



कार्यालय आयुक्त, केन्द्रीय कर (दिल्लीपूर्व) सी. आर. बिल्डिंग, आई. पी. इस्टेट,
नई दिल्ली-110002

OFFICE OF THE COMMISSIONER OF CENTRAL TAX: GST DELHI EAST: C.R.
BUILDING, I.P. ESTATE, NEW DELHI-110002

e-mail-adjudication.delhi2@gmail.com

Tel-011-23705991/60

C. No.: GST-15/Adj/DE/LAPL/39/2024-25

Dated: 30.08.2024

DIN: 20240051 ZK0000999 AAS-
PREAMBLE

श्री देवरंजन मिश्रा, संयुक्त आयुक्त, केन्द्रीय माल एवं सेवा कर, दिल्ली-पूर्व आयुक्तालय द्वारा पारित
Passed by Sh. Devranjan Mishra, Joint Commissioner, Central Tax, GST Delhi East

मूल आदेश संख्या: DE/ GST/JC(DM)/90/2024-25

OIO No.: DE/GST/JC(DM)/90/2024-25

(1) यह प्रति जिस व्यक्ति को दी जाती है उसे निजी प्रयोग के लिए निःशुल्क दी जाती है।
The copy of this order is supplied free of charge for the private use of the person to whom it issued.

(2) कोई व्यक्ति जो इस आदेश के द्वारा पीड़ित समझता है, इस आदेश के विरुद्ध आयुक्त (अपील-1), जीएसटी दिल्ली अपील-I, नई दिल्ली में पार्टी द्वारा इस आदेश की प्राप्ति के तीन महीनों के भीतर केन्द्रीय माल और सेवा कर नियम, 2017 के नियम 109A के तहत अपील कर सकता है।

Any person aggrieved by this order, can file appeal to the Commissioner (Appeals -I) Central Tax GST, New Delhi-110002 under rule 109A of Central Goods and Services Tax Rules, 2017, within three months from the date of communication of order.

(3) इस आदेश के विरुद्ध केन्द्रीय वस्तु एवं सेवा कर अधिनियम, 2017 की धारा 107(6) के तहत विवादित कर की राशिका 10% (अधिकतम पच्चीस करोड़ रुपये) के भुगतान पर अपील दायर की जा सकती है।
Appeal against this order can be filed on payment of 10% of amount of tax subject to a maximum of twenty-five crore rupees in dispute, under section 107(6) of Central Goods and Services Tax Act, 2017.

By Registered Post or Speed Post or Courier with AD (Acknowledgment Due):
पार्टी का नाम तथा पता / Name and Address of the party:

M/s. Lagrowth Associates Private Limited,
Ground floor, G-242, Ghazipur Road,
New Delhi, East Delhi, Delhi, 110096.

The proceedings of the present case emanate out of the Show Cause Notice No.: 10/R-44/SHDR/2024-25 dated 31.05.2024 (hereinafter referred to as 'the impugned SCN') issued against M/s. Lagrowth Associates Private Limited Ground floor, G-242, Ghazipur Road, New Delhi, East Delhi, Delhi, 110096.

Brief Facts of the Case:

1. M/s Lagrowth Associates Private Limited, having its registered office at Ground floor, G-242, Ghazipur Road, New Delhi, East Delhi, Delhi, 110096 (hereinafter referred to as the "Noticee/taxpayer/assessee") registered in GST department vide **GSTIN: 07AAMCM9016D1ZG** under the jurisdiction of Range-144, Division- Shahdara, CGST Delhi (East) Commissionerate and are interalia engaged in supplying of goods falling under HSN Code 3920, 4823, 7607 & 3923 of the GST Tariff of India. The effective date of GST registration is 20.09.2019.

2. Section 61 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "the CGST Act") read with Rule 99 of Central Goods and Services Tax Rules, 2017 (hereinafter referred to as "the CGST Rules") provides for scrutiny of returns and related particulars furnished by the registered person. The relevant statutory provisions for scrutiny of GST Returns are as under:

Section 61 of the CGST Act, read with rule 99 of the CGST Rules, provides for scrutiny of returns. The same are reproduced below for reference:

Section 61. Scrutiny of returns: -

"(1) The proper officer may scrutinize the returns and related particulars furnished by the registered person to verify the correctness of the return and inform him of the discrepancies noticed, if any, in such manner as may be prescribed and seek his explanation thereto.

(2) In case the explanation is found acceptable, the registered person shall be informed accordingly and no further action shall be taken in this regard.

(3) In case no satisfactory explanation is furnished within a period of thirty days of being informed by the proper officer or such

further period as may be permitted by him or where the registered person, after accepting the discrepancies, fails to take the corrective measure in his return for the month in which the discrepancy is accepted, the proper officer may initiate appropriate action including those under section 65 or section 66 or section 67, or proceed to determine the tax and other dues under section 73 or section 74."

Rule 99. Scrutiny of returns:

"(1) Where any return furnished by a registered person is selected for scrutiny, the proper officer shall scrutinize the same in accordance with the provisions of section 61 with reference to the information available with him, and in case of any discrepancy, he shall issue a notice to the said person in FORM GST ASMT-10, informing him of such discrepancy and seeking his explanation thereto within such time, not exceeding thirty days from the date of service of the notice or such further period as may be permitted by him and also, where possible, quantifying the amount of tax, interest and any other amount payable in relation to such discrepancy.

(2) The registered person may accept the discrepancy mentioned in the notice issued under sub-rule (1), and pay the tax, interest and any other amount arising from such discrepancy and inform the same or furnish an explanation for the discrepancy in FORM GST ASMT-11 to the proper officer.

(3) Where the explanation furnished by the registered person or the information submitted under sub-rule (2) is found to be acceptable, the proper officer shall inform him accordingly in FORM GST ASMT-12.

3. Whereas a Standard Operating Procedure (SOP) for Scrutiny of GST returns for F.Y 2019-20, issued by the Central Board of Indirect Taxes and Customs (GST Policy Wing) New Delhi vide letter No. CBIC-20006/4/2022- GST dated 26th May, 2023 (Instruction No. 02/2023-GST) read with instructions issued vide letter No. CBIC-20006/4/2022-GST dated 22nd March, 2022(Instruction No. 02/2022-GST) has been followed. During the course of scrutiny of the GST returns under section 61 of the CGST Act, 2017 for the tax period 2019-20 following discrepancies were noticed:

- i. It is noticed that Tax liability on account of "Outward taxable supplies (other than zero rated, nil rated and exempted)" and "Outward taxable supplies (zero rated)" is shown as Rs.

- 45,46,11,627/- in GSTR-3B returns whereas the same is shown as Rs. 45,60,60,119/- in E-Way Bill portal for the aforesaid period, resulting in short payment of tax amounting to **Rs. 14,48,492/-**.
- ii. It is noticed that Input Tax Credit amounting Rs. 7,17,30,134/- in respect of 'Inward Supplies from ISD' has been availed in Table 4(A)(4) of FORM GSTR-3B returns of the aforesaid tax period. However, ITC available as per Table-7 of GSTR-2A is Rs. 0/-. Hence, there is Excess availment of Input Tax Credit of Rs. 7,17,30,134/-.
- iii. It is noticed that taxpayer has availed input tax credit on the basis of tax invoices issued by taxpayer whose GST registration has been cancelled retrospectively. Details of such taxpayer alongwith other relevant information is as under:

(Amount in Rupees)

GSTIN	Name	Invoice No	Invoice Date	Invoice Value	Taxable Value	CGST	SGST
07CLMPP0929C1Z3	Satyanarayan Pradhan(cancelled wef 31.08.2019)	1	20-10-2019	2245516	1902980	171268	171268
		REJ-01	20-12-2019	81962.8	69460	6252	6252
07EFTPR2472K1ZM	Rajkishore Rout (cancelled wef 09.12.2019)	11	29-01-2020	1133983	961003	86490	86490
		13	15-02-2020	238152	201824	18164	18164
Total						5,64,348/-	

As, the GST registration of aforementioned suppliers of M/s. Lagrowth Associates Private Limited have been cancelled retrospectively, it appears that the tax invoice(s) issued after cancellation of their registration (*effective dates of cancellation is*

mentioned in the aforesaid table), are not valid document for availment of input tax credit in terms of Section 16 (2) of the CGST Act, 2017 and the input tax credit of CGST/SGST so availed by you on the basis of aforementioned tax invoice is ineligible and the same is liable for recovery along with interest under the provisions of CGST Act, 2017 read with the CGST Rules, 2017 as amended.

- iv. It is noticed that taxpayer has not paid interest of Rs. 3061/- due to delayed filing of GSTR3B returns.
- v. It is noticed that taxpayer has not paid late fee of Rs. 50 under Section 47 for delayed filing of returns.

4. Therefore, a Notice in form GST ASMT-10 dated 13.03.2024 was issued to **M/s. Lagrowth Associates Private Limited** (Legal Name: M/s. Lagrowth Associates Private Limited) through GST AIO Portal and vide letter dated 13.03.2024 intimating discrepancies, as mentioned below under Rule 99(1) of the CGST Rules, 2017 to explain the reasons within 30 days from the date of receipt of the above said ASMT-10.

- i. Short payment of tax of Rs. **14,48,492/-** in GSTR3B against the tax liability declared in EWB01.
- ii. Excess ITC of Rs. **7,17,30,134/-** has claimed in Table 4(A)(4) of GSTR-3B returns as ITC available in Table-7 of GSTR-2A returns during the F.Y 2019-20.
- iii. Ineligible ITC amounting to Rs. **5,64,348/-** availed (violation of Section 16(2) of CGST Act'17) on account of Suo-moto retrospective cancellation of suppliers' GST registration.
- iv. Interest of Rs. 3061/- u/s 50 for delayed filing of GSTR-3B.
- v. Late fee of Rs. 50/- under Section 47 for delayed filing.

5. Whereas in response to the above-mentioned letter, the Noticee vide its letter no. nil dated 21.05.2024 received through mail submitted

inter-alia that –

“This is with reference to your notice dated 18.03.2024 (received on 02.05.2024) having DIN 20240351ZK0000823189 issued in Form GST ASMT-10 for intimation of discrepancies in the return after scrutiny in the matter of Lagrowth Associates Private Limited.

1. *The committee in its 3rd COC Meeting held on 02.05.2023 unanimously decided to liquidate the corporate debtor and in its 4th COC meeting decided to appoint Ms. Soniya Gupta, as the liquidator of the Corporate Debtor. Accordingly, an application for initiation of liquidation has been filed by the ex-Resolution Professional before Hon'ble NCLT.*

2. *Further, the Hon'ble NCLT, New Delhi Bench- IV vide its order dated 12.03.2024 has passed an order for Liquidation of M/s Lagrowth Associates Private Limited in C.A. No. IA/3484/ND/2023 in*

C.P. No. (IB)- 796/ND/2022 issued under section 33(2) of Insolvency and Bankruptcy Code, 2016 and appointed Ms. Soniya Gupta to act as liquidator in the matter. A copy of the Liquidation Order dated 12.03.2024 passed by the Hon'ble NCLT is attached herewith for your reference.

3. *Further, please be informed that upon admission of the application by Adjudicating Authority for initiation of Liquidation proceedings against M/s Lagrowth Associates Private Limited on 12.03.2024, the “moratorium” under Section 33(5) of the Insolvency and Bankruptcy Code, 2016 comes into effect in pursuance to the said order dated 12.03.2024 and that as per Section 33(5) of Insolvency and Bankruptcy Code, 2016, the Adjudicating Authority had by order in the matter declared “moratorium” during the liquidation proceedings for prohibiting the institution of suits or legal proceeding against the corporate debtor.*

Accordingly, it is felt necessary to reproduce the relevant portion of sub section 5 of Section 33 of Insolvency and Bankruptcy Code, 2016 as under:

“33. Initiation of Liquidation- (5) *Subject to section 52, when a liquidation order has been passed, no suit or other legal proceeding shall be instituted by or against the corporate debtor:”*

4. *It is to be further noted that the all the records pertaining to the notice is not available with the Liquidator. In this regard, liquidator sent a mail to the directors of the suspended board of M/s Lagrowth Associates Private Limited on May 03, 2024 to provide all the records pertaining to this notice. However, no reply/response*

has been received from the Corporate Debtor/ directors of the suspended board of M/s Lagrowth Associates Private Limited till date.

Since the information required by you pertains to the period April 2019 to March 2020 which is prior to CIRP/ Liquidation commencement date the ex-directors of the company are responsible to provide the information to you.

5. Therefore, Liquidator is not in the position to reply to your notice. You are requested to kindly grant us some time to enable us to submit the reply of the show cause notice."

6. In view of the aforesaid, since the taxpayer has not furnished any satisfactory reply in response to the ASMT- 10 dated 13.03.2024 and the liquidator has also shown the inability to file reply to ASMT-10 dated 13.03.2024 and stated that no reply/ response had been received from the Corporate Debtor/ directors of the suspended board of M/s Lagrowth Associates Private Limited, the Noticee has failed to discharge the Burden of Proof cast upon them by virtue of Section 155 of the Act. Therefore, it appears that the short payment of Tax, Excess ITC and inadmissible ITC of Suo-moto cancelled suppliers, availed by the Noticee, interest for delayed payment of duty and penalty for late filing of GST returns as elaborated above, is liable to be recovered under various provisions of CGST Act, 2017.

7. Legal Provisions, Relevant Section and Rules:

Section 16. Eligibility and conditions for taking input tax credit:

(1) Every registered person shall, subject to such conditions and restrictions as may be prescribed and in the manner specified in section 49, be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person.

(2) Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless,—

(a) he is in possession of a tax invoice or debit note issued by a supplier registered under this Act, or such other taxpaying documents as may be prescribed;

*(b) he has received the goods or services or both. Explanation.
—For the purposes of this clause, it shall be deemed that the*

registered person has received the goods where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise;

(c) subject to the provisions of section 41, the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilization of input tax credit admissible in respect of the said

supply; and

(d) he has furnished the return under section 39: Provided that where the goods against an invoice are received in lots or installments, the registered person shall be entitled to take credit upon receipt of the last lot or installment:

Provided further that where a recipient fails to pay to the supplier of goods or services or both, other than the supplies on which tax is payable on reverse charge basis, the amount towards the value of supply along with tax payable thereon within a period of one hundred and eighty days from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be added to his output tax liability, along with interest thereon, in such manner as may be prescribed: Provided also that the recipient shall be entitled to avail of the credit of input tax on payment made by him of the amount towards the value of supply of goods or services or both along with tax payable thereon.

Section 73 of the CGST Act 2017 reads as under:

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

Section 50 of the CGST Act, 2017: Interest on delayed payment of tax

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

may be notified by the Government on the recommendations of the Council.

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

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

Section 122 of the CGST Act, 2017 :Penalty for Certain

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

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

Section 73(9) of the CGST Act, 2017: Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized for any reason other than fraud or any willful misstatement or suppression of facts

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

Section 155 of the CGST Act, 2017: Burden of proof.

Where any person claims that he is eligible for input tax credit under this Act, the burden of proving such claim shall lie on such person

Section 20 of IGST Act, 2017-

provides for application of provisions of CGSTA including those relating to scope of supply, input tax credit, tax invoice, accounts and records,

returns, payment of tax, demand and recovery, miscellaneous provisions including the provisions relating to the imposition of interest and penalty. It also provides that in case where the penalty is leviable under CGSTA shall, DGSTA/ UT GST Act, the penalty leviable under this act shall be the sum total of said penalties.

8. Accordingly, **M/s Lagrowth Associates Private Limited**, having its registered office at Ground floor, G-242, Ghazipur Road, New Delhi, East Delhi, Delhi, 110096 having GSTIN: **07AAMCM9016D1ZG** is hereby called upon to Show Cause to the Additional Commissioner, CGST Delhi East, C.R. Building, I.P. Estate, Delhi-110002 as to why:

- i. Short payment of tax amounting **Rs. 14,48,492/-** (Rupees Fourteen Lakh Forty Eight Thousand Four Hundred and Ninety Two only) should not be demanded and recovered from them under Section 73(1) of the CGST/DGST Act, 2017 (as amended).
- ii. Interest as applicable on short payment of tax amounting **Rs. 14,48,492/-** (Rupees Fourteen Lakh Forty Eight Thousand Four Hundred and Ninety Two only) should not be demanded and recovered from them under provisions of Section 50 of the CGST/DGST Act, 2017 (as amended).
- iii. Inadmissible Input Tax Credit amounting to **Rs. 7,17,30,134/-** (Rupees Seven Crore Seventeen Lakh Thirty Thousand One Hundred and Thirty Four only) (IGST: Rs. 7,07,75,616/-, CGST: Rs. 4,77,259 & SGST: Rs. 4,77,259) should not be demanded and recovered from them under Section 73(1) of the CGST/DGST Act, 2017 (as amended).
- iv. Interest as applicable on inadmissible Input Tax Credit of **Rs. 7,17,30,134/-** (Rupees Seven Crore Seventeen Lakh Thirty Thousand One Hundred and Thirty Four only) should not be demanded and

recovered from them under provisions of Section 50 of the CGST/DGST Act, 2017 (as amended).

- v. Inadmissible Input Tax Credit amounting to **Rs. 5,64,348/-** (Rupees Five Lakh Sixty Four Thousand Three Hundred and Forty Eight only) (CGST: **Rs. 2,82,174/-** & SGST: **Rs. 2,82,174/-**) should not be demanded and recovered from them under Section 73(1) of the CGST/DGST Act, 2017 (as amended).
- vi. Interest as applicable on inadmissible Input Tax Credit of **Rs. 5,64,348/-** (Rupees Five Lakh Sixty Four Thousand Three Hundred and Forty Eight only) should not be demanded and recovered from them under provisions of Section 50 of the CGST/DGST Act, 2017 (as amended).
- vii. Interest of Rs. 3061/- due to delayed filing of GSTR-3B return should not be demanded and recovered from them under provisions of Section 50 of the CGST/DGST Act, 2017 (as amended).
- viii. Late fee of Rs. 50 under Section 47 for delayed filing should not be demanded and recovered from them for failure to file GSTR-3B returns within stipulated time.
- ix. Penalty should not be imposed upon them Section 73(9) of the CGST/DGST Act (as amended) for the aforesaid contravention.
- x. Penalty should not be imposed upon them under Section 122(2)(a) of the CGST/DGST Act (as amended) for the aforesaid contravention.

Submissions by the Noticee:

9. The Noticee failed to submit any defense submissions in respect of the impugned SCN issued against them. However, vide their E-mail dated 19.07.2024, they have intimated as follows:

Please refer to your Intimation letter No. GST-15/Adj/DE/LAPL/39/2024-25/1714 Dated 18.07.2024 fixing the Personal Hearing on 26.07.2024 at 11:15 A.M in respect of subject Show Cause Notice Dated 30.05.2024 issued to M/s. Lagrwoth Associates Pvt. Ltd., LAPL (formerly known as M/s. Montage Sales Private Limited, MSPL).

In this connection, it is submitted that the NCLT vide their order dated 12.03.2024 has ordered the company i.e. M/s. Lagrwoth Associates Pvt. Ltd., LAPL (formerly known as M/s. Montage Sales Private Limited, MSPL) to be liquidated in terms of Section 33(A) of the Liquidation Regulations and has appointed Ms. Soniya Gupta as the Liquidator. The copy of the said order dated 12.03.2024 is enclosed herewith for your reference.

Therefore, in view of the above order, you are requested to serve the correspondence to the court appointed Liquidator, Ms. Soniya Gupta, whose address is given below:-

*Sumedha Management Solutions Pvt. Ltd.
Insolvency Professional Entity
Recognition No. IBBI/IPA-002/IPN01155/2021-2022/13863
B1/12, Sardarjung Enclave, 2nd Floor, New Delhi 110029.
Ph:- +91 11 41654481 /9910332188
E-Mail id: ipsoniyag@gmail.com*

Records of Personal Hearings:

10. The personal hearings were granted to the Noticee on 05.07.2024, 16.07.2024 and 26.07.2024 through letters addressed at their registered address and at their registered E-mail: montagesalesp@gmail.com. Neither the Noticee nor their authorized representative appeared for personal hearing on the stipulated date and time, therefore, I proceed to decide the case on basis of facts available on records.

Discussion and Findings:

11. I have gone through the case records and submissions made by the Noticee. The issues before me to decide are as follows;

- i. Short payment of tax amounting **Rs. 14,48,492/-** under Section 73(1) of the CGST Act, 2017 alongwith applicable interest under Section 50 of the Act *ibid*.
- ii. Inadmissible Input Tax Credit amounting to **Rs. 7,17,30,134/-** (IGST: Rs. 7,07,75,616/-, CGST: Rs. 4,77,259 & SGST: Rs. 4,77,259) under Section 73(1) of the CGST Act, 2017 alongwith applicable interest under Section 50 of the Act *ibid*.
- iii. Inadmissible Input Tax Credit amounting to **Rs. 5,64,348/-** (CGST: **Rs. 2,82,174/-** & SGST: **Rs. 2,82,174/-**) under Section 73(1) of the CGST Act, 2017 alongwith applicable interest under Section 50 of the Act *ibid*.
- iv. Interest of Rs. 3061/- due to delayed filing of GSTR-3B return should not be demanded and recovered from them under provisions of Section 50 of the CGST/DGST Act, 2017 (as amended).
- v. Late fee of Rs. 50 under Section 47 for delayed filing should not be demanded and recovered from them for failure to file GSTR-3B returns within stipulated time.
- vi. Applicable penalty upon the Noticee for Short payment and inadmissible ITC availed and utilized Section 73(9) of the CGST Act, 2017 read with Section 122(2)(a) for the aforesaid contravention.

12. I find that the Noticee failed to submit any defense submissions in response to the ASMT- 10 dated 13.03.2024. The liquidator, Ms. Sonia Gupta, has also not filed any reply to ASMT-10 dated 13.03.2024, however, she stated that no reply/ response had been received from the Corporate Debtor/ directors of the suspended board of M/s Lagrowth Associates Private Limited. The Noticee has failed to discharge the Burden of Proof casted upon them by virtue of Section 155 of the Act.

I further find that the liquidator, though Email dated 21.05.2024, has informed that the records pertaining to the impugned notice is not available with them. Also, liquidator sent a mail to the directors of the suspended board of M/s. Lagrowth Associates Private Limited on May 03, 2024 to provide all the records pertaining to this notice. However, Ms. Sonia Gupta, the liquidator, received no reply/response till date from the Noticee i.e. M/s. Lagrowth Associates Private Limited. Ms. Sonia Gupta also submitted that GST as demanded by the department vide the impugned SCN pertains to the period of April 2019 to March 2020 which is prior to CIRP/ Liquidation commencement date, therefore, ex-directors of the company are responsible to provide the information and pay the due GST. I find that the Noticee failed to submit any satisfactory reply against the impugned SCN, also, did not deposit the due GST to the government for the financial year, 2019-20. Therefore, I proceed to decide the case on basis of facts available on records.

13. Now, I proceed to discuss the issue involving demand of short payment of **Rs. 14,48,492/-** under Section 73 of CGST Act, 2017. Vide the impugned SCN, the department alleged the Noticee that tax liability on account of outward taxable supplies is shown as Rs. 45,46,11,627/- in GSTR-3B returns whereas the same is shown as Rs. 45,60,60,119/- in E-Way Bill portal for the aforesaid period, resulting in short payment of tax amounting to **Rs. 14,48,492/-**. The Noticee, in this regard has failed any defense submissions to clarify as to why such amount of GST short paid should not be demanded and recovered from them. I find that the supply declared under outward taxable supply cannot be less than total outward supply declared in the E-way bills. The Noticee had made outward taxable supplies of Rs. 45,60,60,119/- as per the E-way bill portal but suppressed

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their turnover to the extent of **Rs. 14,48,492/-** while filing GSTR-3B returns to evade payment of GST. Therefore, I hold that the Noticee is liable to pay **Rs. 14,48,492/-** on account of short payment of GST under Section 73 of CGST Act, 2017 alongwith applicable interest under Section 50 of the Act, *ibid*.

14. Now, I proceed to discuss issue involving demand of availment and utilization of inadmissible Input Tax Credit of **Rs. 7,17,30,134/-** under Section 73 of CGST Act, 2017. The department, vide the impugned SCN, alleged that the Noticee had availed and utilised excess ITC of **Rs. 7,17,30,134/-** in returns GSTR-3B under the head 'inward supplies from ISD' when compared to ITC available in auto drafted/populated GSTR-2A returns during the F.Y 2019-20. I find that the Noticee had availed ITC of **Rs. 7,17,30,134/-** under the head 'inward supplies from ISD' in GSTR-3B while the Noticee has nil Input Tax Credit as per the Auto drafted/populated GSTR-2A. I also find that the Input Tax Credit availed on account of ITC passed on by the Input Service distributor has to be matched with Input Tax Credit received under ISD of GSTR-2A of the Noticee as per Section 20 of CGST Act, 2017, also, the input tax credit claimed in GSTR-3B should match with GSTR-2A as per Section 16(2) of the Act, *ibid*. In the instant case the Noticee has availed/utilized the Input Tax Credit amounting to **Rs. 7,17,30,134/-** without having any accumulated Input Tax Credit as per auto drafted/populated GSTR-2A. Also the Noticee, after issuance of the impugned SCN and granting sufficient opportunities of being heard, has failed to submit any substantial proof in support their contention in respect of availment of such Input Tax Credit. Therefore, I hold that the Noticee is not eligible to avail Input Tax Credit to the tune of **Rs. 7,17,30,134/-** and the same is liable to be demanded and recovered from them under Section 73(1) of the CGST Act, 2017 read with Section 16(2) & Section 20 of CGST Act, 2017 alongwith applicable interest under Section 50 of the Act *ibid*.

15. Now, I proceed to discuss the issue involving demand of inadmissible Input Tax Credit amounting to **Rs. 5,64,348/-** (CGST: **Rs. 2,82,174/-** & SGST: **Rs. 2,82,174/-**) availed and utilised under Section 73(1) of the CGST Act, 2017 alongwith applicable interest under Section 50 of the Act *ibid*. I find that the impugned SCN was also issued for demand of ineligible ITC amounting to **Rs. 5,64,348/-** availed and utilised on account of Suo-moto retrospective cancellation of suppliers' GST registration. I find that the Noticee had availed and utilised inadmissible ITC of Rs. 5,64,348/- collectively on strength of invoices issued by the GSTIN: 07CLMPP0929C1Z3 and GSTIN 07EFTPR2472K1ZM in contravention of Section 16(2) of CGST Act, 2017 as per table annexed with para 3(iii) *supra*. The Noticee has availed and utilized such Input Tax Credit without underlying supply of goods and services from the suppliers whose registrations are cancelled retrospectively. I also find that no registered person shall be entitled to the credit of any input tax in respect of invoices or debit notes issued after the effective date of cancellation of the registration as per the provisions of Section 16(2) of CGST Act, 2017. The Noticee failed to submit the defense submissions against such allegations made in the impugned SCN. Therefore, demand of inadmissible ITC of **Rs. 5,64,348/-** is liable to be recovered alongwith applicable interest from the Noticee under Section 73 and Section 50 of CGST Act, 2017 respectively.

16. Now, I proceed to discuss the issue involving non-payment of interest of Rs. 3061/- on delayed payment of taxes (cash component) for late filing of GSTR-3B returns for the financial year, 2019-20. I find that as per Section of CGST Act, 2017, the Noticee is required to pay interest on delayed payment of tax at 18% of on cash component. I find that the Noticee has neither deposited due interest on delayed payment of GST nor submitted any reply. Therefore, I hold that the amount of Rs. 2,970/- is liable to be demanded and recovered under Section 50 of the CGST Act, 2017.

17. **Now, I proceed to discuss the non-payment of late fee** as applicable under section 47 of the CGST Act, 2017 for failure to file relevant returns (GSTR-9, GSTR-1 and GSTR-3B) within stipulated time limit or till date of actual filing of return. I have gone through the GST portal and it is duly verified that the Noticee had filed returns GSTR-1, GSTR-3B for month of March, 2020 on 25.06.2024 and GSTR-9 on 26.02.2021. I noticed that the Noticee had filed annual returns under Section 44 on 26.02.2021 which is within time limit as specified under Notification No. 04/2021 – Central Tax dated 28.02.2021, thus, I find no delay in filing annual returns in Form GSTR-9 for the financial year, 2019-20. In view of the above, I hold that the Noticee is still liable to pay late fee for delayed filing of GSTR-1 and GSTR-3B for the month of March, 2020 under Section 47 of CGST Act, 2017.

18. **Now, I proceed to discuss imposition of penalty for short payment of GST liability and wrong availment and utilization of input tax credit under Section 122(2)(a) of CGST Act, 2017.** Penalty under this section imposed for any reason, other than the reason of fraud or any wilful mis-statement or suppression of facts to evade payment of GST. Such penalty shall be penalty of ten thousand rupees or ten percent of the tax due from such person, whichever is higher. I find that the Noticee was working under self-assessment regime thereby to assess their tax liability and pay the same to the government, also, they were required to avail Input Tax Credit as eligible under the statutory provisions of CGST Act, 2017. Thus, I hold that Penalty of **Rs. 73,74,297/- (Rs. 144,849/- on account of Short payment of GST & Rs. 71,73,013/- on account of excess availment of ITC & Rs. 56,435/- on account of inadmissible ITC availed from the GSTINs cancelled retrospectively)** is liable to be imposed upon the Noticee under Section 122(2)(a) of the CGST Act, 2017 for contravention of statutory provisions of the Act *ibid*.

19. In view of the above findings, I pass the following order:

Order:

- i. I, hereby confirm the demand of short payment of tax amounting **Rs. 14,48,492/- (Rupees Fourteen Lakh Forty Eight Thousand Four Hundred Ninety Two Only)** and order for recovery of the same under Section 73(1) of the CGST Act, 2017 alongwith applicable interest under Section 50 of the Act *ibid.*
- ii. I, hereby confirm the demand of inadmissible Input Tax Credit amounting to **Rs. 7,17,30,134/- (IGST: Rs. 7,07,75,616/-, CGST: Rs. 4,77,259 & SGST: Rs. 4,77,259)** (Rupees Seven Crore Seventeen Lakh Thirty Thousand One Hundred Thirty Four Only) and order for recovery of the same under Section 73(1) of the CGST Act, 2017 alongwith applicable interest under Section 50 of the Act *ibid.*
- iii. I, hereby confirm the demand of inadmissible Input Tax Credit amounting to **Rs. 5,64,348/- (CGST: Rs. 2,82,174/- & SGST: Rs. 2,82,174/-)** (Rupees Five Lakh Sixty Four Thousand Three Hundred Forty Eight Only) and order for recovery of the same under Section 73(1) of the CGST Act, 2017 alongwith applicable interest under Section 50 of the Act *ibid.*
- iv. I, hereby confirm the demand of interest of Rs. 3061/- due to delayed filing of GSTR-3B return and order for recovery of the same from the Noticee under provisions of Section 50 of the CGST Act, 2017 (as amended).
- v. I, hereby confirm the demand of applicable late fee under Section 47 for delayed filing of returns and order for recovery from the

Noticee for failure to file returns within stipulated time as discussed in para 17 supra.

- vi. I, hereby impose penalty of **Rs. 73,74,297/-** (Rs. 144,849/- on account of Short payment of GST & Rs. 71,73,013/- on account of excess availment of ITC & Rs. 56,435/- on account of inadmissible ITC availed from the GSTINs cancelled retrospectively) upon the Noticee under Section 73(9) of the CGST Act, 2017 read with Section 122(2)(a) for the aforesaid contravention.

Signed by
Devranjan Mishra
Date: 30-08-2024 14:57:20

**Joint Commissioner CGST
Delhi East Commissionerate**

Regd. AD:

(1) M/s Lagrowth Associates Private Limited, GSTIN: 07AAMCM9016D1ZG,
Ground floor, G-242, Ghazipur Road, New Delhi, Delhi,
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(2) Ms. Sonia Gupta,
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Insolvency Professional Entity
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Copy to:

1. The Commissioner, CGST Delhi East, Delhi for review purposes.
2. The Dy./Assistant Commissioner, Division-Shahdara, CGST Delhi East, Delhi for issuance of DRC-07.
3. The Dy./Assistant Commissioner, Division-Shahdara, **to display this order in Notice Board.**
4. The Dy./Assistant Commissioner, Recovery, CGST Delhi East, New Delhi, for recovery purposes.

5. The Dy./Assistant Commissioner, Review, CGST Delhi East, New Delhi.
6. Guard File.

Superintendent (Adjudication)