- Section 50(3) read with Rule 88B(3) - non-payment of interest on credit wrongly availed and utilised;

8. AND WHEREAS the aforesaid acts and omissions of the Noticee render it liable to:

(a) demand and recovery of tax (credit) under Section 74A(1) of the CGST Act, 2017/MGST Act, 2017;

(b) interest under Section 50(3) of the CGST Act, 2017/MGST Act, 2017; and

(c) penalty under Section 74A(5)(i) of the CGST Act, 2017/MGST Act, 2017;

NOW, THEREFORE

M/s XXX Pvt. Ltd., through its Chief Financial Officer Mr. Z, is hereby called upon to show cause in writing to the Superintendent, CGST Range - [•], Nashik CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) the input tax credit of Rs.12,85,200/- taken on the goods described at events E1 to E7 of Annexure-A (goods destroyed in fire, stolen, written off, gifted to dealers and distributed as free samples) should not be held to be credit not available under Section 17(5)(h) of the CGST Act, 2017/MGST Act, 2017, and wrongly availed and utilised in contravention of Sections 16(1) and 41(1);

(ii) an amount of Rs.6,42,600/- (Central tax) and Rs.6,42,600/- (Maharashtra State tax), total Rs.12,85,200/- (Rupees Twelve Lakh Eighty-Five Thousand Two Hundred only), being the input tax credit wrongly availed, should not be demanded and recovered from them under Section 74A(1) of the CGST Act, 2017 and the corresponding provisions of the MGST Act, 2017 (the unutilised part of Rs.20,000/- under each Act being liable to be discharged by reversal through debit of the electronic credit ledger);

(iii) interest under Section 50(3) of the CGST Act, 2017/MGST Act, 2017 read with Rule 88B(3) of the CGST Rules, 2017 at 24% per annum on the credit utilised (Rs.1,18,939/- each under the two

Acts, total Rs.2,37,878/-, calculated up to 31.10.2026) should not be demanded and recovered from them, up to the date of payment;

(iv) a penalty of Rs.64,260/- (Central tax) and Rs.64,260/- (Maharashtra State tax), total Rs.1,28,520/-, being ten per cent of the tax due, should not be imposed on them under Section 74A(5)(i) of the CGST Act, 2017/MGST Act, 2017 (without prejudice to nil penalty under Section 74A(8) on payment of tax and interest within the time specified).

9. The Noticee is further informed that:

- a written reply to this notice, along with all documents relied upon, must be furnished within thirty (30) days of receipt of this notice, failing which the case will be decided ex parte on merits on the basis of available records;
- an opportunity of personal hearing will be granted before adjudication, on a date to be separately intimated;
- attention is drawn to Section 74A(8) of the CGST Act, 2017/MGST Act, 2017: if the tax at (ii) above and interest at (iii) above are paid before the issue of this notice, no notice shall be served in respect of the said tax; and if they are paid within sixty (60) days of the issue of this notice, no penalty shall be payable and all proceedings in respect of the notice shall be deemed to be concluded;
- interest will continue to accrue up to the date of actual payment or reversal; and this notice is issued without prejudice to any other action under the CGST Act, 2017/MGST Act, 2017 or any other law for the time being in force.

List of Relied Upon Documents (RUDs):

RUD-1: Annual report of the Noticee for FY 2025-26 (extracts: directors' report and notes on fire loss, write-off, sales promotion);

RUD-2: FORM GSTR-3B for April 2025 to March 2026;

RUD-3: Summons dated 02.09.2026 under Section 70, with proof of service;

RUD-4: Statement of Mr. Z recorded under Section 70 on 17.09.2026;

RUD-5: Stock registers, loss register and Board resolution dated 31.03.2026;

RUD-6: FIR dated 02.01.2026 and fire brigade report;

RUD-7: Insurer's survey report and settlement letter dated 12.02.2026;

RUD-8: Free-sample register and dealer-gift register;

RUD-9: Cost sheet certified by the cost accountant (credit per carton);

RUD-10: Purchase invoices of destroyed materials, hampers and stolen oil;

RUD-11: Process-loss norm and oil consumption statement for FY 2025-26;

RUD-12: Statement of the electronic credit ledger for October 2025 to September 2026;

Annexure-A: Event-wise statement of credit, utilisation and interest [as per the workings in Part B].

(_____)
Superintendent, CGST
Range - [•], Division - [•], Nashik CGST Commissionerate

Copy to: The Deputy/Assistant Commissioner, CGST Division, Nashik, for information.

Drafting note (not part of the notice):

- *The addressee, jurisdictional range/officer, F. No./DIN and dates shown in square brackets/blanks are illustrative placeholders and must be completed with the correct particulars before issue.*
- *The tax, interest and penalty figures are worked out on the reasoned basis explained in Part B and remain subject to reconciliation with the seized/recorded documents. Interest is worked out up to 31.10.2026 for illustration; recalculate up to the date of issue and, in the order, up to the date of payment.*
- ***Teaching twist - what is 'lost' and what is not.*** *Section 17(5)(h) blocks credit on goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples. Trainees must separate (1) goods that physically disappear or are given away (credit reversed), (2) loss that is inherent in the manufacturing process and embedded in the product sold (here the 1.8% norm - not demanded), and (3) the insurance pay-out, which neither creates a supply nor saves the credit. The exclusion of normal process loss rests on construction of the text (the inputs are consumed in making the goods that are sold); no circular or ruling was located and none is cited. Treat as a flagged view.*
- ***Is the credit 'wrongly availed' for Section 50(3)? - FLAG.*** *The credit was valid when taken; Section 17(5)(h) makes it unavailable once the goods are lost or given away. The draft treats retention and use of such credit as wrongly availed and utilised for Section 74A(1) and Section 50(3); the contrary argument is that interest should then run at the 18% rate under Section 50(1) as on any unpaid tax. The text of Section 17(5) ('credit shall not be available') supports the draft, but the point is arguable and no decision was cited.*
- ***Assumptions.*** *The MGST ledger is assumed identical to the CGST ledger; the Rule 88B test is applied on the cumulative ineligible credit against each month's closing balance, carrying forward the largest shortfall; the credit becomes ineligible in the month of the event (for E4 on 31.12.2025, the date of detection). The credit per carton is taken from the cost sheet by analogy to the invoice-proportion method; if the cost sheet is not accepted, the amount must be re-determined invoice-wise.*
- ***Rate of interest - UNVERIFIED NOTIFICATION.*** *The 24% rate is taken from the project law sheet; the notification text could not be fetched and its number is not quoted in the notice. Check before issue.*
- ***Authority.*** *The draft should be settled by the jurisdictional Range/Division before issue (DRC-01), including verification of the monetary-limit-based issuing/adjudicating authority under Circular No. 31/05/2018-GST dated 09.02.2018 (Superintendent: central tax up to Rs.10 lakh; Deputy/Assistant Commissioner: above Rs.10 lakh up to Rs.1 crore; Additional/Joint Commissioner: above Rs.1 crore). Here the central tax demand is Rs.6,42,600/-, within the Superintendent's limit; the circular is framed for Sections 73 and 74 and does not mention Section 74A (applied by analogy).*
- *Return of non-RUDs (Non-Relied Upon Documents): When the SCN is issued to the taxpayer in the form of DRC-01 (uploaded on the portal if registered, as well as delivered as per the provisions of law), non-RUDs must be returned to the noticee under due acknowledgement within seven days of issuance of the SCN.*

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Exercise 47

Stock transfers to own branches in other States (distinct persons) without tax invoice and without payment of IGST

Exercise 47: Stock transfers to own branches in other States (distinct persons) without tax invoice and without payment of IGST

Situation in Brief:

1. M/s XXX Pvt. Ltd. (hereinafter 'the Company') is registered in Gujarat and manufactures industrial pumps and spares at its factory at YYYY, GIDC, Aji, Rajkot. It has two branches, each with a separate GST registration: M/s XXX Pvt. Ltd., Pune (Maharashtra) and M/s XXX Pvt. Ltd., Bengaluru (Karnataka), which hold stock and sell it to dealers and customers in their respective States. Mr. Z, Director (Finance), looks after the Company's accounts and GST compliance. The factory sells to unrelated dealers in other States on tax invoices charging IGST at 18% on these goods.

2. Data analytics reports from the Directorate General of Analytics and Risk Management (DGARM) flagged that, in FY 2024-25, the Company's Rajkot GSTIN had generated 1,184 e-way bills on delivery challans (and not on tax invoices) for movement of pumps to consignees bearing the same PAN in Maharashtra and Karnataka, with no corresponding entries in its FORM GSTR-1 or FORM GSTR-3B for the months concerned. A summons dated 14.07.2026 under Section 70 of the CGST Act, 2017 was issued to Mr. Z, who appeared on 29.07.2026 and produced (a) the delivery challans and the stock-transfer register ('inter-unit transfers') for FY 2024-25, (b) the e-way bills, (c) the stock ledgers of the two branches showing the receipts at the same transfer values, and (d) the FORM GSTR-1 and FORM GSTR-3B of the Rajkot unit and the two branches.

3. The statement of Mr. Z was recorded on 29.07.2026 under Section 70, wherein he stated that the factory and the branches are parts of the same company; that goods were sent to the branches against delivery challans and e-way bills, under the belief that a transfer of stock within the same legal entity is not a supply; that he is aware that the branches have separate GST registrations and that tax is paid at the branch on onward sales; that the value shown in the delivery challans and e-way bills is the transfer value fixed by the Company at cost plus a small margin and is recorded at the same value in the branch ledgers; that the branches make only taxable supplies and have claimed no input tax credit on these stock receipts; and that, as the branches would have been entitled to credit of any IGST charged, the transfers were 'revenue neutral'.

4. The month-wise value of goods transferred to the two branches in FY 2024-25, as declared in the e-way bills and delivery challans, is as follows:

Month	To Pune branch, Maharashtra (Rs.)	To Bengaluru branch, Karnataka (Rs.)	Total (Rs.)
Apr-2024	52,00,000	38,00,000	90,00,000
May-2024	55,00,000	41,00,000	96,00,000
Jun-2024	48,00,000	36,00,000	84,00,000
Jul-2024	60,00,000	44,00,000	1,04,00,000
Aug-2024	63,00,000	47,00,000	1,10,00,000
Sep-2024	58,00,000	45,00,000	1,03,00,000
Oct-2024	70,00,000	52,00,000	1,22,00,000
Nov-2024	66,00,000	50,00,000	1,16,00,000
Dec-2024	72,00,000	54,00,000	1,26,00,000
Jan-2025	68,00,000	51,00,000	1,19,00,000
Feb-2025	64,00,000	49,00,000	1,13,00,000
Mar-2025	79,00,000	59,00,000	1,38,00,000
FY 2024-25	**7,55,00,000**	**5,66,00,000**	**13,21,00,000**

5. FORM GST DRC-01A (Part A) was issued on 10.09.2026 for the amount worked out on the above values. In Part B dated 24.09.2026 the Company reiterated the 'revenue neutral' contention and requested that, if any demand is made, the transfer values in the e-way bills be accepted; no payment was made.

6. Now in the light of the above, -

(i) Identify the provision(s) of GST law contravened by M/s XXX Pvt. Ltd. (under heading **Contravention**).

(ii) Identify the provision(s) of GST law under which action is to be taken against M/s XXX Pvt. Ltd. (under heading **Consequences of Contravention of legal Provisions**).

(iii) Draft the **Charging Paragraph** of the Show Cause Notice proposed to be issued to M/s XXX Pvt. Ltd., calling upon M/s XXX Pvt. Ltd. (acting through its Director (Finance) Mr. Z) to show cause as to why action should not be taken against them, while listing the proposed action to be taken against M/s XXX Pvt. Ltd. (acting through its Director (Finance) Mr. Z).

(iv) Also prepare the **draft Show Cause Notice** for issuance to M/s XXX Pvt. Ltd..

***

SUGGESTED SOLUTION

(Inquiry on summons, Determination of IGST under Section 74A, and Draft Show Cause Notice - M/s XXX Pvt. Ltd., Rajkot CGST Commissionerate)

A. CONTRAVENTION

On the facts as recorded, the following provisions of law stand contravened (in each case read with Section 20 of the Integrated Goods and Services Tax Act, 2017 [IGST Act], as the supplies are inter-State, with the corresponding provisions of the Gujarat Goods and Services Tax Act, 2017 [GGST Act] and the Rules made thereunder):

1. **Section 7(1)(c) of the CGST Act, 2017 read with Schedule I (entry 2) and Section 25(4) and (5)** - supply of goods between distinct persons, made in the course or furtherance of business, is supply even without consideration. The factory in Gujarat and each branch, holding separate registrations in different States, are distinct persons; the transfers of stock are therefore supplies.
2. **Section 5(1) and Section 7(1)(a) of the IGST Act, 2017, read with Section 10(1)(a)** - the supplier is located in Gujarat and the place of supply (where movement of the goods terminates) is in Maharashtra or Karnataka, so the supplies are inter-State supplies on which IGST is leviable and payable by the supplier; IGST was not paid.
3. **Section 31(1) of the CGST Act, 2017 read with Rule 46** - failure to issue a tax invoice at or before removal of the goods; delivery challans were issued instead.
4. **Sections 37(1) and 39(1) and (7) of the CGST Act, 2017** - failure to declare the outward supplies in FORM GSTR-1, to include them in FORM GSTR-3B, and to pay the IGST by the due date for each month.

Note: *Considered and not invoked: (i) Section 122(1)(i) (supply without invoice) - a penalty is proposed under Section 74A(5)(i) for the same default, and the transfers were openly documented in e-way bills, delivery challans and ledgers; a second penalty is barred by Section 75(13) and is not proportionate under Section 126. (ii) Section 74A(5)(ii) (fraud) - no suppression; see Part B. (iii) Section 129/130 - goods moved with e-way bills and challans, no detention. (iv) Rule 28, first proviso (90% of the price charged by the recipient to its customers) is an option of the supplier and was not exercised. (v) Section 132 - considered and not proposed, as the transfers were disclosed in e-way bills and books and mens rea is not established.*

B. CONSEQUENCES OF CONTRAVENTION OF LEGAL PROVISIONS

The contraventions at (A) above expose M/s XXX Pvt. Ltd. to the following action under the CGST Act, 2017 read with Section 20 of the IGST Act, 2017 (and the corresponding provisions of the GGST Act, 2017):

1. Is a stock transfer a 'supply'? - Yes. A single legal entity is not one 'person' for this purpose where it holds more than one registration or has establishments in different States: such registrations and establishments are treated as distinct persons [Section 25(4) and (5)], and supply of goods between distinct persons is supply even without consideration [Schedule I, entry 2, read with Section 7(1)(c)]. The test is not whether the branch is a separate legal entity, but whether it is a separate registration. 'Revenue neutrality' is not an exception to the levy; neither Section 7 nor Section 74A contains one.
2. Value - The value of a supply between distinct persons is determined under **Rule 28(1) of the CGST Rules, 2017**: open market value, failing which the value of like kind and quality, failing which Rule 30 or Rule 31. The second proviso to Rule 28(1) provides that, where the recipient is eligible for full input tax credit, the value declared in the invoice is deemed to be the open market value; the Rule 28(1) opening words themselves cover supplies between distinct persons, and CBIC Circular No. 210/4/2024-GST dated 26.06.2024 (given for related-party import of services) explains the working of this proviso (its application to distinct persons rests on the rule text; see notes). Both branches make only taxable supplies and would be entitled to full credit. No invoice was issued here, so the value is taken from the

only value the Company itself declared for the movement - the transfer value in the delivery challans and e-way bills, which is also recorded in the branch ledgers. This approach, which accepts the Company's own figure, is adopted and the rate of 18% is applied; the right to adopt a different value on other evidence is reserved (see notes).

3. Determination and recovery of tax - under **Section 74A(1) of the CGST Act, 2017**, applied to integrated tax by Section 20 of the IGST Act, 2017 (and the GGST Act). The supplies are of FY 2024-25 and fall under Section 74A [Section 74A(12); Notification No. 17/2024-Central Tax dated 27.09.2024]. The notice may be issued within forty-two months of the due date of the annual return for FY 2024-25 (31.12.2025) [Section 74A(2)], and the order passed within twelve months of the notice [Section 74A(7)].

4. Interest - under **Section 50(1)** at the notified rate of 18% per annum on the IGST, from the day after the due date of the return for each month (20th of the following month) to the date of payment.

5. Penalty - under **Section 74A(5)(i)**: ten per cent of the tax due, i.e. Rs.23,77,800/-. *Why not Section 74A(5)(ii)?* Every transfer was recorded in a delivery challan, an e-way bill (which carries the value), the stock-transfer register and the branch ledgers; both branches are registered and file returns; the Company produced all the records on the first summons; and its belief that a transfer within one legal entity is not a supply is a mistaken reading of the law and not concealment. Although the non-reporting of the transfers in FORM GSTR-1 and GSTR-3B is, literally, non-declaration of facts within Explanation 2 to Section 74A, Section 74A(5)(ii) requires that the non-payment be by reason of suppression 'to evade tax', i.e. with intent; the open documentation and the admitted bona fide belief negate intent on the present evidence. The concession in **Section 74A(8)(ii)** is available: if tax and interest are paid within sixty days of issue of the notice, no penalty is payable and the proceedings are concluded.

6. Credit at the receiving branches - The branches have taken no credit on these receipts. Whether credit of IGST so paid will be available to them depends on Section 16 (including the document on which credit is taken and payment of the tax to the Government) and on Section 17(5)(i); this notice does not decide that question, which is for the branches' own proceedings.

7. Recovery and prosecution - Sections 78 and 79; Section 132 considered and not proposed.

8. Issuing authority - the integrated tax demand of Rs.2,37,78,000/- exceeds Rs.2 crore; the notice is therefore issued by the Additional/Joint Commissioner (see notes).

Illustrative working - IGST and interest, month by month (value declared in e-way bills x 18%; interest from the day after the due date to 31.10.2026):

Month	Value declared (Rs.)	IGST @18% (Rs.)	GSTR-3B due	Days to 31.10.2026	Interest @18% (Rs.)
Apr-2024	90,00,000	16,20,000	20.05.2024	894	7,14,220
May-2024	96,00,000	17,28,000	20.06.2024	863	7,35,418
Jun-2024	84,00,000	15,12,000	20.07.2024	833	6,21,121
Jul-2024	1,04,00,000	18,72,000	20.08.2024	802	7,40,389
Aug-2024	1,10,00,000	19,80,000	20.09.2024	771	7,52,834
Sep-2024	1,03,00,000	18,54,000	20.10.2024	741	6,77,497
Oct-2024	1,22,00,000	21,96,000	20.11.2024	710	7,68,901
Nov-2024	1,16,00,000	20,88,000	20.12.2024	680	7,00,195
Dec-2024	1,26,00,000	22,68,000	20.01.2025	649	7,25,884
Jan-2025	1,19,00,000	21,42,000	20.02.2025	618	6,52,811
Feb-2025	1,13,00,000	20,34,000	20.03.2025	590	5,91,810
Mar-2025	1,38,00,000	24,84,000	20.04.2025	559	6,84,767

TOTAL	**13,21,00,000**	**2,37,78,000**			**83,65,847**

Summary of the amount proposed to be demanded:

Particulars	IGST (Rs.)	Remarks
Tax - Pune branch (Rs.7,55,00,000 value)	1,35,90,000	Section 74A(1)
Tax - Bengaluru branch (Rs.5,66,00,000 value)	1,01,88,000	Section 74A(1)
Interest - Section 50(1) up to 31.10.2026	83,65,847	continues till payment
Penalty - Section 74A(5)(i), 10% of tax	23,77,800	non-fraud
TOTAL	**3,45,21,647**	

C. CHARGING PARAGRAPH OF THE SHOW CAUSE NOTICE

[The following is the operative charging paragraph proposed for incorporation in the Show Cause Notice at Part D below.]

Now, therefore, M/s XXX Pvt. Ltd., a company registered in Gujarat and having its factory at YYYY, GIDC, Aji, Rajkot (acting through its Director (Finance), Mr. Z), is hereby called upon to show cause in writing to the Additional/Joint Commissioner, CGST Commissionerate, Rajkot, within thirty (30) days of the receipt of this notice, as to why:

(i) *the transfers of goods of the aggregate value of Rs.13,21,00,000/- made from the factory at Rajkot to their branches at Pune (Rs.7,55,00,000/-) and Bengaluru (Rs.5,66,00,000/-) during FY 2024-25, being supplies of goods between distinct persons, should not be held to be inter-State supplies of goods made without issue of tax invoice and without payment of integrated tax, in contravention of Sections 7(1)(c) and 31(1) of the CGST Act, 2017 read with Schedule I (entry 2) and Section 25(4) and (5), and Sections 5(1) and 7(1)(a) of the IGST Act, 2017;*

(ii) *integrated tax of Rs.2,37,78,000/- (Rupees Two Crore Thirty-Seven Lakh Seventy-Eight Thousand only), being tax at 18% on the value so declared, as detailed in Annexure-A, should not be demanded and recovered from them under Section 74A(1) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017 and the corresponding provisions of the GGST Act, 2017;*

(iii) *interest at the applicable rate under Section 50(1) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017 (Rs.83,65,847/-, calculated up to 31.10.2026) should not be demanded and recovered from them on the tax at (ii) above, up to the date of actual payment;*

(iv) *a penalty of Rs.23,77,800/-, being ten per cent of the tax due, should not be imposed on them under Section 74A(5)(i) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017 (without prejudice to nil penalty under Section 74A(8) on payment of tax and interest within the time specified).*

D. DRAFT SHOW CAUSE NOTICE

F. No. GEXCOM/ADJN/SCN/[•]/2026-RAJKOT

DIN: [Document Identification Number to be auto-generated on issue]

Office of the Additional/Joint Commissioner, CGST Commissionerate, Rajkot, Gujarat

Date: [•].11.2026

SHOW CAUSE NOTICE

(Issued under Section 74A of the Central Goods and Services Tax Act, 2017 read with Section 20 of the Integrated Goods and Services Tax Act, 2017 and the corresponding provisions of the Gujarat Goods and Services Tax Act, 2017)

To,
M/s XXX Pvt. Ltd.,
(through its Director (Finance), Mr. Z),
YYYY, GIDC, Aji, Rajkot, Gujarat.

(hereinafter referred to as 'the Noticee' or 'the Company')

WHEREAS the Noticee, M/s XXX Pvt. Ltd., is registered in Gujarat and manufactures industrial pumps and spares at YYYY, GIDC, Aji, Rajkot. It has two branches with separate registrations at Pune (Maharashtra) and Bengaluru (Karnataka). Data analytics reports from DGARM flagged that, in FY 2024-25, the Noticee had generated 1,184 e-way bills on delivery challans for movement of pumps to consignees bearing the same PAN in Maharashtra and Karnataka, with no corresponding entries in its returns (RUD-1);

2. AND WHEREAS a summons dated 14.07.2026 under Section 70 of the CGST Act, 2017 was issued to Mr. Z (RUD-2), who appeared on 29.07.2026 and produced the delivery challans, the stock-transfer register, the e-way bills, the stock ledgers of the two branches and the returns of the three registrations (RUD-4 to RUD-8);

3. AND WHEREAS the statement of Mr. Z was recorded on 29.07.2026 under Section 70 (RUD-3), wherein he, inter alia, admitted and stated that:

- goods were sent to the branches against delivery challans and e-way bills, in the belief that a transfer within the same legal entity is not a supply;
- the branches have separate registrations, make only taxable supplies, and have taken no credit on these receipts;
- the value in the challans and e-way bills is the transfer value fixed by the Company, recorded at the same value in the branch ledgers; and
- no tax invoice was issued and no IGST was paid on the transfers;

4. AND WHEREAS the value of goods transferred in FY 2024-25 was Rs.7,55,00,000/- to Pune and Rs.5,66,00,000/- to Bengaluru, aggregating Rs.13,21,00,000/- (month-wise statement in Annexure-A). It appears that the factory and each branch are distinct persons under Section 25(4) and (5) of the CGST Act, 2017; that supply of goods between distinct persons in the course or furtherance of business is a supply under Section 7(1)(c) read with Schedule I (entry 2); and that, the location of the supplier and the place of supply being in different States, the supplies are inter-State supplies of goods under Section 7(1)(a) read with Section 10(1)(a) of the IGST Act, 2017, on which integrated tax is leviable under Section 5(1) of that Act;

5. AND WHEREAS the value of the supplies is determined under Rule 28 of the CGST Rules, 2017. Since the recipient branches are eligible for full input tax credit, the value declared is taken as the open market value in terms of the second proviso to Rule 28(1), and, no invoice having been issued, the

transfer value declared by the Noticee in the e-way bills and delivery challans is adopted. IGST at the rate of 18%, being the rate at which the Noticee itself charges IGST on identical goods sold to unrelated dealers, works out to Rs.2,37,78,000/- (Rs.1,35,90,000/- on supplies to Pune and Rs.1,01,88,000/- on supplies to Bengaluru), as shown in the table below and Annexure-A:

Branch	Value declared (Rs.)	IGST @18% (Rs.)	Place of supply
Pune	7,55,00,000	1,35,90,000	Maharashtra
Bengaluru	5,66,00,000	1,01,88,000	Karnataka
TOTAL	**13,21,00,000**	**2,37,78,000**	

6. AND WHEREAS the Noticee's contention of 'revenue neutrality' in its reply (RUD-9) is not tenable: the levy arises on the supply, no provision of the Act exempts a supply between distinct persons because the recipient may be eligible for credit, and the eligibility of credit to the recipient is a separate matter under Section 16;

7. AND WHEREAS the transfers were recorded in delivery challans, e-way bills carrying their value, the stock-transfer register and the branch ledgers; both branches are registered and file returns; and the Noticee produced all records on the first summons. The non-payment of tax appears to result from a mistaken belief that stock transfers within one legal entity are not supplies, and no fraud, wilful misstatement or suppression of facts to evade tax is established. The case is therefore one under Section 74A(5)(i) of the CGST Act, 2017;

8. AND WHEREAS it thus appears that the Noticee has contravened the following provisions of the CGST Act, 2017 and the IGST Act, 2017 (and the corresponding provisions of the GGST Act, 2017):

- Section 7(1)(c) of the CGST Act read with Schedule I (entry 2) and Section 25(4) and (5) - supplies between distinct persons made without payment of tax;
- Sections 5(1) and 7(1)(a) of the IGST Act - non-payment of integrated tax on inter-State supplies of goods;
- Section 31(1) read with Rule 46 - failure to issue tax invoices;
- Sections 37(1) and 39(1) and (7) - failure to report the supplies in FORM GSTR-1 and FORM GSTR-3B and to pay the tax by the due dates;

9. AND WHEREAS the aforesaid acts and omissions of the Noticee render it liable to:

(a) demand and recovery of integrated tax under Section 74A(1) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017;

(b) interest under Section 50(1) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017; and

(c) penalty under Section 74A(5)(i) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017;

NOW, THEREFORE

M/s XXX Pvt. Ltd., through its Director (Finance) Mr. Z, is hereby called upon to show cause in writing to the Additional/Joint Commissioner, CGST Commissionerate, Rajkot, within thirty (30) days of the receipt of this notice, as to why:

(i) the transfers of goods of the aggregate value of Rs.13,21,00,000/- made from the factory at Rajkot to their branches at Pune (Rs.7,55,00,000/-) and Bengaluru (Rs.5,66,00,000/-) during FY 2024-25, being supplies of goods between distinct persons, should not be held to be inter-State supplies of goods made without issue of tax invoice and without payment of integrated tax, in

contravention of Sections 7(1)(c) and 31(1) of the CGST Act, 2017 read with Schedule I (entry 2) and Section 25(4) and (5), and Sections 5(1) and 7(1)(a) of the IGST Act, 2017;

(ii) integrated tax of Rs.2,37,78,000/- (Rupees Two Crore Thirty-Seven Lakh Seventy-Eight Thousand only), being tax at 18% on the value so declared, as detailed in Annexure-A, should not be demanded and recovered from them under Section 74A(1) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017 and the corresponding provisions of the GGST Act, 2017;

(iii) interest at the applicable rate under Section 50(1) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017 (Rs.83,65,847/-, calculated up to 31.10.2026) should not be demanded and recovered from them on the tax at (ii) above, up to the date of actual payment;

(iv) a penalty of Rs.23,77,800/-, being ten per cent of the tax due, should not be imposed on them under Section 74A(5)(i) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017 (without prejudice to nil penalty under Section 74A(8) on payment of tax and interest within the time specified).

10. The Noticee is further informed that:

- a written reply to this notice, along with all documents relied upon, must be furnished within thirty (30) days of receipt of this notice, failing which the case will be decided ex parte on merits on the basis of available records;
- an opportunity of personal hearing will be granted before adjudication, on a date to be separately intimated;
- attention is drawn to Section 74A(8) of the CGST Act, 2017: if the tax at (ii) above and interest at (iii) above are paid before the issue of this notice, no notice shall be served in respect of the said tax; and if they are paid within sixty (60) days of the issue of this notice, no penalty shall be payable and all proceedings in respect of the notice shall be deemed to be concluded;
- this notice does not decide the eligibility of the Pune and Bengaluru branches to credit of the tax paid, and is issued without prejudice to any other action that may be taken against the Noticee or any other person under the CGST Act, 2017, the IGST Act, 2017, the GGST Act, 2017 or any other law for the time being in force.

List of Relied Upon Documents (RUDs):

RUD-1: DGARM data analytics report on e-way bills generated on delivery challans by the Noticee's Rajkot GSTIN in FY 2024-25;

RUD-2: Summons dated 14.07.2026 under Section 70, with proof of service;

RUD-3: Statement of Mr. Z recorded under Section 70 on 29.07.2026;

RUD-4: Delivery challans and stock-transfer ('inter-unit transfer') register for FY 2024-25;

RUD-5: E-way bills (1,184) for FY 2024-25;

RUD-6: Stock ledgers of the Pune and Bengaluru branches for FY 2024-25;

RUD-7: FORM GSTR-1 and FORM GSTR-3B of the Rajkot unit for FY 2024-25;

RUD-8: FORM GSTR-1 and FORM GSTR-3B of the Pune and Bengaluru branches for FY 2024-25 and sample outward invoices of identical pumps to unrelated dealers;

RUD-9: FORM GST DRC-01A (Part A) dated 10.09.2026 and the Noticee's Part B dated 24.09.2026;

Annexure-A: Month-wise statement of value declared, IGST and interest [as per the working in Part B].

(_____)
Additional/Joint Commissioner, CGST

CGST Commissionerate, Rajkot

Copy to: The Principal Commissioner/Commissioner, CGST Rajkot, for information.

Drafting note (not part of the notice):

- *The addressee, jurisdictional range/officer, F. No./DIN and dates shown in square brackets/blanks are illustrative placeholders and must be completed with the correct particulars before issue.*
- *The tax, interest and penalty figures are worked out on the reasoned basis explained in Part B and remain subject to reconciliation with the seized/recorded documents. Interest is worked out up to 31.10.2026 for illustration; recalculate up to the date of issue and, in the order, up to the date of payment.*
- ***Teaching twist - distinct persons and 'revenue neutrality'.*** *Same PAN does not mean same person under the Act: separate registrations (or establishments in different States) are distinct persons [Section 25(4), (5)], so a stock transfer is a supply [Schedule I, entry 2] and, across States, an inter-State supply liable to IGST. The statute contains no revenue-neutrality exception; the argument goes only to penalty (no intent) and to the branches' credit entitlement, which is a separate matter. Trainees should also note what the notice does not do: it does not decide the branches' credit.*
- ***Valuation - judgement flagged.*** *The second proviso to Rule 28(1) deems the invoice value to be the open market value where the recipient is eligible for full credit (text of Rule 28 verified from cggst.com; the opening words of Rule 28(1) cover distinct persons; Circular No. 210/4/2024-GST concerns import of services from a related person and its text on distinct persons was not independently verified). There is no invoice here; the draft adopts the value declared in the e-way bills and delivery challans as the nearest equivalent, which is also the figure the Noticee asked to be accepted. If the transfer value is below the price at which the Noticee sells the same goods to unrelated dealers, the department could argue for open market value under Rule 28(1)(a) and the demand would rise; the notice reserves that right but does not allege undervaluation, as the proviso makes the point academic where credit is fully available. Settle the position before issue.*
- ***Credit at the receiving branch - UNCERTAIN.*** *Section 17(5)(i) blocks credit of 'any tax paid in accordance with the provisions of sections 74, 129 and 130'. The text of Section 17 as published on cggst.com (checked October 2026) does not name Section 74A. Whether credit of IGST paid under Section 74A (and under Section 74A(8)) is blocked or not for the recipient could not be confirmed from an authoritative source and is not asserted in the notice. A recipient branch must in any case satisfy Section 16 (document and tax actually paid). Check before advising the Company.*
- ***IGST and the State Act.*** *The demand is solely of integrated tax; the CGST demand provisions apply to it through Section 20 of the IGST Act (as stated in the project law sheet; the cggst.com copy of that section could not be read, since the PDF uploaded there is of another Act). The corresponding GGST Act reference is included because the notice cites CGST provisions. The rate of interest on integrated tax is notified under the IGST Act; the notification was not located and its number is not quoted.*
- ***Rate.*** *The 18% rate is taken from the Noticee's own outward invoices for the same pumps; classification is not in dispute. It was not tested against the rate notification and should be confirmed (the item's HSN entry) before issue.*
- ***Authority.*** *The draft should be settled by the jurisdictional Range/Division before issue (DRC-01), including verification of the monetary-limit-based issuing/adjudicating authority under Circular No. 31/05/2018-GST dated 09.02.2018 (Superintendent: central tax up to Rs.10 lakh; Deputy/Assistant Commissioner: above Rs.10 lakh up to Rs.1 crore; Additional/Joint Commissioner: above Rs.1 crore). Here the integrated tax demand of Rs.2,37,78,000/- exceeds Rs.2 crore, the upper limit for the Deputy/Assistant Commissioner (IGST); the notice is therefore drafted for the Additional/Joint*

Commissioner, with a signature block modified accordingly. The circular is framed for Sections 73 and 74 and does not mention Section 74A (applied by analogy).

- *Return of non-RUDs (Non-Relied Upon Documents): When the SCN is issued to the taxpayer in the form of DRC-01 (uploaded on the portal if registered, as well as delivered as per the provisions of law), non-RUDs must be returned to the noticee under due acknowledgement within seven days of issuance of the SCN.*

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Exercise 48

Inputs sent to job worker and not received back within one year - deemed supply under Section 143(3)

Exercise 48: Inputs sent to job worker and not received back within one year - deemed supply under Section 143(3)

Situation in Brief:

1. M/s XXX Pvt. Ltd., having its registered office and factory at YYYY, Coimbatore, Tamil Nadu (Director: Mr. Z), is a registered person manufacturing forged and machined automotive components. Its aggregate turnover for FY 2023-24 was Rs.62.40 crore and it files monthly FORM GSTR-1 and FORM GSTR-3B. Data analytics on FORM GST ITC-04 returns showed that, for the half-years April-September 2024 and October 2024-March 2025, the Company had sent alloy steel bars (HSN 7228) to its job worker, M/s AAA, Coimbatore (Proprietor: Mr. P, a registered person), under five delivery challans, but the quantity shown as received back was lower than the quantity sent, and that the balance was never shown as received back in the later ITC-04 returns (April-September 2025 and October 2025-March 2026). The GSTR-1 and GSTR-3B for the months of dispatch declared no outward supply in respect of the balance.

2. The Company was informed of an audit under Section 65 of the CGST Act, 2017 by intimation dated 28.05.2026, and the audit commenced at its factory on 15.06.2026. The audit team examined the delivery challans issued under Rule 55, the purchase invoices of the bars, the job-work ledger, the stock register and the ITC-04 returns (filed on 24.10.2024 and 24.04.2025 for FY 2024-25, i.e. before the respective due dates of the 25th), and obtained from the Company the quantity-wise reconciliation of challans sent and received back, shown below. The Company confirmed that it had not applied to the Commissioner for extension of the period allowed for bringing back the goods, and that no part of the balance was supplied from the job worker's premises.

Challan No.	Date of dispatch	Qty sent (MT)	Cost per MT (Rs.)	Value sent (Rs.)	Qty received back / accounted for by 1 year (MT)	Balance with job worker (MT)
JW/24-25/0112	12.04.2024	200.0	82,000	1,64,00,000	170.0	30.0
JW/24-25/0286	18.06.2024	275.0	84,000	2,31,00,000	225.0	50.0
JW/24-25/0471	09.09.2024	300.0	83,500	2,50,50,000	250.0	50.0
JW/24-25/0733	14.12.2024	240.0	85,000	2,04,00,000	190.0	50.0
JW/24-25/0958	20.02.2025	250.0	86,000	2,15,00,000	207.5	42.5
TOTAL		**1,265.0**		**10,64,50,000**	**1,042.5**	**222.5**

3. The audit team physically verified the premises of M/s AAA on 14.08.2026 in the presence of Mr. P and two independent witnesses (panchnama of the same date). 222.5 MT of alloy steel bars, tagged with the Company's challan numbers and kept separately as unprocessed stock, was found lying there. In his statement recorded on 14.08.2026 under Section 70 of the CGST Act, 2017, Mr. P stated that he had processed and returned the quantities shown as received back; that the balance had never been taken up for processing because the Company had not issued further work orders; that he had not sold or used any of it; and that the Company had never asked for its return.

4. The statement of Mr. Z, Director, was recorded on 02.09.2026 under Section 70 of the CGST Act, 2017. He stated that the Company's OEM customer cut its orders in the second half of FY 2024-25; that the stores department kept the balance on the books as 'stock at job worker' without tracking the one-year limit; that he was not aware that unreturned inputs are treated as supplied after one year; that all challans and the ITC-04 returns were prepared and filed regularly, nothing was hidden or destroyed; that the Company has not paid any tax on the balance; and that it will pay the tax and interest if so determined. The Company has not claimed or reversed any input tax credit on the bars, which were purchased from a registered supplier and received at the factory before being sent to the job worker.

5. The audit also noted three other items with the job worker: (a) a set of forging dies (a mould-and-die item) sent on 03.10.2024 under challan JW/24-25/0610, value Rs.36,00,000/-; (b) a CNC machine (capital goods) sent on 14.08.2024 for refurbishment under challan JW/24-25/0540, value Rs.58,00,000/-; and (c) 390 MT of the same alloy steel bars sent on 22.11.2025 under challan JW/25-26/0344. All three are shown as 'at job worker' in the ITC-04 returns.

6. Now in the light of the above, -

(i) Identify the provision(s) of GST law contravened by M/s XXX Pvt. Ltd. (under heading **Contravention**).

(ii) Identify the provision(s) of GST law under which action is to be taken against M/s XXX Pvt. Ltd. (under heading **Consequences of Contravention of legal Provisions**).

(iii) Draft the **Charging Paragraph** of the Show Cause Notice proposed to be issued to M/s XXX Pvt. Ltd., calling upon M/s XXX Pvt. Ltd. to show cause as to why action should not be taken against them, while listing the proposed action to be taken against M/s XXX Pvt. Ltd..

(iv) Also prepare the **draft Show Cause Notice** for issuance to M/s XXX Pvt. Ltd..

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SUGGESTED SOLUTION

(Audit findings, deemed supply under Section 143 and Determination of Tax Liability under Section 74A, and Draft Show Cause Notice - M/s XXX Pvt. Ltd., Coimbatore CGST Commissionerate)

A. CONTRAVENTION

On the facts as recorded, the following provisions stand contravened (in each case read with the corresponding provisions of the Tamil Nadu Goods and Services Tax Act, 2017 [TNGST Act] and the Rules made under the two Acts):

1. **Section 143(1)(a) read with Section 143(3) of the CGST Act, 2017** - the principal is required to bring back inputs sent for job work to any of its places of business within one year of their being sent out (or supply them from the job worker's premises within that time). For the 222.5 MT of alloy steel bars covered by challans JW/24-25/0112, 0286, 0471, 0733 and 0958 this was not done, with the result that the inputs are *deemed to have been supplied by the principal to the job worker on the day on which they were sent out*.

2. **Section 9(1) of the CGST Act, 2017 read with Section 15 of the Act and Rule 30 of the CGST Rules, 2017** - non-payment of central tax and State tax at 18% (9% + 9%) on the deemed supply, which is a supply of goods made in the course of business. As the deemed supply is for no consideration to an unrelated job worker, its value cannot be determined under Rules 27 to 29 and is therefore taken under Rule 30 at 110% of the cost of acquisition of the goods.

3. **Rule 45(4) of the CGST Rules, 2017 read with Section 37(1) and Section 39(1) and 39(7) of the CGST Act, 2017** - Rule 45(4) requires the principal, where inputs are not received back within the time allowed by Section 143, to declare the deemed supply in FORM GSTR-1 and pay the tax with applicable interest. Neither was done for the tax periods April 2024, June 2024, September 2024, December 2024 and February 2025.

Note: *Provisions considered and **not** invoked: (a) Section 143(2) (accounts of inputs) and Rule 45(3) (FORM GST ITC-04) - the Company maintained the job-work ledger and filed every ITC-04 on time, so there is no accounts or return default, and Section 125 is not attracted; (b) Section 143(4) (capital goods, three years) - the CNC machine (sent 14.08.2024) is within time until 13.08.2027, and the forging dies are expressly excluded from the three-year rule as 'moulds and dies, jigs and fixtures, or tools'; (c) the 390 MT sent on 22.11.2025 is within its one-year period until 21.11.2026, so no deemed supply has arisen as yet; (d) Section 122(1)(xvi) and 132 - books were maintained and no intent to evade is shown; (e) any reversal of input tax credit - the credit on the bars was validly availed on receipt and no provision of the Act requires its reversal on the deemed supply. The tax now demanded is output tax on a deemed supply, not a recovery of ITC.*

B. CONSEQUENCES OF CONTRAVENTION OF LEGAL PROVISIONS

The contraventions at (A) above expose M/s XXX Pvt. Ltd. to the following action under the CGST Act, 2017 (read with the corresponding provisions of the TNGST Act, 2017):

1. Determination and recovery of tax - under **Section 74A(1) of the CGST Act, 2017**. *Why Section 74A and not Sections 73/74?* The inputs are deemed to be supplied 'on the day when the said inputs were sent out' [Section 143(3)], and not on the day the one-year period expires. The tax periods concerned are therefore April 2024 to February 2025, i.e. FY 2024-25, to which Section 74A applies [Section 74A(12) and Notification No.17/2024-Central Tax dated 27.09.2024]. The same lapse in respect of inputs sent in March 2024 would have belonged to FY 2023-24 and would be governed by Section 73 or Section 74. The notice may be issued within forty-two months from the due date of the annual return for FY 2024-25 (31.12.2025), i.e. up to 30.06.2029 [Section 74A(2)]; the order must be passed within twelve months of the notice [Section 74A(7)].

2. Value and rate - the value is taken at 110% of the cost of acquisition under Rule 30 (cost being the value declared by the Company itself in the challans, Rs.1,87,40,000/- for the 222.5 MT balance), i.e. Rs.2,06,14,000/-. The rate is 18% (9% CGST + 9% TNGST) on alloy steel bars. A Rule 31 (residual method) valuation at cost, without the 10% loading, is the fall-back if the loading is not accepted.

3. Interest - under **Section 50(1) of the CGST Act, 2017** at the notified rate of 18% per annum, from the day after the due date of FORM GSTR-3B for the month in which the inputs were sent out (the day of deemed supply) up to the date of payment. Interest does not run only from the expiry of the one-year period, because the liability is for the tax period of the deemed supply. Interest worked out up to 31.10.2026 (illustrative; to continue to the date of payment) is Rs.13,38,326/- (CGST Rs.6,69,163/- and TNGST Rs.6,69,163/-).

4. Penalty - **Section 74A(5)(i)**: ten per cent of the tax due or Rs.10,000/-, whichever is higher, under each Act. *Why not Section 74A(5)(ii)?* Explanation 2 to Section 74A defines suppression as non-declaration of facts which a taxable person is required to declare in a return, and the deemed supply was not declared in GSTR-1. However, penalty equal to tax needs fraud, wilful misstatement or suppression *to evade tax*. The Company recorded every challan in its job-work ledger, disclosed each dispatch and the outstanding balance in successive ITC-04 returns, produced complete records on audit, and the goods were found intact at the job worker's premises. The default is one of ignorance of the one-year rule and poor monitoring. The benefit of **Section 74A(8)** (no penalty if tax and interest are paid before notice, or within sixty days of the notice) is open to the Company.

5. Other penalties - Section 122(2)(a) is not separately proposed since penalty is proposed under Section 74A(5)(i), and Section 75(13) bars a second penalty for the same omission. Section 125 and Section 126 are not engaged as there is no separate procedural default. Prosecution under Section 132 is not proposed.

6. Co-noticees - the job worker, M/s AAA, is not proposed to be charged: it is not the person liable to pay tax on the deemed supply (the liability is that of the principal), it has not disposed of or used the goods, and it co-operated fully. Mr. Z is not charged personally, as there is no abetment, no benefit retained by him and no fraud, and no offence for which the company's officers could be proceeded against under Section 137 is alleged.

7. Recovery - under Sections 78 and 79 of the CGST Act, 2017 if the amount confirmed is not paid within the time allowed. Authority - central tax of Rs.18,55,260/- falls in the band of Rs.10 lakh to Rs.1 crore, so the notice is issued by the Deputy/Assistant Commissioner of Central Tax (Circular No. 31/05/2018-GST).

Illustrative working of the tax proposed to be demanded (balance quantity not received back within one year, valued under Rule 30):

Challan / date	Balance (MT)	Cost of balance (Rs.)	Taxable value @110% (Rs.)	CGST @9% (Rs.)	TNGST @9% (Rs.)	Total tax (Rs.)
JW/24-25/0112 dt. 12.04.2024	30.0	24,60,000	27,06,000	2,43,540	2,43,540	4,87,080
JW/24-25/0286 dt. 18.06.2024	50.0	42,00,000	46,20,000	4,15,800	4,15,800	8,31,600
JW/24-25/0471 dt. 09.09.2024	50.0	41,75,000	45,92,500	4,13,325	4,13,325	8,26,650
JW/24-25/0733 dt. 14.12.2024	50.0	42,50,000	46,75,000	4,20,750	4,20,750	8,41,500
JW/24-25/0958 dt. 20.02.2025	42.5	36,55,000	40,20,500	3,61,845	3,61,845	7,23,690
TOTAL	**222.5**	**1,87,40,000**	**2,06,14,000**	**18,55,260**	**18,55,260**	**37,10,520**

Interest under Section 50(1) (illustrative, up to 31.10.2026, 18% per annum on a 365-day year):

Challan	One year ends	GSTR-3B due (month of dispatch)	Days to 31.10.2026	Interest on CGST (Rs.)	Interest on TNGST (Rs.)
JW/24-25/0112	11.04.2025	20.05.2024	894	1,07,371	1,07,371
JW/24-25/0286	17.06.2025	20.07.2024	833	1,70,808	1,70,808
JW/24-25/0471	08.09.2025	20.10.2024	741	1,51,039	1,51,039
JW/24-25/0733	13.12.2025	20.01.2025	649	1,34,663	1,34,663
JW/24-25/0958	19.02.2026	20.03.2025	590	1,05,282	1,05,282
TOTAL				**6,69,163**	**6,69,163**

Basis: *The balance quantity for each challan is the quantity sent less the input-equivalent quantity accounted for as received back, or as waste and scrap, within one year of dispatch. Quantities received back in time are not touched. The 10% loading is the point most likely to be contested; if the adjudicating authority takes the cost value, the tax falls to Rs.33,73,200/-.*

C. CHARGING PARAGRAPH OF THE SHOW CAUSE NOTICE

[The following is the operative charging paragraph proposed for incorporation in the Show Cause Notice at Part D below.]

Now, therefore, M/s XXX Pvt. Ltd., having its registered office at YYYY, Coimbatore, Tamil Nadu, are hereby called upon to show cause in writing to the Deputy/Assistant Commissioner of Central Tax, Division - [•], Coimbatore Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) *the 222.5 MT of alloy steel bars (HSN 7228) of cost value Rs.1,87,40,000/- sent to M/s AAA, Coimbatore under delivery challans Nos. JW/24-25/0112, 0286, 0471, 0733 and 0958 dated 12.04.2024, 18.06.2024, 09.09.2024, 14.12.2024 and 20.02.2025 and not received back within one year of being sent out, should not be held to have been supplied by them to the job worker on the respective dates on which they were sent out, in terms of Section 143(3) of the CGST Act, 2017/TNGST Act, 2017;*

(ii) *the value of the said deemed supplies should not be determined at Rs.2,06,14,000/- under Section 15 of the CGST Act, 2017/TNGST Act, 2017 read with Rule 30 of the CGST Rules, 2017;*

(iii) *an amount of Rs.18,55,260/- (Central tax) and Rs.18,55,260/- (Tamil Nadu State tax), total Rs.37,10,520/- (Rupees Thirty-Seven Lakh Ten Thousand Five Hundred Twenty only), being tax not paid on the said deemed supplies, as detailed in Annexure-A, should not be demanded and recovered from them under Section 74A(1) of the CGST Act, 2017 and the corresponding provisions of the TNGST Act, 2017;*

(iv) *interest at the applicable rate under Section 50(1) of the CGST Act, 2017/TNGST Act, 2017 should not be charged and recovered on the tax at (iii) above from the day after the due date of the return for each month of dispatch till the date of payment;*

(v) *a penalty of Rs.1,85,526/- (Central tax) and Rs.1,85,526/- (Tamil Nadu State tax), total Rs.3,71,052/-, being ten per cent of the tax due, should not be imposed on them under Section 74A(5)(i) of the CGST Act, 2017/TNGST Act, 2017 (without prejudice to the benefit of nil penalty to which they may become entitled under Section 74A(8)).*

D. DRAFT SHOW CAUSE NOTICE

F. No. GEXCOM/ADJN/SCN/[•]/2026-COIMBATORE

DIN: [Document Identification Number to be auto-generated on issue]

Office of the Deputy/Assistant Commissioner of Central Tax, Division - [•], Coimbatore Commissionerate, Tamil Nadu

Date: [•].11.2026

SHOW CAUSE NOTICE

(Issued under Section 74A of the Central Goods and Services Tax Act, 2017 read with Section 74A of the Tamil Nadu Goods and Services Tax Act, 2017)

To,
M/s XXX Pvt. Ltd.,
(through its Director, Mr. Z),
YYYY, Coimbatore, Tamil Nadu.

(hereinafter referred to as 'the Noticee', which expression shall, unless the context otherwise requires, include M/s XXX Pvt. Ltd. as the principal within the meaning of Section 143 of the CGST Act, 2017)

1. WHEREAS the Noticee is a registered person manufacturing forged and machined automotive components at YYYY, Coimbatore, and during FY 2024-25 sent alloy steel bars (HSN 7228), on which it had availed input tax credit, to its registered job worker, M/s AAA, Coimbatore (Proprietor: Mr. P), under delivery challans issued under Rule 55 of the CGST Rules, 2017, without payment of tax, in the manner provided in Section 143 of the CGST Act, 2017. The dispatches were reported by the Noticee in its FORM GST ITC-04 returns (RUD-1);

2. AND WHEREAS an audit of the Noticee under Section 65 of the CGST Act, 2017 was commenced on 15.06.2026 on intimation dated 28.05.2026 (RUD-2). Scrutiny of the challans, purchase invoices, job-work ledger and ITC-04 returns (RUD-3) showed that, against 1,265.0 MT sent under five challans, only 1,042.5 MT had been received back or accounted for within one year of dispatch, and that the balance of 222.5 MT had not. The Noticee confirmed that it had not sought any extension of time from the Commissioner under the proviso to Section 143(1) and that no part of the balance had been supplied from the job worker's premises;

3. AND WHEREAS the audit team physically verified the premises of M/s AAA on 14.08.2026 and found 222.5 MT of the bars, tagged with the Noticee's challan numbers, lying as unprocessed stock (panchnama dated 14.08.2026, RUD-4). Mr. P, in his statement dated 14.08.2026 under Section 70 of the CGST Act, 2017 (RUD-5), stated that the balance had never been taken up for processing and had not been sold or used, and that the Noticee had never asked for its return;

4. AND WHEREAS Mr. Z, Director of the Noticee, in his statement dated 02.09.2026 under Section 70 of the CGST Act, 2017 (RUD-6), admitted that the balance quantity had been carried as 'stock at job worker' without watching the one-year limit, that he was unaware that unreturned inputs are deemed to be supplied, that no tax had been paid on the balance, and that the Noticee was ready to pay tax and interest determined to be payable;

5. AND WHEREAS Section 143(3) of the CGST Act, 2017 provides that where inputs sent for job work are not received back by the principal, or not supplied from the job worker's place of business, within a period of one year of their being sent out, it shall be deemed that such inputs had been supplied by the principal to the job worker on the day when the said inputs were sent out. Rule 45(4) of the CGST Rules, 2017 requires the principal to declare such supply in FORM GSTR-1 and pay the tax with

applicable interest. The Noticee did not do so (RUD-7: GSTR-1 and GSTR-3B for April 2024, June 2024, September 2024, December 2024 and February 2025);

6. AND WHEREAS, since the deemed supply is without consideration and to an unrelated person, its value cannot be determined under Rules 27 to 29 and is determined under Rule 30 of the CGST Rules, 2017 at 110% of the cost of acquisition, being the value declared by the Noticee in the challans. The tax payable at 18% (9% CGST + 9% TNGST) is worked out as below (challan-wise details in Annexure-A, which forms part of this notice):

Tax period (month of dispatch)	Taxable value (Rs.)	CGST @9% (Rs.)	TNGST @9% (Rs.)	Total (Rs.)
Apr-2024 (JW/24-25/0112)	27,06,000	2,43,540	2,43,540	4,87,080
Jun-2024 (JW/24-25/0286)	46,20,000	4,15,800	4,15,800	8,31,600
Sep-2024 (JW/24-25/0471)	45,92,500	4,13,325	4,13,325	8,26,650
Dec-2024 (JW/24-25/0733)	46,75,000	4,20,750	4,20,750	8,41,500
Feb-2025 (JW/24-25/0958)	40,20,500	3,61,845	3,61,845	7,23,690
TOTAL	**2,06,14,000**	**18,55,260**	**18,55,260**	**37,10,520**

7. AND WHEREAS the tax periods concerned fall in FY 2024-25, and the deemed supplies having occurred on the dates on which the goods were sent out, this notice is issued under Section 74A within the period allowed by Section 74A(2). The Noticee disclosed every dispatch and the outstanding balances in its ITC-04 returns, maintained the job-work ledger and produced all records, and the goods were found intact with the job worker; there is no evidence of fraud, wilful misstatement or suppression of facts with intent to evade tax. The non-payment is appearing to be a case other than fraud, attracting penalty under Section 74A(5)(i);

8. AND WHEREAS it thus appears that the Noticee has contravened the following provisions of the CGST Act, 2017 and the Rules (and the corresponding provisions of the TNGST Act, 2017):

- Section 143(1)(a) read with Section 143(3) - failure to bring back the inputs within one year, whereby they stand deemed to have been supplied on the dates of dispatch;
- Section 9(1) read with Section 15 and Rule 30 - non-payment of tax on the deemed supplies;
- Rule 45(4) read with Sections 37(1), 39(1) and 39(7) - failure to declare the deemed supplies in FORM GSTR-1 and pay the tax with interest;

9. AND WHEREAS the aforesaid omissions render the Noticee liable to (a) demand and recovery of tax under Section 74A, (b) interest under Section 50(1), and (c) penalty under Section 74A(5)(i) of the CGST Act, 2017/TNGST Act, 2017;

NOW, THEREFORE

M/s XXX Pvt. Ltd., having its registered office at YYYY, Coimbatore, Tamil Nadu, is hereby called upon to show cause in writing to the Deputy/Assistant Commissioner of Central Tax, Division - [•], Coimbatore Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) the 222.5 MT of alloy steel bars (HSN 7228) of cost value Rs.1,87,40,000/- sent to M/s AAA, Coimbatore under delivery challans Nos. JW/24-25/0112, 0286, 0471, 0733 and 0958 dated 12.04.2024, 18.06.2024, 09.09.2024, 14.12.2024 and 20.02.2025 and not received back within one year of being sent out, should not be held to have been supplied by them to the job worker on the respective dates on which they were sent out, in terms of Section 143(3) of the CGST Act, 2017/TNGST Act, 2017;

(ii) the value of the said deemed supplies should not be determined at Rs.2,06,14,000/- under Section 15 of the CGST Act, 2017/TNGST Act, 2017 read with Rule 30 of the CGST Rules, 2017;

(iii) an amount of Rs.18,55,260/- (Central tax) and Rs.18,55,260/- (Tamil Nadu State tax), total Rs.37,10,520/- (Rupees Thirty-Seven Lakh Ten Thousand Five Hundred Twenty only), being tax not paid on the said deemed supplies, as detailed in Annexure-A, should not be demanded and recovered from them under Section 74A(1) of the CGST Act, 2017 and the corresponding provisions of the TNGST Act, 2017;

(iv) interest at the applicable rate under Section 50(1) of the CGST Act, 2017/TNGST Act, 2017 should not be charged and recovered on the tax at (iii) above from the day after the due date of the return for each month of dispatch till the date of payment;

(v) a penalty of Rs.1,85,526/- (Central tax) and Rs.1,85,526/- (Tamil Nadu State tax), total Rs.3,71,052/-, being ten per cent of the tax due, should not be imposed on them under Section 74A(5)(i) of the CGST Act, 2017/TNGST Act, 2017 (without prejudice to the benefit of nil penalty to which they may become entitled under Section 74A(8)).

10. The Noticee is further informed that:

- a written reply to this notice, along with all documents relied upon, must be furnished within thirty (30) days of receipt of this notice, failing which the case will be decided ex parte on the basis of available records;
- an opportunity of personal hearing will be granted before adjudication on a date to be intimated, and the Noticee may appear in person or through an authorised representative;
- attention is drawn to Section 74A(8): if the tax at (iii) and the interest at (iv) are paid before issue of this notice, no notice shall be served; and if they are paid within sixty (60) days of issue of this notice, no penalty shall be payable and all proceedings in respect of the notice shall be deemed to be concluded;
- this notice is issued without prejudice to any other action that may be taken against the Noticee or any other person under the CGST Act, 2017/TNGST Act, 2017 or any other law, and subject to Section 75(13).

List of Relied Upon Documents (RUDs):

RUD-1: FORM GST ITC-04 returns of the Noticee for April-September 2024, October 2024-March 2025, April-September 2025 and October 2025-March 2026;

RUD-2: Audit intimation dated 28.05.2026 and audit commencement record dated 15.06.2026;

RUD-3: Delivery challans, purchase invoices, job-work ledger and stock register of the Noticee, and reconciliation statement given by the Noticee;

RUD-4: Panchnama dated 14.08.2026 drawn at the premises of M/s AAA;

RUD-5: Statement of Mr. P recorded on 14.08.2026 under Section 70;

RUD-6: Statement of Mr. Z recorded on 02.09.2026 under Section 70;

RUD-7: FORM GSTR-1 and GSTR-3B of the Noticee for the relevant months;

Annexure-A: Challan-wise statement of balance quantity, value, tax and interest [as per the working in Part B].

(_____)
Deputy/Assistant Commissioner of Central Tax
Division - [•], Coimbatore Commissionerate

Copy to: The Assistant Commissioner, Audit Circle, for information.

Drafting note (not part of the notice):

- *The addressee, jurisdictional range/officer, F. No./DIN and dates shown in square brackets/blanks are illustrative placeholders and must be completed with the correct particulars before issue.*
- *The tax, interest and penalty figures are worked out on the reasoned basis explained in Part B and remain subject to reconciliation with the seized/recorded documents.*
- ***Teaching point - which regime?*** *The deemed supply takes place on the day the goods were sent out (Section 143(3)), so the regime is fixed by the date of dispatch, not by the date the one-year period expires. Dispatches on or after 01.04.2024 fall under Section 74A even though the lapse occurs later; dispatches up to 31.03.2024 fall under Section 73/74. Trainees should check every challan date before choosing the demand section.*
- ***Matured vs unmatured lots.*** *Only lots whose period has expired can be demanded. The CNC machine (three years) and the lot of 22.11.2025 are unmatured, and moulds, dies, jigs, fixtures and tools are outside the three-year rule. A notice on unmatured lots would be premature.*
- ***Valuation is the contestable step.*** *Section 143(3) says nothing on value. The draft applies Rule 30 (110% of cost) because Rules 27 to 29 need consideration or a related/distinct person. Section 15 and Rule 31 (residual method) are the alternative. Please confirm the basis preferred by the Commissionerate before issue; this point has not been settled in any authority read for this exercise.*
- ***Interest start date.*** *The draft runs interest from the due date for the month of dispatch, following the wording 'on the day when the said inputs were sent out'. A noticee may argue that tax became payable only on the expiry of the one-year period; that argument is not accepted in the draft, but the point is open and is flagged.*
- ***Goods returned after the one year.*** *If the goods had been received back late (for example after thirteen months), the deemed supply would already have occurred. The Act contains no express mechanism to reverse it, so any relief (for instance a credit note) would need separate consideration; the exercise deliberately uses goods still lying with the job worker.*
- *Section 143(1) allows the Commissioner, on sufficient cause, to extend the periods (by one year for inputs, two years for capital goods); the draft records that no extension was sought. In a real case, check whether any extension was granted before issuing the notice.*
- *The rate of 18% on alloy steel bars is taken from the current rate position (18% from 22.09.2025) and the Schedule III position that applied up to 21.09.2025; the earlier-period entry was not independently re-fetched. Please confirm against Notification No. 01/2017-Central Tax (Rate), as amended, before issue (see verification log).*
- *The draft should be settled by the jurisdictional Range/Division before issue (DRC-01), including verification of the monetary-limit-based issuing/adjudicating authority under Circular No. 31/05/2018-GST dated 09.02.2018 (Superintendent: central tax up to Rs.10 lakh; Deputy/Assistant Commissioner: above Rs.10 lakh up to Rs.1 crore; Additional/Joint Commissioner: above Rs.1 crore). Here the central tax demand is Rs.18,55,260/-, so the Deputy/Assistant Commissioner issues the notice.*
- *Return of non-RUDs (Non-Relied Upon Documents): When the SCN is issued to the taxpayer in the form of DRC-01 (uploaded on the portal if registered, as well as delivered as per the provisions of law), non-RUDs must be returned to the noticee under due acknowledgement within seven days of issuance of the SCN.*

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Exercise 49

Availment of input tax credit of over Rs.6 crore on invoices of non-existent suppliers - civil demand, attachment, arrest and prosecution

Exercise 49: Availment of input tax credit of over Rs.6 crore on invoices of non-existent suppliers - civil demand, attachment, arrest and prosecution

Situation in Brief:

1. M/s XXX Pvt. Ltd., YYYY, Ghaziabad, Uttar Pradesh (Directors: Mr. Z, Managing Director and 60% shareholder, and his wife), is a registered manufacturer of copper wires and cables with turnover of Rs.118 crore in FY 2024-25. Intelligence from the Anti-Evasion Section of Ghaziabad CGST Commissionerate, based on analysis of GSTR-2B and e-way bill data, indicated that during June 2025 to January 2026 the Company had availed input tax credit on copper rods and wire scrap purchased from six suppliers in Delhi, Haryana, Rajasthan and Uttar Pradesh, whose registrations showed signs of being fictitious: no filing of GSTR-3B after the second month, common mobile numbers and e-mail IDs, and registered premises at residential addresses.

2. Physical verification of the six registered premises between 20.08.2026 and 28.08.2026 showed that none of the suppliers existed at the declared address. Two of the proprietors, Mr. Q (M/s CCC Enterprises, a daily-wage labourer) and Mr. R (M/s FFF Industries, a rickshaw driver), were traced. Each stated on 27.08.2026, in statements under Section 70, that he had given his Aadhaar and PAN to a person against Rs.10,000/-, had never traded in copper, and had never seen the Company or its premises.

3. A search under Section 67 of the CGST Act, 2017, authorised by the Joint Commissioner, was conducted on 08.09.2026 at the factory and at the residence of Mr. Z. The search team seized two mobile phones, a laptop, a pen drive and the Tally backup, and the purchase register, goods receipt notes and security gate register for FY 2025-26. WhatsApp chats between Mr. Z and Mr. P (a commission agent of Delhi) and spreadsheets listing invoice numbers, amounts and 'commission 1.75%' were recovered from the phones and the laptop (a certificate under Section 145(2) was obtained for the printouts).

4. Analysis of the 214 invoices of the six suppliers (taxable value Rs.35,29,50,000, ITC Rs.6,35,31,000) showed: (a) e-way bills had been generated for 188 invoices; the vehicle numbers in 61 of them belong, per the VAHAN database, to two-wheelers or cars; (b) the 97 vehicles which are goods carriages show no toll (FASTag) crossing toward Ghaziabad on the dates concerned; (c) none of the 214 invoices has a matching entry in the factory's security gate register, weighbridge slip or goods receipt note; and (d) the quantity of copper shown as consumed on the invoices exceeds the maximum production recorded by the Company's own production registers and power consumption. The Company's genuine purchases of copper from its regular suppliers are fully accounted for in these registers.

5. Bank statements show that the Company paid Rs.41,64,81,000 (taxable value plus tax) by RTGS to the six suppliers. Within two working days of each credit the money was passed through 11 other accounts and withdrawn in cash, and the cash was returned, after deduction of commission at 1.75% (Rs.72,88,418), to Mr. Z through Mr. P. This matches the spreadsheets recovered at the search. About Rs.40,91,92,582 was therefore returned in cash.

6. The statement of Mr. P was recorded on 09.09.2026. He admitted that he floated the six firms with dummy proprietors, controlled their bank accounts and invoice books, and supplied only invoices, not goods, to the Company and to other buyers, for a commission of 1.75%. The statement of Mr. Z was recorded on 10.09.2026: he admitted that no copper was received from the six suppliers, that the invoices were taken through Mr. P to reduce cash payment of GST, that the credit was used to pay output tax, and that the cash returned was used by him personally (including the purchase of a residential plot in Ghaziabad). On 21.10.2026 Mr. Z wrote from judicial custody retracting his statement, alleging that it was taken under pressure.

7. The Company's electronic credit ledger showed an unutilised balance of Rs.75,00,000/- arising from the credit of January 2026, which was blocked under Rule 86A on 10.09.2026. The Commissioner

ordered provisional attachment under Section 83 of the Company's three bank accounts and of the residential plot in the name of Mr. Z by order in FORM GST DRC-22 dated 18.09.2026. On 16.10.2026 Mr. Z was arrested under Section 69 under written authorisation of the Commissioner and produced before the Chief Judicial Magistrate, Ghaziabad within 24 hours; he is in judicial custody and his bail application is pending. Mr. P was summoned on three occasions after 09.09.2026 and has not appeared.

8. The month-wise credit availed on the 214 invoices, as shown in the Company's GSTR-3B returns (all filed on the due date, the 20th of the following month), and the supplier-wise break-up, are as follows. All credit up to December 2025 was used in the same GSTR-3B to pay output tax:

Supplier	State	Nos.	Taxable value (Rs.)	IGST (Rs.)	CGST (Rs.)	UPGST (Rs.)	Total ITC (Rs.)
M/s AAA Traders	Delhi	41	8,00,00,000	1,44,00,000	0	0	1,44,00,000
M/s BBB Metals	Haryana	38	7,25,50,000	1,30,59,000	0	0	1,30,59,000
M/s CCC Enterprises	Rajasthan	29	5,60,00,000	1,00,80,000	0	0	1,00,80,000
M/s DDD Copper Co.	Uttar Pradesh (Noida)	47	6,10,00,000	0	54,90,000	54,90,000	1,09,80,000
M/s EEE Wire Traders	Uttar Pradesh (Meerut)	33	4,74,00,000	0	42,66,000	42,66,000	85,32,000
M/s FFF Industries	Uttar Pradesh (Moradabad)	26	3,60,00,000	0	32,40,000	32,40,000	64,80,000
TOTAL		**214**	**35,29,50,000**	**3,75,39,000**	**1,29,96,000**	**1,29,96,000**	**6,35,31,000**

Month	IGST (Rs.)	CGST (Rs.)	UPGST (Rs.)	ITC availed (Rs.)	Utilised (Rs.)	Date of utilisation (GSTR-3B)	Days to 31.10.2026	Interest @24% (Rs.)
Jun-2025	40,00,000	15,00,000	15,00,000	70,00,000	70,00,000	20.07.2025	468	21,54,082
Jul-2025	55,00,000	18,00,000	18,00,000	91,00,000	91,00,000	20.08.2025	437	26,14,816
Aug-2025	45,39,000	15,96,000	15,96,000	77,31,000	77,31,000	20.09.2025	406	20,63,859
Sep-2025	50,00,000	17,00,000	17,00,000	84,00,000	84,00,000	20.10.2025	376	20,76,756
Oct-2025	45,00,000	16,00,000	16,00,000	77,00,000	77,00,000	20.11.2025	345	17,46,740
Nov-2025	50,00,000	17,00,000	17,00,000	84,00,000	84,00,000	20.12.2025	315	17,39,836
Dec-2025	45,00,000	16,00,000	16,00,000	77,00,000	77,00,000	20.01.2026	284	14,37,896
Jan-2026	45,00,000	15,00,000	15,00,000	75,00,000	Nil (blocked)	-	-	-
TOTAL	**3,75,39,000**	**1,29,96,000**	**1,29,96,000**	**6,35,31,000**	**5,60,31,000**			**1,38,33,985**

9. Now in the light of the above, -

(i) Identify the provision(s) of GST law contravened by M/s XXX Pvt. Ltd. (under heading **Contravention**).

(ii) Identify the provision(s) of GST law under which action is to be taken against M/s XXX Pvt. Ltd. (under heading **Consequences of Contravention of legal Provisions**).

(iii) Draft the **Charging Paragraph** of the Show Cause Notice proposed to be issued to M/s XXX Pvt. Ltd., calling upon M/s XXX Pvt. Ltd., Mr. Z (its Managing Director) and Mr. P to show cause as to why action should not be taken against them, while listing the proposed action to be taken against M/s XXX Pvt. Ltd., Mr. Z (its Managing Director) and Mr. P.

(iv) Also prepare the **draft Show Cause Notice** for issuance to M/s XXX Pvt. Ltd..

(v) Explain what is included in the Show Cause Notice and what is left for the prosecution complaint, and state the time-lines for prosecution in this arrest case.

***

SUGGESTED SOLUTION

(Investigation, Determination of Tax Liability under Section 74A, parallel prosecution under Section 132, and Draft Show Cause Notice - M/s XXX Pvt. Ltd., Mr. Z and Mr. P, Ghaziabad CGST Commissionerate)

A. CONTRAVENTION

On the facts as recorded, the following provisions stand contravened (in each case read with the corresponding provisions of the Uttar Pradesh Goods and Services Tax Act, 2017 [UPGST Act], the Integrated Goods and Services Tax Act, 2017 [IGST Act] and the Rules made thereunder):

1. **Section 16(1) and Section 16(2)(b) of the CGST Act, 2017** (read with Section 20 of the IGST Act, 2017) - the Company took credit of tax on 214 invoices of goods which it never received; credit is available only if the goods have in fact been received. Section 16(2)(a) and (c) are also not satisfied in substance: the invoices were issued by non-existent persons and no tax was paid to the Government.
2. **Section 39(1) and Section 39(7) of the CGST Act, 2017** - the returns in FORM GSTR-3B for June 2025 to January 2026 declared and utilised ineligible credit, so that the output tax was short-paid in cash.
3. **Section 35(1) of the CGST Act, 2017 read with Rule 56** - inward supplies and stock were recorded in the books on the basis of invoices for goods not received.
4. **Section 122(1)(vii) of the CGST Act, 2017** - taking and utilising input tax credit without actual receipt of goods; **Section 122(1A)** against the person who retained the benefit of the transaction and at whose instance it was conducted (Mr. Z); and **Section 122(3)(a)** against the person who aided and abetted the offence (Mr. P).
5. **Section 132(1)(c) of the CGST Act, 2017** - availing input tax credit using invoices issued without supply of goods (i.e. invoices covered by clause (b)); read with **Section 132(1)(l)** for the abetment by Mr. P. The credit exceeds Rs.5 crore, so the offence is punishable under Section 132(1)(i) and, being under clause (c), is cognizable and non-bailable under Section 132(5). (Prosecution is considered in Part B and is *not* the subject of the notice.)

Note: *Considered and not invoked in this notice: (a) Section 132 as a charge - it can only be tried by a Magistrate, on a complaint filed with the Commissioner's sanction, so it cannot be 'called upon to show cause' in an SCN; the notice only records it; (b) Section 132(1)(f) (false records) - not used since the false documents were created by the suppliers, not the Company, and the same facts are covered by (c); (c) Section 122(1)(ii) and the cancellation of the six registrations - these belong to the supplier-side proceedings against Mr. P and the dummy firms, which are being separately processed; (d) Section 16(2)(c) as the sole ground - the case does not rest on a supplier's mere default, but on proved non-supply; (e) Section 76 - no tax was collected by the Company.*

B. CONSEQUENCES OF CONTRAVENTION OF LEGAL PROVISIONS

The contraventions at (A) expose the Company, Mr. Z and Mr. P to the following action under the CGST Act, 2017 (read with the UPGST Act, 2017 and Section 20 of the IGST Act, 2017):

1. Demand of tax - ITC of Rs.6,35,31,000/- wrongly availed (IGST Rs.3,75,39,000/-, CGST Rs.1,29,96,000/-, UPGST Rs.1,29,96,000/-) under **Section 74A(1)** read with Section 20 of the IGST Act. The period is June 2025 to January 2026, i.e. FY 2025-26, covered by Section 74A [Section 74A(12)]. The annual return for FY 2025-26 is due on 31.12.2026, so the notice may be issued up to 30.06.2030 [Section 74A(2)]. The order must be passed within twelve months of the notice [Section 74A(7)], extendable by six months.
2. Disposal of blocked credit - Rs.75,00,000/- of the credit lying unutilised in the electronic credit ledger and blocked under Rule 86A is proposed to be disallowed and debited against the demand, as part of the amount ITC wrongly availed. The blocking under Rule 86A lapses one year after it is imposed and is no substitute for the order.

3. Interest - under **Section 50(3)** at the notified rate of 24% per annum on ITC wrongly availed *and utilised*, from the date of utilisation to the date of payment, worked out as per Rule 88B (the utilised credit of Rs.5,60,31,000/- was used on the dates of the GSTR-3B returns). Illustratively, up to 31.10.2026, interest is Rs.1,38,33,985/-. No interest under Section 50(3) is leviable on the Rs.75,00,000/- which remains unutilised.

4. Penalty on the Company - **Section 74A(5)(ii)**: a penalty equal to the tax due, i.e. Rs.6,35,31,000/-, because the credit was taken on invoices for which no goods were received, through arranged invoices, with the cash return of money, a case of fraud and suppression of facts to evade tax. The concessions under Section 74A(9) (15% before notice; 25% within 60 days of the notice; 50% within 60 days of the order) are available if the Company pays tax, interest and the stated percentage of penalty. Explanation 1 to Section 74A excludes Section 132 from the 'all proceedings' that stand concluded, so payment does not stop prosecution.

5. Penalty on Mr. Z - **Section 122(1A)**: equal to the ITC availed, Rs.6,35,31,000/-. Mr. Z is the Managing Director, directed the purchase of the 'bills', and retained the benefit personally, as shown by the cash returned to him and the purchase of the plot. This is also the basis on which his property could be attached under Section 83, which reaches the property of 'a person specified in sub-section (1A) of section 122'.

6. Penalty on Mr. P - **Section 122(3)(a)**: up to Rs.25,000/- under each Act for aiding or abetting the offence under Section 122(1)(vii). The penalty on Mr. P is deliberately kept at the statutory ceiling; the substantial action against him is prosecution and the proceedings against the six shell firms.

7. No double penalty - the specific penalty under Section 122(1)(vii) is not separately proposed against the Company in addition to Section 74A(5)(ii) (without prejudice to, and subject to, Section 75(13)). The penalties on Mr. Z and Mr. P are on different persons and different clauses. Under Explanation 1 to Section 74A, if the proceedings against the Company are concluded under Section 74A(9), the proceedings under Sections 122 against the other persons in the same notice are also deemed concluded.

8. Prosecution and arrest (not part of the notice) - the offence under Section 132(1)(c) with credit above Rs.5 crore is punishable with imprisonment up to five years and fine [Section 132(1)(i)] and is cognizable and non-bailable [Section 132(5)]. Arrest by the Commissioner's written authorisation was available under Section 69(1) since the offence is under Section 132(1)(c), punishable under clause (i). Prosecution needs the previous sanction of the Commissioner [Section 132(6); also Section 134]. Under Instruction No. 04/2022-23 (GST-Investigation) dated 01.09.2022, in an arrest case the proposal goes to the sanctioning authority within 50 days of arrest (by 05.12.2026) and the complaint is to be filed within 60 days of arrest (by 15.12.2026) if bail has not been granted. The Instruction also limits prosecution to persons who oversaw day-to-day operations or took active part (not every director). The statement of Mr. Z may be used in the prosecution only in the circumstances described in Section 136, and the court will presume a culpable mental state under Section 135; the retraction therefore makes the independent evidence (bank trail, FASTag, VAHAN, gate register, chats) the foundation of both the notice and the complaint.

9. Provisional attachment - the attachment ordered on 18.09.2026 ceases to have effect one year after the order, i.e. on 18.09.2027 [Section 83(2)]. Section 83(1) requires proceedings to be pending under Chapter XII, XIV or XV; here the search proceedings under Chapter XIV (Section 67, 08.09.2026) were pending, and this notice is a Chapter XV proceeding. Authority - the combined demand of IGST and central tax exceeds Rs.2 crore, so the notice is issued by the Additional/Joint Commissioner of Central Tax (Circular No. 31/05/2018-GST).

Illustrative working of the demand (the table at Fact 8 is the annexure; figures in Rs.):

Head	Tax / ITC (Rs.)	Penalty 74A(5)(ii) (Rs.)	Interest 50(3) (Rs.)
IGST	3,75,39,000	3,75,39,000	(see total)
Central tax	1,29,96,000	1,29,96,000	(see total)
Uttar Pradesh State tax	1,29,96,000	1,29,96,000	(see total)
TOTAL	**6,35,31,000**	**6,35,31,000**	**1,38,33,985**

Basis: *Interest has been worked out on the total utilised credit; if the notice is to demand it head-wise, the interest at the monthly table is to be split in the proportion of each head utilised in that month. Mr. Z's penalty under Section 122(1A) (Rs.6,35,31,000/-) and Mr. P's (Rs.50,000/-) are over and above the amounts shown.*

C. CHARGING PARAGRAPH OF THE SHOW CAUSE NOTICE

[The following is the operative charging paragraph proposed for incorporation in the Show Cause Notice at Part D below. Prosecution is not a part of it.]

Now, therefore, (1) M/s XXX Pvt. Ltd., YYYY, Ghaziabad, Uttar Pradesh; (2) Mr. Z, Managing Director of M/s XXX Pvt. Ltd. (presently in judicial custody); and (3) Mr. P, Commission Agent, Delhi, are hereby called upon to show cause in writing to the Additional/Joint Commissioner of Central Tax, Ghaziabad CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) *the input tax credit totalling Rs.6,35,31,000/- (IGST Rs.3,75,39,000/-, Central tax Rs.1,29,96,000/-, Uttar Pradesh State tax Rs.1,29,96,000/-) availed by them on 214 invoices issued by M/s AAA Traders, M/s BBB Metals, M/s CCC Enterprises, M/s DDD Copper Co., M/s EEE Wire Traders and M/s FFF Industries, without receipt of goods, during June 2025 to January 2026, should not be held to be wrongly availed in contravention of Section 16(2) of the CGST Act, 2017/UPGST Act, 2017/IGST Act, 2017;*

(ii) *the amount of Rs.75,00,000/- lying unutilised in their electronic credit ledger and blocked under Rule 86A should not be disallowed and recovered by debit of the ledger;*

(iii) *the amount of Rs.6,35,31,000/- (IGST Rs.3,75,39,000/-, Central tax Rs.1,29,96,000/-, UP State tax Rs.1,29,96,000/-), total Rs.6,35,31,000/- (Rupees Six Crore Thirty-Five Lakh Thirty-One Thousand only), should not be demanded and recovered from them under Section 74A(1) of the CGST Act, 2017, read with Section 20 of the IGST Act, 2017 and the corresponding provisions of the UPGST Act, 2017;*

(iv) *interest under Section 50(3) of the CGST Act, 2017/UPGST Act, 2017/IGST Act, 2017 at the notified rate should not be charged and recovered on the credit wrongly availed and utilised (Rs.5,60,31,000/-), from the dates of utilisation till the date of payment;*

(v) *a penalty equal to the tax due, i.e. Rs.6,35,31,000/- (IGST Rs.3,75,39,000/-, Central tax Rs.1,29,96,000/-, UP State tax Rs.1,29,96,000/-), should not be imposed on M/s XXX Pvt. Ltd. under Section 74A(5)(ii) of the CGST Act, 2017/UPGST Act, 2017/IGST Act, 2017 (without prejudice to the benefit under Section 74A(9));*

(vi) *a penalty of Rs.6,35,31,000/- equal to the input tax credit availed should not be imposed on Mr. Z under Section 122(1A) of the CGST Act, 2017/UPGST Act, 2017/IGST Act, 2017;*

(vii) *a penalty should not be imposed on Mr. P under Section 122(3)(a) of the CGST Act, 2017 (Rs.25,000/-) and the UPGST Act, 2017 (Rs.25,000/-);*

(viii) *a penalty should not separately be imposed on M/s XXX Pvt. Ltd. under Section 122(1)(vii), without prejudice to (v) above and subject to Section 75(13).*

D. DRAFT SHOW CAUSE NOTICE

F. No. GEXCOM/ADJN/SCN/[•]/2026-GHAZIABAD

DIN: [Document Identification Number to be auto-generated on issue]

Office of the Additional/Joint Commissioner of Central Tax, Ghaziabad CGST Commissionerate, Uttar Pradesh

Date: [•].11.2026

SHOW CAUSE NOTICE

(Issued under Section 74A of the Central Goods and Services Tax Act, 2017 read with Section 20 of the Integrated Goods and Services Tax Act, 2017 and Section 74A of the Uttar Pradesh Goods and Services Tax Act, 2017)

To,
1. M/s XXX Pvt. Ltd., YYYY, Ghaziabad, Uttar Pradesh;
2. Mr. Z, Managing Director, M/s XXX Pvt. Ltd. (c/o the Superintendent, District Jail, Ghaziabad, with a copy to his residence);
3. Mr. P, Commission Agent, YYYY, Delhi.

(hereinafter referred to as 'the Company', 'Mr. Z' and 'Mr. P' respectively, and together as 'the Noticees')

1. WHEREAS M/s XXX Pvt. Ltd. is a registered manufacturer of copper wires and cables at YYYY, Ghaziabad, of which Mr. Z is the Managing Director. Intelligence from the Anti-Evasion Section, based on analysis of GSTR-2B and e-way bill data, showed that the Company had availed ITC on 214 invoices of six suppliers, whose registrations showed signs of being fictitious (RUD-1);

2. AND WHEREAS physical verification of the registered premises of the six suppliers between 20.08.2026 and 28.08.2026 showed that none existed (RUD-2). The proprietors of M/s CCC Enterprises (Mr. Q) and M/s FFF Industries (Mr. R), in their statements of 27.08.2026 under Section 70, stated that they had given their identity papers for Rs.10,000/- each and never traded (RUD-3);

3. AND WHEREAS a search under Section 67 on 08.09.2026 at the factory and the residence of Mr. Z resulted in seizure of mobile phones, a laptop, a pen drive, the Tally backup and the registers of FY 2025-26 (RUD-4). WhatsApp chats between Mr. Z and Mr. P and spreadsheets of invoice numbers and 'commission 1.75%' were recovered, with the certificate under Section 145(2) (RUD-5);

4. AND WHEREAS analysis of the 214 invoices (taxable value Rs.35,29,50,000/-, ITC Rs.6,35,31,000/-) showed that (a) in 61 e-way bills the vehicle is a two-wheeler or car as per VAHAN; (b) the 97 goods vehicles show no FASTag crossing towards Ghaziabad on the relevant dates; (c) there is no gate-register, weighbridge or goods-receipt entry against any of the 214 invoices; and (d) the quantities of copper on the invoices exceed the maximum the factory could have processed (RUD-6). It therefore appears that **no goods were received** against the invoices;

5. AND WHEREAS the bank statements (RUD-7) show that the Company paid Rs.41,64,81,000/- by RTGS to the six suppliers and the money was withdrawn in cash within two working days through 11 other accounts and returned, after 1.75% commission (Rs.72,88,418/-), to Mr. Z through Mr. P;

6. AND WHEREAS Mr. P in his statement dated 09.09.2026 (RUD-8) admitted floating the six firms with dummy proprietors, controlling their bank accounts and invoice books, and selling invoices only, for a commission of 1.75%. Mr. Z in his statement dated 10.09.2026 (RUD-9) admitted that no copper was received from the six, that the invoices were procured through Mr. P to reduce cash payment of tax, that the credit was used to pay output tax, and that the cash returned was used personally by him,

including for a plot. The retraction dated 21.10.2026 (RUD-10) is a bare allegation of pressure; the documentary and digital evidence above is independent of the statements and corroborates them;

7. AND WHEREAS the Company availed the ITC month-wise as shown below and used Rs.5,60,31,000/- of it in the same GSTR-3B to pay output tax; Rs.75,00,000/- remains unutilised and was blocked under Rule 86A on 10.09.2026 (RUD-11):

Supplier	State	Nos.	Taxable value (Rs.)	IGST (Rs.)	CGST (Rs.)	UPGST (Rs.)	Total ITC (Rs.)
M/s AAA Traders	Delhi	41	8,00,00,000	1,44,00,000	0	0	1,44,00,000
M/s BBB Metals	Haryana	38	7,25,50,000	1,30,59,000	0	0	1,30,59,000
M/s CCC Enterprises	Rajasthan	29	5,60,00,000	1,00,80,000	0	0	1,00,80,000
M/s DDD Copper Co.	Uttar Pradesh (Noida)	47	6,10,00,000	0	54,90,000	54,90,000	1,09,80,000
M/s EEE Wire Traders	Uttar Pradesh (Meerut)	33	4,74,00,000	0	42,66,000	42,66,000	85,32,000
M/s FFF Industries	Uttar Pradesh (Moradabad)	26	3,60,00,000	0	32,40,000	32,40,000	64,80,000
TOTAL		**214**	**35,29,50,000**	**3,75,39,000**	**1,29,96,000**	**1,29,96,000**	**6,35,31,000**

Month	IGST (Rs.)	CGST (Rs.)	UPGST (Rs.)	ITC availed (Rs.)	Utilised (Rs.)	Date of utilisation (GSTR-3B)	Days to 31.10.2026	Interest @24% (Rs.)
Jun-2025	40,00,000	15,00,000	15,00,000	70,00,000	70,00,000	20.07.2025	468	21,54,082
Jul-2025	55,00,000	18,00,000	18,00,000	91,00,000	91,00,000	20.08.2025	437	26,14,816
Aug-2025	45,39,000	15,96,000	15,96,000	77,31,000	77,31,000	20.09.2025	406	20,63,859
Sep-2025	50,00,000	17,00,000	17,00,000	84,00,000	84,00,000	20.10.2025	376	20,76,756
Oct-2025	45,00,000	16,00,000	16,00,000	77,00,000	77,00,000	20.11.2025	345	17,46,740
Nov-2025	50,00,000	17,00,000	17,00,000	84,00,000	84,00,000	20.12.2025	315	17,39,836
Dec-2025	45,00,000	16,00,000	16,00,000	77,00,000	77,00,000	20.01.2026	284	14,37,896
Jan-2026	45,00,000	15,00,000	15,00,000	75,00,000	Nil (blocked)	-	-	-
TOTAL	**3,75,39,000**	**1,29,96,000**	**1,29,96,000**	**6,35,31,000**	**5,60,31,000**			**1,38,33,985**

8. AND WHEREAS Section 16(2)(b) of the CGST Act, 2017 allows credit only where the goods have been received. The Company had no goods, so the credit of Rs.6,35,31,000/- was wrongly availed, and it was availed through arranged invoices, with return of the money in cash and with false declaration in GSTR-3B, in order to reduce the cash payment of tax. This is a case of fraud and suppression of facts with intent to evade tax, attracting Section 74A(5)(ii) and interest under Section 50(3) on the utilised credit;

9. AND WHEREAS Mr. Z, being the Managing Director who procured the invoices through Mr. P, and who retained the benefit in cash, appears liable under Section 122(1A), and Mr. P, who arranged the invoices for commission, appears liable under Section 122(3)(a);

10. AND WHEREAS it thus appears that the Noticees have contravened Sections 16(1) and 16(2)(b), 35(1), 39(1) and 39(7), 122(1)(vii), 122(1A) and 122(3)(a) of the CGST Act, 2017 and the corresponding provisions of the UPGST Act, 2017 and IGST Act, 2017, and the Company is liable to demand under Section 74A, interest under Section 50(3) and penalty under Section 74A(5)(ii);

11. AND WHEREAS the offences under Section 132(1)(c) and (l) are being separately taken up for prosecution before the competent court on the sanction of the Commissioner, and nothing in this notice shall affect that, in terms of Explanation 1 to Section 74A;

NOW, THEREFORE

(1) M/s XXX Pvt. Ltd., (2) Mr. Z, and (3) Mr. P are hereby called upon to show cause in writing to the Additional/Joint Commissioner of Central Tax, Ghaziabad CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) the input tax credit totalling Rs.6,35,31,000/- (IGST Rs.3,75,39,000/-, Central tax Rs.1,29,96,000/-, Uttar Pradesh State tax Rs.1,29,96,000/-) availed by them on 214 invoices issued by M/s AAA Traders, M/s BBB Metals, M/s CCC Enterprises, M/s DDD Copper Co., M/s EEE Wire Traders and M/s FFF Industries, without receipt of goods, during June 2025 to January 2026, should not be held to be wrongly availed in contravention of Section 16(2) of the CGST Act, 2017/UPGST Act, 2017/IGST Act, 2017;

(ii) the amount of Rs.75,00,000/- lying unutilised in their electronic credit ledger and blocked under Rule 86A should not be disallowed and recovered by debit of the ledger;

(iii) the amount of Rs.6,35,31,000/- (IGST Rs.3,75,39,000/-, Central tax Rs.1,29,96,000/-, UP State tax Rs.1,29,96,000/-), total Rs.6,35,31,000/- (Rupees Six Crore Thirty-Five Lakh Thirty-One Thousand only), should not be demanded and recovered from them under Section 74A(1) of the CGST Act, 2017, read with Section 20 of the IGST Act, 2017 and the corresponding provisions of the UPGST Act, 2017;

(iv) interest under Section 50(3) of the CGST Act, 2017/UPGST Act, 2017/IGST Act, 2017 at the notified rate should not be charged and recovered on the credit wrongly availed and utilised (Rs.5,60,31,000/-), from the dates of utilisation till the date of payment;

(v) a penalty equal to the tax due, i.e. Rs.6,35,31,000/- (IGST Rs.3,75,39,000/-, Central tax Rs.1,29,96,000/-, UP State tax Rs.1,29,96,000/-), should not be imposed on M/s XXX Pvt. Ltd. under Section 74A(5)(ii) of the CGST Act, 2017/UPGST Act, 2017/IGST Act, 2017 (without prejudice to the benefit under Section 74A(9));

(vi) a penalty of Rs.6,35,31,000/- equal to the input tax credit availed should not be imposed on Mr. Z under Section 122(1A) of the CGST Act, 2017/UPGST Act, 2017/IGST Act, 2017;

(vii) a penalty should not be imposed on Mr. P under Section 122(3)(a) of the CGST Act, 2017 (Rs.25,000/-) and the UPGST Act, 2017 (Rs.25,000/-);

(viii) a penalty should not separately be imposed on M/s XXX Pvt. Ltd. under Section 122(1)(vii), without prejudice to (v) above and subject to Section 75(13).

12. The Noticees are further informed that:

- a written reply to this notice with all documents relied upon must be furnished within thirty (30) days of receipt, failing which the case will be decided ex parte on the available records;
- an opportunity of personal hearing will be given before adjudication, and Mr. Z may be represented by an authorised representative while in custody;
- attention is drawn to Section 74A(9): if the tax, interest and 15% penalty are paid before issue of this notice, no notice shall be served; if paid with 25% penalty within sixty (60) days of issue of this notice, or with 50% penalty within sixty (60) days of communication of the order, all proceedings in respect of the Company are concluded, and the proceedings under Sections 122(1A) and 122(3) against the other Noticees in this notice are deemed concluded (Explanation 1 to Section 74A); prosecution under Section 132 is not covered;
- this notice is issued without prejudice to any other action under the CGST Act, 2017/UPGST Act, 2017/IGST Act, 2017 or any other law, including prosecution, and subject to Section 75(13).

List of Relied Upon Documents (RUDs):

RUD-1: Intelligence report and GSTR-2B / e-way bill analysis; **RUD-2:** Verification reports of the six premises; **RUD-3:** Statements of Mr. Q and Mr. R dated 27.08.2026;

RUD-4: Search authorisation, panchnama and seizure list dated 08.09.2026; **RUD-5:** WhatsApp chats and spreadsheets with Section 145(2) certificate;

RUD-6: Analysis of invoices with e-way bill, VAHAN, FASTag, gate register and production data; **RUD-7:** Bank statements and fund-flow analysis;

RUD-8: Statement of Mr. P dated 09.09.2026; **RUD-9:** Statement of Mr. Z dated 10.09.2026; **RUD-10:** Retraction dated 21.10.2026;

RUD-11: GSTR-3B returns for June 2025 to January 2026 and electronic credit ledger; Rule 86A order dated 10.09.2026; **RUD-12:** DRC-22 dated 18.09.2026;

Annexure-A: Supplier-wise and month-wise statement of ITC, utilisation and interest [as per the working in Part B].

(_____)
Additional/Joint Commissioner of Central Tax
Ghaziabad CGST Commissionerate

Copy to: The Commissioner, Ghaziabad CGST Commissionerate (for prosecution sanction proceedings); the Deputy Commissioner, Anti-Evasion Section.

Drafting note (not part of the notice):

- *The addressee, jurisdictional range/officer, F. No./DIN and dates shown in square brackets/blanks are illustrative placeholders and must be completed with the correct particulars before issue.*
- *The tax, interest and penalty figures are worked out on the reasoned basis explained in Part B and remain subject to reconciliation with the seized/recorded documents.*
- ***SCN versus complaint.** The SCN is a civil document which determines tax, interest and civil penalty on a balance of probabilities and calls for a reply. The prosecution complaint is a criminal pleading, which charges Section 132(1)(c) and (l), needs the Commissioner's sanction, requires proof beyond reasonable doubt and is filed before a Magistrate. The SCN should therefore (a) record the facts and evidence on which the Department relies, (b) say that prosecution is separate, and (c) avoid proposing imprisonment or 'calling upon to show cause' why Mr. Z should not be prosecuted. The complaint is not drafted here.*
- ***Statement and retraction.** The notice rests chiefly on independent records (VAHAN, FASTag, gate register, bank trail, chat recovery with a Section 145(2) certificate). In a retraction case the officer should record the circumstances of the recording of the statement and not make it the only evidence.*
- ***Section 83 reaches Mr. Z only because of Section 122(1A).** If Mr. Z's penalty under Section 122(1A) is not proposed, his personal property cannot be attached. The notice also helps in defending the attachment, which expires after one year.*
- ***Section 132(1)(c) versus (b).** Clause (b) is for the person issuing the invoice without supply, clause (c) for the recipient who avails the credit. The Company and its Director are in clause (c), the six shells and Mr. P (controller) in (b).*
- ***Arrest.** Section 69(1) requires the Commissioner to have reasons to believe that the person committed an offence under Section 132(1)(a) to (d) punishable under clause (i) or (ii) of Section 132(1) (or Section 132(2)). Section 69(2) requires the grounds to be told to the arrested person and production before a Magistrate within 24 hours. The Code of Criminal Procedure, 1973 referred to in Section 69(3) is now to*

be read as the Bharatiya Nagarik Suraksha Sanhita, 2023 (verify the current text of Section 69 before relying on this).

- ***Clauses (g), (j) and (k) of Section 132(1)** (obstruction, tampering, failure to supply information) are not relied on, as they are understood to have been decriminalised with effect from 01.10.2023; this was cross-checked against a secondary source only.*
- ***Interest.** The monthly utilisation table assumes each month's credit was used in that month's return, filed on the due date. In practice the utilisation date must be taken from the ledger and applied as per Rule 88B(3) with the order of utilisation in Rule 88A. The 24% rate is the notified rate under Section 50(3) (see verification log).*
- ***Separate proceedings.** The six shell firms, Mr. P as their controller and the other beneficiaries need their own notices. The supply side is not part of this exercise.*
- *The draft should be settled by the jurisdictional Range/Division before issue (DRC-01), including verification of the monetary-limit-based issuing/adjudicating authority under Circular No. 31/05/2018-GST dated 09.02.2018 (Superintendent: central tax up to Rs.10 lakh; Deputy/Assistant Commissioner: above Rs.10 lakh up to Rs.1 crore; Additional/Joint Commissioner: above Rs.1 crore). The combined IGST and central tax demand here exceeds Rs.2 crore, so the Additional/Joint Commissioner issues the notice.*
- *Return of non-RUDs (Non-Relied Upon Documents): When the SCN is issued to the taxpayer in the form of DRC-01 (uploaded on the portal if registered, as well as delivered as per the provisions of law), non-RUDs must be returned to the noticee under due acknowledgement within seven days of issuance of the SCN.*

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Exercise 50

Non-display of registration certificate and GSTIN by a small shop - whether to penalise under Section 125 (Section 126 discipline)

Exercise 50: Non-display of registration certificate and GSTIN by a small shop - whether to penalise under Section 125 (Section 126 discipline)

Situation in Brief:

1. M/s XXX, a proprietary concern of Mr. Z, is a retail shop dealing in stationery and gift items at YYYY, Lajpat Nagar, New Delhi. It has been registered under the CGST Act, 2017 as a regular taxpayer since 2019 with a single place of business and an aggregate turnover of about Rs.85 lakh in FY 2025-26. All its returns up to July 2026 have been filed on or before the due dates and the tax shown has been paid. No notice, summons, audit or advisory has been issued to it earlier.

2. As part of a drive on display and compliance requirements in the local market, the Superintendent, Range - [•], Delhi South CGST Commissionerate visited the shop on 12.08.2026 with the authorisation of the Joint Commissioner under Section 71 of the CGST Act, 2017. The officer prepared an inspection note with photographs in the presence of Mr. Z and recorded two matters, shown below. The officer also checked 25 invoices at random from the period April to July 2026 and found all 25 correct in every particular; the tax charged on them matched GSTR-1 and GSTR-3B.

S. No.	Breach noticed on 12.08.2026	Provision	Explanation given	Position after visit
1	Registration certificate not displayed at the principal place of business	Rule 18(1)	Kept in a drawer after the shop was repainted in June 2026	Displayed in a prominent place in front of the officers on 12.08.2026
2	GSTIN not shown on the name board at the entrance	Rule 18(2)	Board was renewed in January 2026 and the sign-writer left out the GSTIN	Board corrected and photograph sent on 14.08.2026

3. Mr. Z accepted both lapses on the spot, and by a letter dated 13.08.2026 he regretted the lapses and said that no deliberate omission was intended and that no revenue was affected. He sent photographs of the corrected board on 14.08.2026. No other defect was noticed, no tax is found unpaid, no record has been withheld, and the shop did not obstruct the officer.

4. The Superintendent is considering whether penalty should be proposed under Section 125 of the CGST Act, 2017 (which prescribes the general penalty) and the corresponding provision of the Delhi Goods and Services Tax Act, 2017 [DGST Act], or whether the matter should be closed with an advisory. A senior officer has asked for a short, reasoned note and the draft of the document that should issue.

5. Now in the light of the above, -

(i) Identify the provision(s) of GST law contravened by M/s XXX (under heading **Contravention**).

(ii) Identify the provision(s) of GST law under which action is to be taken against M/s XXX (under heading **Consequences of Contravention of legal Provisions**).

(iii) Draft the **Charging Paragraph** of the Show Cause Notice proposed to be issued to M/s XXX, calling upon M/s XXX and Mr. Z to show cause as to why action should not be taken against them, while listing the proposed action to be taken against M/s XXX and Mr. Z.

(iv) Also prepare the **draft Show Cause Notice** for issuance to M/s XXX.

(v) Answer this question first, before (iii) and (iv): decide whether a Show Cause Notice should issue at all, giving reasons with reference to Sections 125 and 126. If you conclude that no Show Cause Notice should issue, say so and, in place of (iii) and (iv), prepare the document that should issue (file note and advisory-cum-closure letter). If you conclude otherwise, answer (iii) and (iv) and show how your charging paragraph survives Section 126(1).

***

SUGGESTED SOLUTION

(Verification visit, application of Sections 125 and 126, decision not to issue a Show Cause Notice, and draft Advisory-cum-closure letter - M/s XXX, Delhi South CGST Commissionerate)

A. CONTRAVENTION

On the facts as recorded, the following provisions stand contravened (read with the corresponding provisions of the Delhi Goods and Services Tax Act, 2017 [DGST Act] and the rules thereunder):

1. **Rule 18(1) of the CGST Rules, 2017** - a registered person must display his certificate of registration in a prominent location at his principal place of business and at every additional place of business. The certificate was kept in a drawer on the date of the visit.
2. **Rule 18(2) of the CGST Rules, 2017** - a registered person must display his GSTIN on the name board exhibited at the entry of his principal place of business and at every additional place of business. The name board bore no GSTIN.

Note: *Considered and **not** invoked: (a) Section 122(1)(xii) (false information regarding registration particulars) - nothing false was furnished; (b) Section 122(1)(xvi) (failure to keep or maintain books) - books and invoices were in order; (c) Section 122(1)(xiii) (obstruction of an officer) - the officer was given full access; (d) Section 122(1)(i) and 122(1)(xv) - the 25 invoices and returns are correct, and no supply or turnover was suppressed; (e) any proceeding for cancellation of registration or demand under Section 74A - there is no tax effect and no ground. Only Rules 18(1) and 18(2) are contravened, and the penal provision for a contravention of the rules for which no separate penalty is provided is Section 125.*

B. CONSEQUENCES OF CONTRAVENTION OF LEGAL PROVISIONS

The question is not only which section can be applied, but whether any penalty should be proposed at all. The analysis is as follows:

1. The penal provision - **Section 125 of the CGST Act, 2017** (and the DGST Act): any person who contravenes any provision of the Act or the rules made thereunder, for which no penalty is separately provided, is liable to a penalty which may extend to Rs.25,000/-. The ceiling is therefore Rs.50,000 under the two Acts together. There is no separate penalty for breach of Rule 18, so Section 125 is the only section that could apply.
2. The discipline on penalties - **Section 126** provides that no officer shall impose any penalty for minor breaches of tax regulations or procedural requirements [Section 126(1)]; that a breach is minor if the tax involved is less than Rs.5,000/- [Explanation to Section 126(1)]; that any penalty must be commensurate with the degree and severity of the breach [Section 126(2)], and be imposed only after a hearing [Section 126(3)] and a reasoned order [Section 126(4)]; that voluntary disclosure before detection may be a mitigating factor [Section 126(5)]; and that the section does not apply where the Act fixes the penalty as a sum or percentage [Section 126(6)].
3. Applying Section 126 to the facts - see the table below. Rule 18 does not fix a sum or a percentage, so Section 126 governs. The tax involved in the breaches is nil, which is below Rs.5,000/-, so both are minor breaches, and Section 126(1) forbids a penalty. The conclusion is reinforced by the facts: first lapse, no loss of revenue, correct invoices and returns, rectification within two days, and no obstruction.

Step	Question	Finding on the facts	Result
1	Does the Act fix a sum or a percentage as the penalty for this breach? (Section 126(6))	No. Section 125 says only that penalty 'may extend to' Rs.25,000/-, which is a ceiling and not a fixed sum	Section 126 applies

2	Is the breach a 'minor breach'? (Explanation to Section 126(1): tax involved less than Rs.5,000/-)	Tax involved: Rs.0. Both breaches are display requirements, with no effect on the amount of tax	Minor breach: no penalty can be imposed
3	Is the breach an easily rectifiable error in documentation, made without fraud or gross negligence?	Not a documentation error as such, but rectified in two days; no fraudulent intent; no earlier default or advisory	Supports the same result
4	Voluntary disclosure before detection? (Section 126(5))	No. The letter of 13.08.2026 followed the visit of 12.08.2026; the mitigating factor is not available	Not relevant, since no penalty arises
5	If penalty were still imposed: proportionality and hearing (Section 126(2), (3), (4))	Ceiling Rs.50,000 under the two Acts together; no loss of revenue; prompt compliance; hearing and a reasoned order would be needed	Nil, or at most a token amount, in any case after a hearing

4. Decision proposed - no show cause notice and no penalty under Section 125. The matter is to be closed by an advisory-cum-closure letter, which (a) records the findings, (b) records the corrective action, (c) reminds the registered person of Rule 18, and (d) states that no penalty is proposed in view of Section 126(1). A show cause notice here would be an empty exercise, since a penalty could not lawfully be imposed at the end of it.

5. When the answer would be different - (a) where the breach has a tax effect of Rs.5,000/- or more, and no separate penalty exists, Section 125 can be considered, subject to the proportionality, hearing and reasoned-order requirements of Section 126(2) to (4); (b) where the breach is a documentation mistake which is not 'apparent on the face of the record', or involves fraud or gross negligence, the easily-rectifiable limb of Section 126(1) cannot be used, and the case must be judged on the tax test alone; (c) where the Act itself prescribes a fixed sum or percentage (for example, the penalty in Section 122(1)(xi) for failure to register), Section 126 has no application [Section 126(6)], and the proportionality argument is not available; (d) where a breach is a continuing one, and persists after a written advisory, a fresh decision should be taken on the record, with the hearing under Section 126(3).

Variants of the facts and the proper response in each:

Case	Facts	Legal position	Proper response
A	The facts as given: both Rule 18 lapses, tax involved nil, corrected in two days, no earlier advisory	Minor breach; Section 126(1) bars penalty	Advisory-cum-closure letter; no SCN
B	As A, but the breach is found again on a second visit three months after the advisory	Tax still nil, so the Explanation to Section 126(1) still treats it as minor. The text has no exception for repeat breaches	Second advisory with a file note; record the history; any penalty only after hearing and by a reasoned order [Section 126(3), (4)] (the position on repeat breaches is flagged as open)
C	As A, but 12 B2C sales (Rs.2,50,000/-) were made without invoices, with tax of Rs.45,000 involved	Tax involved is not below Rs.5,000/-, and Section 122(1)(i) fixes the penalty (higher of Rs.10,000/- or tax evaded); Section 126 does not apply [Section 126(6)]	Demand under Section 74A and penalty under Section 122(1)(i); an SCN is proper
D	As A, but the proprietor refuses to allow the officer to enter and see the records	Not a minor display breach: obstruction is separately penalised under Section 122(1)(xiii)	SCN under Section 122(1)(xiii) after notice; not Section 125

6. Authority - the Superintendent in charge of the Range may issue the advisory. Any penalty under Section 125 would need an order after hearing from the proper officer. No monetary limit issue arises, as no demand is involved.

Basis: *The maximum exposure is Rs.50,000 (Rs.25,000/- each under the CGST and DGST Acts). The recommended penalty is nil.*

C. CHARGING PARAGRAPH OF THE SHOW CAUSE NOTICE

[No charging paragraph is proposed. The Show Cause Notice is not recommended. The operative (decision) paragraph which would replace it is given below. If a trainee nevertheless drafts a charging paragraph, it can only be of the following kind, and the draft would be vulnerable to the bar in Section 126(1).]

Operative paragraph (decision) - 'In view of the facts that (i) the certificate of registration and the GSTIN were not displayed as required by Rule 18(1) and Rule 18(2) of the CGST Rules, 2017, (ii) the tax involved in these breaches is nil, (iii) the registered person has displayed the certificate and corrected the name board within two days of the visit, and (iv) all the returns and the invoices checked are in order, the breaches are minor breaches of procedural requirements within the meaning of Section 126(1) of the CGST Act, 2017. It is therefore decided not to initiate proceedings for penalty under Section 125 of the CGST Act, 2017/DGST Act, 2017. The verification is closed with this advisory.'

Alternative charging paragraph (not recommended): 'M/s XXX and Mr. Z are called upon to show cause why a penalty should not be imposed on them under Section 125 of the CGST Act, 2017/DGST Act, 2017 for contravention of Rule 18(1) and Rule 18(2) of the CGST Rules, 2017.'

D. DRAFT SHOW CAUSE NOTICE

Part 1 - File note recommending closure (for the Deputy/Assistant Commissioner)

(a) The visit of 12.08.2026 disclosed two display lapses under Rule 18(1) and 18(2). No tax is involved. All 25 invoices checked and the returns up to July 2026 are in order. The lapses were corrected within 2 days.

(b) Section 125 permits a penalty up to Rs.50,000 in all (CGST and DGST) but Section 126(1) bars penalty for a minor breach, defined by the Explanation as one with tax involved below Rs.5,000/-. Section 126(6) does not exclude the case because Section 125 has no fixed sum.

(c) It is recommended that no SCN be issued, and that the attached advisory be sent. The inspection note and photographs are kept on file for use if the lapse is repeated.

Part 2 - Advisory-cum-closure letter (to the registered person)

F. No. GEXCOM/ADV/[•]/2026-DELHI SOUTH

Office of the Superintendent, CGST Range - [•], Division - [•], Delhi South CGST Commissionerate, New Delhi

Date: [•].11.2026

To,
M/s XXX (Proprietor: Mr. Z),
YYYY, Lajpat Nagar, New Delhi.

Subject: Advisory-cum-closure letter - verification visit of 12.08.2026 - display of certificate of registration and GSTIN (Rule 18 of the CGST Rules, 2017) - no penalty proposed (Section 126(1) of the CGST Act, 2017)

1. Sir/Madam, a visit was made to your place of business on 12.08.2026 under Section 71 of the CGST Act, 2017. It was noticed that (a) your certificate of registration was not displayed in a prominent location at your principal place of business, as required by Rule 18(1) of the CGST Rules, 2017, and (b) your GSTIN was not shown on the name board at the entry of the shop, as required by Rule 18(2).

2. You accepted both lapses. The certificate was displayed in the presence of the officers on the same day, and you have sent photographs showing that the name board was corrected on 14.08.2026. The invoices checked and your returns were found to be in order.

3. Section 125 of the CGST Act, 2017 provides a general penalty for contravention of the rules, up to Rs.25,000/-. However, Section 126(1) provides that no officer shall impose a penalty for minor breaches of procedural requirements, and the Explanation to that sub-section treats a breach as minor where the tax involved is less than Rs.5,000/-. As no tax is involved in the lapses, and they have been corrected, **no penalty is proposed and no show cause notice is being issued**.

4. You are advised (a) to keep the certificate of registration and the GSTIN displayed at all times, and to re-display them whenever the premises are repainted or the name board is replaced; (b) to examine the same requirement for every additional place of business, if any; and (c) to keep a photograph on record of each such display. Continuing or repeated non-compliance may be dealt with under the provisions of the Act, subject to Section 126.

5. No reply is required to this letter. This advisory is issued in the interest of better compliance. It is without prejudice to any lawful action in respect of any matter other than the lapses mentioned above.

(_____)
Superintendent, CGST

Range - [•], Division - [•], Delhi South CGST Commissionerate

Copy to: The Deputy/Assistant Commissioner, CGST Division, for information. File note: closed on [•].11.2026.

Drafting note (not part of the notice):

- *The addressee, jurisdictional range/officer, F. No./DIN and dates shown in square brackets/blanks are illustrative placeholders and must be completed with the correct particulars before issue.*
- ***Important - questions (iii) and (iv).*** *The template questions at the end of the exercise ask for a charging paragraph and a draft SCN. In this exercise the first test for the trainee is whether any SCN should issue at all. The model answer is that it should not. Trainees who nevertheless draft a charging paragraph under Section 125 should be asked to explain how it survives Section 126(1). Question (v) is therefore framed to be answered first and to replace (iii) and (iv) if the trainee decides against a notice; the issue copy may omit (iii) and (iv) altogether.*
- ***Why this exercise matters.*** *A notice under Section 125 is easy to draft and is often the first response of the field officer. Section 126 is a limit on the officer's power, and a penalty order passed in breach of Section 126(1) is open to correction in appeal.*
- ***Same facts, different outcome - the point to teach.*** *Explanation to Section 126(1) tests the tax involved, not the nature of the breach. The same non-display, together with a failure to issue invoices for B2C sales, would not be a minor breach (tax is involved), and the penalty would then be under Section 122(1)(i), a fixed sum or percentage for which Section 126 does not apply [Section 126(6)].*
- ***Voluntary disclosure.*** *The letter of 13.08.2026 was after the visit, so Section 126(5) (disclosure before detection) is not available; do not describe this as voluntary disclosure.*
- *No case law is cited. Rule 18 is quoted from a rules compilation (see the verification log) and the numbering of the sub-sections of Section 126 is as on the website consulted; both should be checked against the official text before issue.*
- *A State-law dimension: the Delhi GST Act contains the corresponding Sections 125 and 126, and the central and State penalties are mentioned together. The advisory is on the letterhead of the central range; the State administration is not bound by it.*
- *The draft should be settled by the jurisdictional Range/Division before issue (DRC-01), including verification of the monetary-limit-based issuing/adjudicating authority under Circular No. 31/05/2018-GST dated 09.02.2018 (Superintendent: central tax up to Rs.10 lakh; Deputy/Assistant Commissioner: above Rs.10 lakh up to Rs.1 crore; Additional/Joint Commissioner: above Rs.1 crore). No demand is involved here.*
- *Return of non-RUDs (Non-Relied Upon Documents): If an SCN were issued, then, when it is issued to the taxpayer in the form of DRC-01 (uploaded on the portal if registered, as well as delivered as per the provisions of law), non-RUDs must be returned to the noticee under due acknowledgement within seven days of issuance of the SCN.*

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Exercise 51

Splitting one goods business into three names to stay below the Rs. 40 lakh registration threshold

Exercise 51: Splitting one goods business into three names to stay below the Rs. 40 lakh registration threshold

Situation in Brief:

1. Information was received from an iron-and-steel manufacturer (M/s DDD Steels, Raipur) in its GSTR-1 data and from e-way bill analysis by the Data Analytics Cell of Bhopal CGST Commissionerate. For FY 2024-25 and FY 2025-26, 412 e-way bills showed M/s XXX, M/s AAA and M/s BBB as unregistered buyers of iron and steel bars (TMT) and binding wire, all with the same delivery address, YYYY, Mandideep Road, Bhopal, Madhya Pradesh, the same transporter and the same contact mobile number. None of the three had a GSTIN. M/s XXX is the proprietary concern of Mr. Z; M/s AAA stands in the name of his wife, Mrs. Q, and M/s BBB in the name of his brother-in-law, Mr. P. Each holds a separate PAN, and each claims a turnover below Rs.40 lakh.

2. A search under Section 67 of the CGST Act, 2017, authorised by the Joint Commissioner, was conducted at the above premises on 11.08.2026. The team found one shop-cum-godown with three name boards, one cash counter, one cash book for all three concerns, and one computer with Tally containing three company files kept by one accountant. Pre-signed bill books of M/s AAA and M/s BBB, the cheque books, passbooks and debit cards of the current accounts of all three concerns, and Mr. Z's mobile phone with the UPI applications of all three accounts were found in Mr. Z's cabin. A chat between Mr. Z and a consultant (not identified) saying 'keep every name below 40, no GST number needed' was recovered from the phone. The material was seized under Section 67(2).

3. Statements under Section 70 were recorded on 20.08.2026. **Mr. Z** stated that the whole business is his own; that he started billing in the names of his wife and brother-in-law in April 2024 on the advice of a consultant so that no concern would cross Rs.40 lakh and none would need registration; that he operated all three accounts and kept all the money; that he has sold only goods (steel bars and binding wire) and charged no GST on the bills; and that he is ready to pay the tax. **Mrs. Q** stated that she is a housewife, has never visited the shop, signed account-opening forms and blank bills on her husband's request, and received nothing. **Mr. P** stated that he worked at the shop as a salesman at Rs.15,000/- a month, gave his PAN on Mr. Z's request, signed blank bills, and had no say in the business; he never operated the account.

4. Analysis of the bank statements, bill books and Tally data showed that all credits in the three accounts relate to sale of the goods, that there are no transfers between the three accounts, that the cash withdrawn was used for payments to the steel suppliers of the shop, and that the sales are reconciled with the bills (no tax charged on any). The turnover under each name is as follows and the month-wise turnover of all three together is shown in the second table:

Name used on bills	Proprietor / PAN holder	FY 2024-25 (Rs.)	FY 2025-26 (Rs.)
M/s XXX (Mr. Z)	Mr. Z	37,60,000	39,10,000
M/s AAA (Mrs. Q)	Mrs. Q (wife of Mr. Z)	36,20,000	38,40,000
M/s BBB (Mr. P)	Mr. P (brother-in-law of Mr. Z)	35,40,000	37,50,000
TOTAL		**1,09,20,000**	**1,15,00,000**

Month	All three concerns (Rs.)	Month	All three concerns (Rs.)
Apr-2024	7,80,000	Apr-2025	8,80,000
May-2024	8,20,000	May-2025	9,40,000
Jun-2024	8,50,000	Jun-2025	9,60,000
Jul-2024	9,00,000	Jul-2025	9,90,000
Aug-2024	9,60,000	Aug-2025	10,20,000

Sep-2024	8,80,000	Sep-2025	9,50,000
Oct-2024	10,20,000	Oct-2025	10,80,000
Nov-2024	11,00,000	Nov-2025	11,40,000
Dec-2024	9,50,000	Dec-2025	9,90,000
Jan-2025	8,70,000	Jan-2026	9,30,000
Feb-2025	9,20,000	Feb-2026	8,80,000
Mar-2025	8,70,000	Mar-2026	7,40,000
FY 2024-25	**1,09,20,000**	**FY 2025-26**	**1,15,00,000**

5. The goods are supplied wholly within Madhya Pradesh. Mr. Z, Mrs. Q and Mr. P are not registered, and none of them has applied for registration. No input tax credit has been claimed; the purchases from registered suppliers were made without giving any GSTIN.

6. Now in the light of the above, -

(i) Identify the provision(s) of GST law contravened by M/s XXX (Mr. Z) (under heading **Contravention**).

(ii) Identify the provision(s) of GST law under which action is to be taken against M/s XXX (Mr. Z) (under heading **Consequences of Contravention of legal Provisions**).

(iii) Draft the **Charging Paragraph** of the Show Cause Notice proposed to be issued to M/s XXX (Mr. Z), calling upon Mr. Z (M/s XXX), Mrs. Q and Mr. P to show cause as to why action should not be taken against them, while listing the proposed action to be taken against Mr. Z (M/s XXX), Mrs. Q and Mr. P.

(iv) Also prepare the **draft Show Cause Notice** for issuance to M/s XXX (Mr. Z).

***

SUGGESTED SOLUTION

(Search, inquiry on summons, aggregation of turnover, Determination of Tax Liability under Section 74A, and Draft Show Cause Notice - Mr. Z (M/s XXX), Mrs. Q and Mr. P, Bhopal CGST Commissionerate)

A. CONTRAVENTION

On the facts as recorded, the following provisions stand contravened (in each case read with the corresponding provisions of the Madhya Pradesh Goods and Services Tax Act, 2017 [MPGST Act] and the Rules made under the two Acts):

1. **Section 22(1) of the CGST Act, 2017 read with the Explanation (i) to Section 22** - the aggregate turnover of the real supplier, Mr. Z, which includes all supplies made by him (the Explanation counts supplies on his own account or on behalf of principals; the bills in the names of the nominees are held to be his own supplies), exceeded the threshold of Rs.40 lakh (goods only, Notification No.10/2019-Central Tax; Madhya Pradesh is not one of the excluded States) in August 2024 (cumulative Rs.43,10,000/-), but he did not obtain registration.
2. **Section 25(1) of the CGST Act, 2017** - failure to apply for registration within thirty days of becoming liable.
3. **Section 9(1) of the CGST Act, 2017** - non-payment of tax at 18% (9% CGST + 9% MPGST) on the outward supplies of steel bars and binding wire after the date of liability.
4. **Section 31(1) of the CGST Act, 2017 read with Rule 46**, **Section 37(1) and Section 39(1)** and **Section 35(1) read with Rule 56** - tax invoices were not issued, returns were not filed and the prescribed accounts were not kept, for the supplies made after the date of liability. Bills issued in the names of M/s AAA and M/s BBB carried the name of a person who was not the supplier.

Note: *Considered and **not** invoked: (a) Section 2(6) (aggregate turnover of 'persons having the same PAN') - it does not apply on its own because the three concerns hold three different PANs. Had Mr. Z held several registrations on one PAN, the turnover would have been aggregated by definition, and Section 25(4) would treat each registration only as a 'distinct person' for other purposes, not for the threshold. The case against Mr. Z therefore rests on proof that he is the real supplier, not on the PAN rule; (b) Rule 11 and the proviso to Section 25(1) (separate registration for a business vertical) - they permit a registered person to take a registration per vertical, they are not available to split turnover and are not in issue as none was applied for; (c) Section 22(2) (persons registered under the earlier law) - irrelevant; (d) Section 76 - no amount was collected as tax; (e) Section 63 (best judgment assessment of unregistered persons) - the records are available and complete, so a regular demand is preferred; (f) the consultant, who is not identified, is not charged for want of evidence.*

B. CONSEQUENCES OF CONTRAVENTION OF LEGAL PROVISIONS

The contraventions at (A) above expose M/s XXX/Mr. Z, and the two persons whose names were used, to the following action under the CGST Act, 2017 (read with the MPGST Act, 2017):

1. Who is the supplier - the demand is on Mr. Z, as the person who in fact made the supplies. The evidence for this is: one premises, one cash counter, one cash book and one accountant; the control by Mr. Z of all bank accounts and the retention of all money; the blank pre-signed bills; the statements of Mrs. Q and Mr. P that they had no role; and Mr. Z's own admission of the purpose of the arrangement. The names of M/s AAA and M/s BBB are treated as names used by Mr. Z. Mrs. Q and Mr. P are not 'taxable persons' on these facts, since neither made supplies on his or her own account.
2. Registration - the proper officer may register Mr. Z under **Section 25(8) read with Rule 16** (FORM GST REG-12, effective from the date of the order, temporary, with an application under Rule 8 within ninety days [Rule 16(2), (3)]); this does not apply retrospectively and the tax for the earlier period is demanded under the provision below.

3. Determination and recovery of tax - under **Section 74A(1)**; both years, FY 2024-25 and FY 2025-26, are within Section 74A [Section 74A(12)]. The notice for FY 2024-25 may be issued up to 30.06.2029 and for FY 2025-26 up to 30.06.2030 [Section 74A(2)]; the order must be passed within twelve months of the notice [Section 74A(7)]. The taxable value is the combined turnover, as set out by the same approach as in Exercise-02: in FY 2024-25 the turnover above Rs.40 lakh (taxable from August 2024), and in FY 2025-26 the whole turnover, since liability continued. The tax at 18% is Rs.33,15,600/- (CGST Rs.16,57,800/- and MPGST Rs.16,57,800/-).

4. No input tax credit to be set off - Mr. Z was not registered, so no credit was available to him under Section 16(1) (a facility for 'registered persons'); and credit on stock held on the date of liability under Section 18(1)(a) is available only to a person who applies for registration within thirty days of becoming liable and is granted it. The tax is therefore demanded without any adjustment of ITC. If he registers now, the position of the stock credit is to be examined separately.

5. Interest - **Section 50(1)** at 18% per annum from the day after the due date of GSTR-3B for each month. Illustrative interest up to 31.10.2026 is Rs.7,74,336/- (CGST Rs.3,87,168/-, MPGST Rs.3,87,168/-); it continues to the date of payment.

6. Penalty on Mr. Z - **Section 74A(5)(ii)**: equal to the tax due, Rs.33,15,600/-. *Why fraud?* Dividing one business into three names, with a purpose stated in his own words, the signing of blank bills in the names of family members, and the keeping of separate accounts, show a deliberate act to avoid registration, and therefore tax, and not an honest mistake as in Exercise-02. The benefits of **Section 74A(9)** (15%, 25% or 50% of the tax as penalty) are open to him.

7. Specific penalties - Section 122(1)(xi) (liable to be registered but did not register), Section 122(1)(xv) (suppression of turnover) and Section 122(1)(i) (incorrect invoices) are alternatives to Section 74A(5)(ii) and are proposed without prejudice to it and subject to Section 75(13) and Section 126. Mrs. Q and Mr. P - **Section 122(3)(a)** (aiding and abetting an offence under Section 122(1)(xi) and (xv)): up to Rs.25,000/- each under each Act. A lower amount (Rs.10,000 each) is proposed for Mrs. Q, who took no part in the business, and the ceiling (Rs.25,000 each) for Mr. P, who also worked in the shop and handled the sales; the amounts are proposed having regard to Section 126(2).

8. Recovery and prosecution - Sections 78 and 79. Prosecution under Section 132 is considered and not proposed, because the tax involved (Rs.33,15,600/-) is below Rs.1 crore, the lowest tax-quantum threshold in Section 132(1) (the exact tier wording is not relied on). Authority - the central tax demand falls between Rs.10 lakh and Rs.1 crore, so the notice is issued by the Deputy/Assistant Commissioner (Circular No. 31/05/2018-GST).

Illustrative working of the tax proposed to be demanded (combined turnover of the three concerns):

Month	Billed (Rs.)	Cumulative in FY (Rs.)	Taxable value (Rs.)	CGST @9% (Rs.)	MPGST @9% (Rs.)	GSTR-3B due
Apr-2024	7,80,000	7,80,000	-	-	-	-
May-2024	8,20,000	16,00,000	-	-	-	-
Jun-2024	8,50,000	24,50,000	-	-	-	-
Jul-2024	9,00,000	33,50,000	-	-	-	-
Aug-2024	9,60,000	43,10,000	3,10,000	27,900	27,900	20.09.2024
Sep-2024	8,80,000	51,90,000	8,80,000	79,200	79,200	20.10.2024
Oct-2024	10,20,000	62,10,000	10,20,000	91,800	91,800	20.11.2024
Nov-2024	11,00,000	73,10,000	11,00,000	99,000	99,000	20.12.2024
Dec-2024	9,50,000	82,60,000	9,50,000	85,500	85,500	20.01.2025
Jan-2025	8,70,000	91,30,000	8,70,000	78,300	78,300	20.02.2025
Feb-2025	9,20,000	1,00,50,000	9,20,000	82,800	82,800	20.03.2025

Mar-2025	8,70,000	1,09,20,000	8,70,000	78,300	78,300	20.04.2025
Apr-2025	8,80,000	8,80,000	8,80,000	79,200	79,200	20.05.2025
May-2025	9,40,000	18,20,000	9,40,000	84,600	84,600	20.06.2025
Jun-2025	9,60,000	27,80,000	9,60,000	86,400	86,400	20.07.2025
Jul-2025	9,90,000	37,70,000	9,90,000	89,100	89,100	20.08.2025
Aug-2025	10,20,000	47,90,000	10,20,000	91,800	91,800	20.09.2025
Sep-2025	9,50,000	57,40,000	9,50,000	85,500	85,500	20.10.2025
Oct-2025	10,80,000	68,20,000	10,80,000	97,200	97,200	20.11.2025
Nov-2025	11,40,000	79,60,000	11,40,000	1,02,600	1,02,600	20.12.2025
Dec-2025	9,90,000	89,50,000	9,90,000	89,100	89,100	20.01.2026
Jan-2026	9,30,000	98,80,000	9,30,000	83,700	83,700	20.02.2026
Feb-2026	8,80,000	1,07,60,000	8,80,000	79,200	79,200	20.03.2026
Mar-2026	7,40,000	1,15,00,000	7,40,000	66,600	66,600	20.04.2026
TOTAL	**2,24,20,000**		**1,84,20,000**	**16,57,800**	**16,57,800**	

Basis: *The monthly cumulative turnover crosses Rs.40 lakh in August 2024 (Rs.43,10,000/-), so Rs.3,10,000/- is taxable in that month. If the invoice-wise ledger fixes a different date, the working changes. The tax is worked out on the amounts billed, because no tax was collected; the question whether the billed price should be treated as inclusive of tax (cum-tax) has been left open and is flagged in the drafting notes.*

C. CHARGING PARAGRAPH OF THE SHOW CAUSE NOTICE

[The following is the operative charging paragraph proposed for incorporation in the Show Cause Notice at Part D below.]

Now, therefore, (1) Mr. Z, Proprietor of M/s XXX, YYYY, Bhopal, Madhya Pradesh, trading also in the names of M/s AAA and M/s BBB; (2) Mrs. Q, the nominal proprietor of M/s AAA; and (3) Mr. P, the nominal proprietor of M/s BBB, are hereby called upon to show cause in writing to the Deputy/Assistant Commissioner of Central Tax, Division - [•], Bhopal CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) *the supplies of iron and steel bars and binding wire of aggregate value of Rs.2,24,20,000/- made during FY 2024-25 (Rs.1,09,20,000/-) and FY 2025-26 (Rs.1,15,00,000/-) in the names of M/s XXX, M/s AAA and M/s BBB should not be held to be supplies made by Mr. Z, whose aggregate turnover exceeded Rs.40 lakh in August 2024, in contravention of Sections 22(1) and 25(1) of the CGST Act, 2017/MPGST Act, 2017;*

(ii) *he should not be registered under Section 25(8) of the CGST Act, 2017 read with Rule 16 of the CGST Rules, 2017;*

(iii) *an amount of Rs.16,57,800/- (Central tax) and Rs.16,57,800/- (Madhya Pradesh State tax), total Rs.33,15,600/- (Rupees Thirty-Three Lakh Fifteen Thousand Six Hundred only), being tax not paid on the taxable value of Rs.1,84,20,000/- as detailed in Annexure-A, should not be demanded and recovered from him under Section 74A(1) of the CGST Act, 2017 and the corresponding provisions of the MPGST Act, 2017;*

(iv) *interest under Section 50(1) of the CGST Act, 2017/MPGST Act, 2017 should not be charged and recovered on the tax at (iii) above from the due date of each month till payment;*

(v) *a penalty of Rs.16,57,800/- (Central tax) and Rs.16,57,800/- (Madhya Pradesh State tax), total Rs.33,15,600/-, equal to the tax due, should not be imposed on him under Section 74A(5)(ii) of the CGST Act, 2017/MPGST Act, 2017 (without prejudice to Section 74A(9));*

(vi) *penalty should not separately be imposed on him under Sections 122(1)(xi), 122(1)(xv) and 122(1)(i) of the CGST Act, 2017/MPGST Act, 2017, without prejudice to (v) above and subject to Section 75(13) and Section 126;*

(vii) *a penalty should not be imposed on Mrs. Q (Rs.10,000 under each Act) and Mr. P (Rs.25,000 under each Act) under Section 122(3)(a) of the CGST Act, 2017/MPGST Act, 2017.*

D. DRAFT SHOW CAUSE NOTICE

F. No. GEXCOM/ADJN/SCN/[•]/2026-BHOPAL

DIN: [Document Identification Number to be auto-generated on issue]

Office of the Deputy/Assistant Commissioner of Central Tax, Division - [•], Bhopal CGST Commissionerate, Madhya Pradesh

Date: [•].11.2026

SHOW CAUSE NOTICE

(Issued under Section 74A of the Central Goods and Services Tax Act, 2017 read with Section 74A of the Madhya Pradesh Goods and Services Tax Act, 2017)

To,
1. Mr. Z, Proprietor, M/s XXX (also trading as M/s AAA and M/s BBB), YYYY, Bhopal, Madhya Pradesh;
2. Mrs. Q, YYYY, Bhopal (nominal proprietor, M/s AAA);
3. Mr. P, YYYY, Bhopal (nominal proprietor, M/s BBB).

(hereinafter referred to as 'Mr. Z', 'Mrs. Q' and 'Mr. P' respectively, and together as 'the Noticees')

1. WHEREAS information from M/s DDD Steels, Raipur, and analysis of e-way bill data by the Data Analytics Cell showed that 412 e-way bills of FY 2024-25 and FY 2025-26 name M/s XXX, M/s AAA and M/s BBB as unregistered buyers of iron and steel bars and binding wire, with a common delivery address, transporter and mobile number (RUD-1). M/s XXX is the proprietary concern of Mr. Z; M/s AAA stands in the name of Mrs. Q and M/s BBB in the name of Mr. P, each with a different PAN and none with a GSTIN;

2. AND WHEREAS a search under Section 67 of the CGST Act, 2017 on 11.08.2026 at YYYY, Mandideep Road, Bhopal, found a single shop-cum-godown with three name boards, one cash counter, one cash book, one accountant, and Tally files of all three concerns on one computer; pre-signed bill books of M/s AAA and M/s BBB, the cheque books, passbooks and debit cards of the current accounts of all three concerns, and Mr. Z's mobile phone with the UPI applications of all three accounts were found in his cabin. A chat saying 'keep every name below 40, no GST number needed' was recovered (RUD-2, RUD-3);

3. AND WHEREAS Mr. Z in his statement dated 20.08.2026 under Section 70 (RUD-4) admitted that the whole business is his; that billing in the names of his wife and his brother-in-law was started in April 2024 on a consultant's advice so that no concern would cross Rs.40 lakh and none would need registration; that he operated all three bank accounts and kept all the money; and that no GST was charged. Mrs. Q (RUD-5) stated that she has never visited the shop and merely signed forms and blank bills; Mr. P (RUD-6) stated that he is a salaried salesman of the shop who gave his PAN and signed blank bills, and had no say in the business;

4. AND WHEREAS the bank credits, bill books and Tally data, reconciled in RUD-7, show a turnover of Rs.1,09,20,000/- in FY 2024-25 (M/s XXX Rs.37,60,000/-, M/s AAA Rs.36,20,000/-, M/s BBB Rs.35,40,000/-) and Rs.1,15,00,000/- in FY 2025-26 (Rs.39,10,000/-, Rs.38,40,000/- and Rs.37,50,000/-); there are no transfers between the accounts and the cash withdrawn was used for the shop's purchases. It appears that all the three concerns are one business of Mr. Z, and the turnover of the three, as the aggregate turnover of Mr. Z which includes all supplies made by him, whether on his own account or on behalf of others, the bills in the names of the nominees being held to be his own supplies (Explanation (i) to Section 22), crossed the threshold of Rs.40 lakh for a supplier of goods in August

2024 (cumulative Rs.43,10,000/-), when he became liable to registration under Section 22(1) and was required to apply within thirty days under Section 25(1), but failed to do so;

5. AND WHEREAS the tax payable at 18% (9% CGST + 9% MPGST) on the turnover after the date of liability is worked out below (month-wise details in Annexure-A, which forms part of this notice):

Period	Turnover (Rs.)	Taxable value (Rs.)	CGST @9% (Rs.)	MPGST @9% (Rs.)
FY 2024-25 (Aug-2024 onwards)	1,09,20,000	69,20,000	6,22,800	6,22,800
FY 2025-26	1,15,00,000	1,15,00,000	10,35,000	10,35,000
TOTAL	**2,24,20,000**	**1,84,20,000**	**16,57,800**	**16,57,800**

6. AND WHEREAS the division of one business into three names, to remain below the threshold, with the signing of blank bills of family members, the common control of all accounts and the purpose recorded in Mr. Z's own statement, shows a deliberate suppression of facts with intent to evade tax, attracting Section 74A(5)(ii), and not a bona fide error. Mrs. Q and Mr. P lent their names and PANs, signed blank bills, and thereby aided and abetted the offences;

7. AND WHEREAS it thus appears that Mr. Z has contravened Sections 22(1), 25(1), 9(1), 31(1), 37(1), 39(1) and 35(1) of the CGST Act, 2017 and the Rules 46 and 56, and the corresponding provisions of the MPGST Act, 2017, and is liable to registration under Section 25(8), demand under Section 74A, interest under Section 50(1), penalty under Section 74A(5)(ii) and, in the alternative and subject to Section 75(13), penalty under Section 122(1)(xi), (xv) and (i); and that Mrs. Q and Mr. P are liable to penalty under Section 122(3)(a);

NOW, THEREFORE

(1) Mr. Z, (2) Mrs. Q and (3) Mr. P are hereby called upon to show cause in writing to the Deputy/Assistant Commissioner of Central Tax, Division - [•], Bhopal CGST Commissionerate, within thirty (30) days of the receipt of this notice, as to why:

(i) the supplies of iron and steel bars and binding wire of aggregate value of Rs.2,24,20,000/- made during FY 2024-25 (Rs.1,09,20,000/-) and FY 2025-26 (Rs.1,15,00,000/-) in the names of M/s XXX, M/s AAA and M/s BBB should not be held to be supplies made by Mr. Z, whose aggregate turnover exceeded Rs.40 lakh in August 2024, in contravention of Sections 22(1) and 25(1) of the CGST Act, 2017/MPGST Act, 2017;

(ii) he should not be registered under Section 25(8) of the CGST Act, 2017 read with Rule 16 of the CGST Rules, 2017;

(iii) an amount of Rs.16,57,800/- (Central tax) and Rs.16,57,800/- (Madhya Pradesh State tax), total Rs.33,15,600/- (Rupees Thirty-Three Lakh Fifteen Thousand Six Hundred only), being tax not paid on the taxable value of Rs.1,84,20,000/- as detailed in Annexure-A, should not be demanded and recovered from him under Section 74A(1) of the CGST Act, 2017 and the corresponding provisions of the MPGST Act, 2017;

(iv) interest under Section 50(1) of the CGST Act, 2017/MPGST Act, 2017 should not be charged and recovered on the tax at (iii) above from the due date of each month till payment;

(v) a penalty of Rs.16,57,800/- (Central tax) and Rs.16,57,800/- (Madhya Pradesh State tax), total Rs.33,15,600/-, equal to the tax due, should not be imposed on him under Section 74A(5)(ii) of the CGST Act, 2017/MPGST Act, 2017 (without prejudice to Section 74A(9));

(vi) penalty should not separately be imposed on him under Sections 122(1)(xi), 122(1)(xv) and 122(1)(i) of the CGST Act, 2017/MPGST Act, 2017, without prejudice to (v) above and subject to Section 75(13) and Section 126;

(vii) a penalty should not be imposed on Mrs. Q (Rs.10,000 under each Act) and Mr. P (Rs.25,000 under each Act) under Section 122(3)(a) of the CGST Act, 2017/MPGST Act, 2017.

8. The Noticees are further informed that:

- a written reply with all documents relied upon must be furnished within thirty (30) days of receipt of this notice, failing which the case will be decided ex parte on the available records;
- a personal hearing will be granted before adjudication, and each Noticee may appear in person or through an authorised representative;
- attention is drawn to Section 74A(9): if tax, interest and 15% penalty are paid before issue of this notice, no notice shall be served; if paid with 25% penalty within sixty (60) days of the notice, or with 50% penalty within sixty (60) days of the order, the proceedings against Mr. Z are concluded, and under Explanation 1 to Section 74A the proceedings under Section 122 against the other Noticees in this notice are deemed concluded;
- this notice is issued without prejudice to any other action under the CGST Act, 2017/MPGST Act, 2017 or any other law, and subject to Section 75(13).

List of Relied Upon Documents (RUDs):

RUD-1: Information from M/s DDD Steels and e-way bill analysis report; **RUD-2:** Search authorisation, panchnama and seizure list dated 11.08.2026; **RUD-3:** Seized bill books, cheque books, passbooks, Tally data and the recovered chat;

RUD-4: Statement of Mr. Z dated 20.08.2026; **RUD-5:** Statement of Mrs. Q dated 20.08.2026; **RUD-6:** Statement of Mr. P dated 20.08.2026;

RUD-7: Bank statements of the three concerns and the reconciliation with bills and Tally data;

Annexure-A: Month-wise statement of turnover and tax calculation for FY 2024-25 and FY 2025-26 [as per the working in Part B].

(_____)
Deputy/Assistant Commissioner of Central Tax
Division - [•], Bhopal CGST Commissionerate

Copy to: The Joint/Additional Commissioner, Bhopal CGST Commissionerate, for information.

Drafting note (not part of the notice):

- *The addressee, jurisdictional range/officer, F. No./DIN and dates shown in square brackets/blanks are illustrative placeholders and must be completed with the correct particulars before issue.*
- *The tax, interest and penalty figures are worked out on the reasoned basis explained in Part B. They are subject to correlation with the invoice-wise ledger, in particular to fix the exact date in August 2024 on which Rs.40 lakh was crossed.*
- ***The seed premise was adjusted.*** *The idea of 'multiple registrations on the same PAN to stay under the threshold' does not work in GST law: aggregate turnover is computed PAN-wise on an all-India basis [Section 2(6)], and several registrations of one person (in one State only as business verticals under the proviso to Section 25(1) and Rule 11) are 'distinct persons' only for the purposes mentioned in Section 25(4), not for the threshold. What really happens in practice is the use of different PANs (family members*

or employees) as fronts. The exercise is therefore built on different PANs, and the Department must prove that the fronts are mere names. The proof is the main task of the notice.

- ***Persons.*** *Mrs. Q and Mr. P are not shown as taxable persons, as they carried on no supply of their own. They are penalised only as aiders and abettors. The proprietorship of M/s XXX is the same as Mr. Z. A trainee who raises three separate demands (each below the threshold) will find that no tax is payable at all; that is the loophole the fronts were designed to create and which the evidence closes.*
- ***Cum-tax.*** *No tax was collected from the customers. Whether the amount billed should be treated as inclusive of tax (so that the tax is worked backwards from the price) is a recurring dispute and was not settled from any source consulted here. The draft takes the full billed value as taxable value, which is the position more favourable to the Revenue; the adjudicating authority may need to consider the alternative.*
- ***Rate.*** *18% on iron and steel bars. The current rate (from 22.09.2025) of 18% for bars and rods of iron and steel was seen on a secondary compilation; the rate up to 21.09.2025 is Schedule III of Notification No. 01/2017-Central Tax (Rate), but it was not re-fetched. Please confirm both before issue (see verification log).*
- ***Concession.*** *The reasoning for fraud in this case contrasts with Exercise-02 (non-fraud). Trainees should be asked to identify the three facts that make the difference: purpose recorded in his own words, blank bills of family members, and common control of the money.*
- *The draft should be settled by the jurisdictional Range/Division before issue (DRC-01), including verification of the monetary-limit-based issuing/adjudicating authority under Circular No. 31/05/2018-GST dated 09.02.2018 (Superintendent: central tax up to Rs.10 lakh; Deputy/Assistant Commissioner: above Rs.10 lakh up to Rs.1 crore; Additional/Joint Commissioner: above Rs.1 crore). Here the central tax demand is Rs.16,57,800/-, so the Deputy/Assistant Commissioner issues the notice.*
- *Return of non-RUDs (Non-Relied Upon Documents): When the SCN is issued to the taxpayer in the form of DRC-01 (uploaded on the portal if registered, as well as delivered as per the provisions of law), non-RUDs must be returned to the noticee under due acknowledgement within seven days of issuance of the SCN.*

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