



<p>आयुक्त का कार्यालय, केंद्रीय जी. एस. टी. एवं केंद्रीय उत्पाद शुल्क, अहमदाबाद - उत्तर, कस्टम हाँउस, प्रथम तल, नवरंगपुरा, अहमदाबाद- 380009</p>		 <p>OFFICE OF COMMISSIONER CENTRAL GST & CENTRAL EXCISE, AHMEDABAD- NORTH CUSTOM HOUSE, 1ST FLOOR, NAVRANGPURA, AHMEDABAD-380009</p>
<p>फोन नंबर/ PHONE No.: 079-27544557</p>	<p>फैक्स/ FAX : 079-27544463</p>	<p>E-mail:- oaahmedabad2@gmail.com</p>

निबन्धित पावती डाक द्वारा/By R.P.A.D

DIN-20240364WT000000B00D

फा.सं./F.No. GST/15-93/OA/2023-24

आदेश की तारीख/Date of Order: - 07.03.2024

जारी करने की तारीख/Date of Issue :- 07.03.2024

द्वारा पारित/Passed by:-

लोकेश डामोर /Lokesh Damor

अपर आयुक्त / Additional Commissioner

मूल आदेश संख्या / Order-In-Original No. 92/ADC/ LD/GST/2023-24

जिस व्यक्ति(यों) को यह प्रति भेजी जाती है, उसके/उनके निजी प्रयोग के लिए मुफ्त प्रदान की जाती है।
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इस आदेश से असन्तुष्ट कोई भी व्यक्ति इस आदेश के विरुद्ध अपील, इसकी प्राप्ति से 90 दिन के अन्दर आयुक्त (अपील), केन्द्रीय वस्तु एवं सेवा कर एवं उत्पाद शुल्क, केन्द्रीय उत्पाद शुल्क भवन, अंबावाड़ी, अहमदाबाद 380015-को प्रारूप GST-APL-01 में दाखिल कर सकता है। इस अपील पर रू. 5.00 (पांच रुपये) का न्यायालय शुल्क टिकट लगा होना चाहिए।

Any person deeming himself aggrieved by this order may appeal against this order in form GST-APL-01 to the Commissioner(Appeals), Central GST & Central Excise, Central Excise Building, Ambawadi, Ahmedabad-380015 within three months from the date of its communication. The appeal should bear a court fee stamp of Rs. 5.00 only.

इस आदेश के विरुद्ध अपील करने के लिए आयुक्त (अपील) के समक्ष नियमानुसार पूर्व जमा के धनराशी का प्रमाण देना आवश्यक है।

An appeal against this order shall lie before the Commissioner (Appeal) on giving proof of payment of pre deposit as per rules.

उक्त अपील, अपीलकर्ता द्वारा प्रारूप संख्या GST-APL-01 में दो प्रतियों में दाखिल की जानी चाहिए। उस पर केन्द्रीय जी. एस. टी. नियमावली, 2017 के नियम 108 के प्रावधानों के अनुसार हस्ताक्षर किए जाने चाहिए। उक्त अपील के साथ निम्नलिखित दस्तावेज संलग्न किए जाएं।

- (1) उक्त अपील की प्रति।
- (2) निर्णय की प्रतियाँ अथवा जिस आदेश के विरुद्ध अपील की गई है, उनमें से कम से कम एक प्रमाणित प्रति हो, या दूसरे आदेश की प्रति जिसपर रू. .5) 00. पांच रुपये (का न्यायालय शुल्क टिकट लगा होना चाहिए।

The appeal should be filed in form GST-APL-01 in duplicate. It should be signed by the appellant in accordance with the provisions of Rule 108 of CGST Rules, 2017. It should be accompanied with the following:

- (1) Copy of accompanied Appeal.
- (2) Copies of the decision or, one of which at least shall be certified copy, the order Appealed against OR the other order which must bear a court fee stamp of Rs.5.00.

विषय:- कारण बताओ सूचना/ Proceeding initiated against Show Cause Notice F.No. GST/15-93/OA/2023-24 dated 28.12.2023 issued to M/s. Docsuns Services Private Limited, having GSTIN-24AAACD5491M1ZF, 9th Floor, B-901, ATMA House, Opp. Old RBI Building, Ashram Road, Ahmedabad, Gujarat-380015.





BRIEF FACTS OF THE CASE

1. M/s. Docsuns Services Private Limited, 9th Floor, B-901, ATMA House, Opp. Old RBI Building, Ashram Road, Ahmedabad, Gujarat, 380015 (hereinafter referred to as "Docsuns" or "M/s. Docsuns" for sake of brevity) are holding Goods and Service Tax Identification No. 24AAACD5491M1ZF for supplying of taxable goods/services. M/s. Docsuns had undertaken to comply with the conditions prescribed in the Central Goods and Service Tax Act, 2017 (hereinafter referred to as "the CGST Act, 2017"), the Gujarat Goods and Service Tax, 2017 (hereinafter referred to as "the SGST Act, 2017") and Integrated Goods and Service Tax Act, 2017 (hereinafter referred to as "the IGST Act, 2017) and rules made thereunder.

2. Audit of returns filed by the noticee has been conducted by CERA, Ahmedabad regarding specific compliance audit on GST payment and return filing – Detailed Audit Inspection Report for the period 2018-19 to 2020-21 which resulted in issuance of Audit Query No. 78 (AENQ-298160) which reads as under:

"D-21(AENQ-298160) SHORT PAYMENT OF INTEREST ON DELAYED PAYMENTS

As per Section 61 of the CGST Act, various returns filed by taxpayers have to be scrutinized by the proper officer to verify the correctness of the returns and suitable action has to be taken on any discrepancies or inconsistencies reflected in the return. The Proper Officer designated for this purpose is the Range Officer.

Considering that global returns data of taxpayers is available in GSTN, under the SSCA on "Department's oversight on GST payments and Returns Filing" we have attempted to identify inconsistencies between returns through global data queries. For this purpose, we have extracted data centrally from GSTN by comparing various datasets from multiple returns using specific algorithms based on the interrelationships and data-matching techniques.

The extent of short payment of interest on account of delayed remittance of tax during 2018-19 to 2020-21 was identified through the tax paid details in GSTR-3B and the data of filing of the GSTR-3B. The due date of filing of GSTR-3B for the respective months (including any extension provided) and the actual date of filing of GSTR-3B has been taken into account to work out the interest liability and only the net tax liability (cash component) has been considered to work out the interest payable.

All the relaxations and reduced rate of interest extended to the industries during the COVID-19 phase I from January to April 2020 and Phase II for March 2021 returns have been considered while working out the interest component. It may also be noted that the interest worked out is only minimum as for the supplies made prior to the tax period and declared in the return for the said period, the interest has to be discharged on the entire tax component. Due to the non-availability of such bifurcation, the interest on such supplies have also been worked out only on the case component.

The list of taxpayers with high value deviations, with potential short payment of interest pertaining to your jurisdiction, are brought out below. It is requested that the reason for the inconsistencies may be ascertained from the taxpayers and intimated to Audit. Further, the details of action taken, if any, wherever applicable, under Section 61 may also be intimated to Audit.



	GSTIN	Year	Months where returns were delayed filed	Filing dates	Number of days delayed	Calculated Interest	Total calculated interest	Total Interest paid	Interest Difference	Interest Difference (Only positive) Total										
											<A>		<JA>	<JB>	<JD>	<KA>	<KK>	<JY>	<KL>	<KM>
DOCS UNS SERVI CES PRIVATE	24AAA CD549 1M1ZF	201920		"2020-08-14",																
				"2020-09-10",					*98926.763178,149											
			*202002,202003,	"2020-02-08",	*147,143,					533.462356,86438.										
			201908,201905,2	"2019-11-06",	141,139,1					57,81,92,87,733.83										
			01907,201911,20	"2020-01-13",	46,163,12					589,92332.8,64062										
			19,09,20,19,06,201	"2020-06-03",	31,52,158					0	.724438,75008.500	1229347.215								
			90,42,01,91,02,019	"2020-02-20",	.188,156,						274,98228.846466,									
			12,202001"	"2019-12-19",	151"						105512.555836,15									
				"2019-10-25",							5507.872438,9980									
				"2020-05-26",							8,475178,116252.8									
				"2020-06-24",							06685"									
				"2020-07-20"																
	"2019-01-19",																			
				"2018-12-25",						*94232.691616,948										
				"2019-06-08",						03.116055,118287.										
				201812,201811,2	"2019-05-08",	*121,123,				56,81,11,26,596.95										
				01809,201805,20	"2019-03-04",	139,139,1				2,71,12,463.86										
				19,03,20,19,01,201	"2018-08-10",	30,51,153			0	8,37992.926466,13										
				90,22,01,80,42,018	"2019-09-20",	.131,136,				3247.423342,1169										
				06,201810"	"2019-07-03",	52,94,132"				95.820055,116928.										
					"2019-08-03",					9,54,74,39,153.37										
					"2018-07-11",					33,69705.903452,1										
					"2018-10-22",					15368.795616"										
				"2019-04-01"																
				"2021-02-22",																
				"2020-10-22",						*32953.362411,482										
				*202012,202006,	"2021-02-02",					62.144438,44741.7										
				202011,202007,2	"2020-11-11",					7,24,93,38,400.22										
				02101,202102,20	"2021-03-08",					03,16908.86663,12										
				20,08,20,20,04,202	"2021-04-01",				0	728.992438,87292.										
				10,32,02,01,02,020	"2020-12-19",	*33,94,44,				92,32,88,23,148.88										
				09,202005"	"2020-10-19",	83,16,12,				726,60099.573699,										
					"2021-05-20",	90,152,30				52592.993753,827										
					"2021-01-11",	.52,81,11				09.623726,62548.5										
					"2021-01-09",	5"				37808"										
				"2020-10-20"																

03. The said AENQ was intimated to M/s. Docsuns vide e-mail dated 03.07.2023 and reminders dated 11.07.2023, 25.07.2023, 12.10.2023, 19.10.2023 and letter dated 30.10.2023. M/s. Docsuns vide their letter dated 27.10.2023 informed that they have deposited an amount of Rs.20,96,921/- out of interest liability of Rs.29,67,511/- and sought permission to deposit the balance interest liability of Rs.8,70,590 in convenient installments.

04. On verification of the data with GSTR 3B returns filed by M/s. Docsuns, it was noticed that they had delayed filing of returns during 2018-19, 2019-20 and 2020-21. The return filing trends of noticee is provided in given below Annexure-A as under:-

Annexure A: DOCSUNS SERVICES PRIVATE LIMITED												
2018-19												
MONTH	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR
YEAR	2018	2018	2018	2018	2018	2018	2018	2018	2018	2019	2019	2019
3B Filing Date	11-07-2018	10-08-2018	22-10-2018	25-12-2018	19-01-2019	04-03-2019	01-04-2019	08-05-2019	08-06-2019	03-07-2019	03-08-2019	20-09-2019
3B Due Date	22-05-2018	20-06-2018	20-07-2018	24-08-2018	20-09-2018	25-10-2018	20-11-2018	20-12-2018	20-01-2019	22-02-2019	20-03-2019	23-04-2019
TOTAL CASH COMPONENT	1526814	1510612	1503703	1562924	1579198	1754244	1772290	1846838	1725618	1811004	1743426	1765988
No. of days late	50	51	94	123	121	130	132	139	139	131	136	150
IGST Interest Payable	0	0	0	0	0	0	0	0	0	0	0	0
CGST Interest Payable	18823.73425	18996.46323	34829.51868	47401.55803	47116.34581	56231.93096	57684.39781	63298.47501	59143.78405	58497.91003	58464.47737	65317.36438
SGST Interest Payable	18823.73425	18996.46323	34876.38477	47401.55803	47116.34581	56231.93096	57684.39781	63298.47501	59143.78405	58497.91003	58464.47737	65317.36438
CESS Interest Payable	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL INTEREST LIABILITY	37647.46849	37992.92647	69705.90345	94803.11605	94232.69162	112463.8619	115368.7956	126596.95	118287.5681	116995.8201	116928.9547	130634.7288
TOTAL	1171658.785											

2019-20												
MONTH	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR
YEAR	2019	2019	2019	2019	2019	2019	2019	2019	2019	2020	2020	2020
3B Filing Date	25-10-2019	06-11-2019	19-12-2019	13-01-2020	08-02-2020	20-02-2020	26-05-2020	03-06-2020	24-06-2020	20-07-2020	14-08-2020	10-09-2020
3B Due Date	20-05-2019	20-06-2019	20-07-2019	22-08-2019	20-09-2019	20-10-2019	20-11-2019	23-12-2019	20-01-2020	20-02-2020	04-04-2020	05-05-2020
TOTAL CASH COMPONENT	1354152	1279890	1310436	1282400	1243108	1236590	1677316	796963	1297368	1561158	1364636	2120424
No. of days late	158	139	152	144	141	123	188	163	156	151	132	128
IGST Interest Payable	0	0	0	0	0	0	0	66.79873973	304.6487671	0	77.72449315	85.34268493
CGST Interest Payable	52756.27792	43866.91479	49114.42323	45533.98356	43219.2891	37376.50537	77619.03978	31997.96285	49751.91321	58071.14975	44377.23551	66881.39573
SGST Interest Payable	52756.27792	43866.91479	49114.42323	45533.98356	43219.2891	37631.9949	77888.83266	31997.96285	49751.91321	58181.65693	44377.23551	66881.39573
CESS Interest Payable	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL INTEREST LIABILITY	105512.5558	87733.82959	98228.84647	91067.96712	86438.57819	75008.50027	155507.8724	64062.72444	99808.47518	116252.8067	88832.19551	133848.1341
TOTAL	1202302.486											

2020-21												
MONTH	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR
YEAR	2020	2020	2020	2020	2020	2020	2020	2020	2020	2021	2021	2021
3B Filing Date	19-10-2020	20-10-2020	22-10-2020	11-11-2020	19-12-2020	09-01-2021	11-01-2021	02-02-2021	22-02-2021	08-03-2021	01-04-2021	20-05-2021
3B Due Date	04-06-2020	20-06-2020	20-07-2020	20-08-2020	20-09-2020	20-10-2020	20-11-2020	20-12-2020	20-01-2021	20-02-2021	20-03-2021	20-04-2021
TOTAL CASH COMPONENT	308821	1102909	1041116	938158	1966785	2070577	2050902	2061963	2024912	2142964	2150964	4062286
No. of days late	137	122	94	83	90	81	52	44	33	16	12	30
IGST Interest Payable	264.5038358	71.77610959	37.17764384	62.21589041	55.08	52.20838356	37.02969863	36.51879452	64.44493151	31.2460274	23.43452055	117.1726027
CGST Interest Payable	10299.97529	33142.032	24112.4834	19169.00236	43618.92164	41328.70767	26277.98203	22352.62685	16444.45874	8438.810301	6352.778959	29991.20055
SGST Interest Payable	10299.97529	33142.032	24112.4834	19169.00236	43618.92164	41328.70767	26277.98203	22352.62685	16444.45874	8438.810301	6352.778959	29991.20055
CESS Interest Payable	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL INTEREST LIABILITY	20864.45441	66355.84011	48262.14444	38400.2205	87292.92329	82709.62373	52592.99375	44741.77249	32953.35241	16908.86663	12728.99244	60699.5737
TOTAL	563910.768											

From the above, it appeared that M/s. Docsuns filed their GSTR-3B returns for the FY 2018-19 to 2020-21 after the due date as prescribed under Section 39 of CGST Act, 2017 and as extended under various notifications which attracted interest liability. The total quantification of interest on cash component of tax paid during the FY 2018 to 2020-21 occurs on the basis of return filing data as given below in Table-A

TABLE-A

Year	Interest payable
2018-19	1171658.78
2019-20	1202302.48
2020-21	563910.76



5. Further, on analyzing the data received from CERA Audit in above said AEQN, it was observed that the interest liability appeared to Rs. 11,75,777.37

(2018-19) + Rs. 12,29,347.21/- (2019-20) and Rs. 5,62,387.89/-(2020-21) were due to be paid. The interest liability as per data available in GSTR 3B indicated Rs. 11,71,658.78 for FY 2018-19, Rs.12,02,302.48 for FY 2019-20 and Rs.5,63,910.76 for FY 2020-21 (As mentioned in above Table-A) were pending due to be paid. While on comparing both the data, it is found that the interest liability for 2018-19 and 2019-20 as per AENQ is higher and for the FY 2020-21 as per GSTR 3B is higher. In view of the above, keeping in view the interest of revenue, the following amount was taken as interest liability as under:-

Year	Interest liability Rs.	Base on
2018-19	11,75,777.37	As per AEQN
2019-20	12,29,347.21	As per AEQN
2020-21	5,63,910.76	As per GSTR-3B returns

6. It appeared that M/s. Docsuns had paid the total net tax in cash amounting to Rs. 5,85,49,457/- (Rs. 2,01,02,659/- for FY 2018-19 , Rs. 1,65,24,441/- for FY 2019-20 & Rs. 2,19,22,357/- for FY 2020-21) from their electronic cash ledger, on a date later than the due date specified under Section 39(1) , Section 39(7) of CGST Act, 2017 read with Rule 61 of CGST Rules, 2017, therefore, M/s. Docsuns had deliberately failed to discharge their GST liability on or before the due date of GST payment. Thus it appeared that delayed payment of GST totally amounting to Rs. 5,85,49,457/- was required to be demanded from the notice under Section 73 (1) of the CGST Act, 2017/ Gujarat GST Act, 2017 read with Section 20 of the IGST Act, 2017. However, M/s. Docsuns had already paid the entire tax amount in their delayed filed GSTR-3B returns for the respective period so that the said amount of tax paid by the notice after due date is required to be adjusted and appropriated towards the proposed demand of GST. Further it also appeared that interest amount Rs. 29,69,035.34 (including Rs.11,75,777.37 for the FY 2018-19, Rs. 12,29,347.21 for FY 2019-20 and Rs. 5,63,910.76 for FY 2020-21) on the delayed payment of tax amounting to Rs. 5,85,49,457/- (Rs. 2,01,02,659/- for FY 2018-19 , Rs. 1,65,24,441/- for FY 2019-20 & Rs. 2,19,22,357/- for FY 2020-21 respectively) not paid by M/s. Docsuns was liable to be recovered/demanded in terms of Section 50(1) of the CGST Act read with Section 50(1) of SGST Act, 2017 & Section 20 of IGST Act, 2017. However, out of the above total interest liability, M/s. Docsuns had paid Rs.18,10,415/- towards this liability **vide DRC-03 dated 29.04.2022 and 19.05.2022.**

7. It was noticed that M/s. Docsuns had not paid the tax within the prescribed due dates on the outward supplies made by them. Further, they had also not paid interest on the GST payments made at a date later than due date. It appeared from the Section 59 of the CGST Act, 2017, which provides for self assessment, it is mandatory for the noticee to self assess the liability to pay tax, they had an obligation to furnish the correct and complete information. Thus, it appeared that M/s. Docsuns failed to fulfil the responsibility put on them under Section 59 of the CGST Act, 2017. It appeared for the acts of omission and commission on the part of M/s. Docsuns, they also rendered themselves liable for penal action under Section 73 of CGST/Gujarat GST Act, 2017 read with Section 122(2)(a) of CGST Act, 2017.

8. M/s. Docsuns had been communicated of the details of tax, interest and penalty which are to be discharged by them vide Form GST DRC 01 Part A dated 21.12.2023 under Rule 142(1A) of the CGST Rules, 2017 and requested to pay up the dues. However, no representation was received by this office till

date of issuance of Show Cause Notice. Therefore, to protect the Govt. Revenue the demand was raised under Section 73(1) of CGST Act, 2017 read with Section 50 of CGST Act, 2017 & Section 122(2)(a) of CGST Act, 2017 and Similar provisions of SGST/IGST Act, 2017 and the present show cause notice dated 28.12.2023 was issued to M/s. Docusns.

9. Accordingly, Show Cause Notice F.No.GST/15-93/OA/2023-24 dated 28.12.2023 and having DIN 20231264WT0000914389 was issued to M/s Docusns Services Pvt. Ltd., 9th Floor, B-901, ATMA House, Opp. Old RBI Building, Ashram Road, Ahmedabad, Gujarat, 380015, under Section 73 of the CGST Act. Vide the said Show Cause Notice, the noticee were called upon to show cause to the Joint Commissioner, CGST, Ahmedabad North Commissionerate, as to why:-

- (i) The amount of Rs.5,85,49,457/- (Rupees Five Crore Eighty Five Lakh Forty Nine Thousand Four Hundred Fifty Seven only)(including Rs. 2,01,02,659 for the FY 2018-19, Rs. 1,65,24,441 for FY 2019-20 and Rs. 2,19,22,357 for FY 2020-21) not paid within the prescribed time limit specified under sub section 7 of section 39 of the CGST Act, 2017 should not be demanded and recovered from them, under the provisions of Section 73(1) of the CGST Act, 2017/Gujarat GST Act, 2017.
- (ii) Since the said tax amount mentioned at (i) above has already been paid by them then the same should not be appropriated against aforesaid demand;
- (iii) Interest amount of Rs.29,69,036/- (Rupees Twenty Nine Lakh Sixty Nine Thousand Thirty Six only) (Rs. 11,75,777.37 for FY 2018-19, Rs. 12,29,347.21 for FY 2019-20 and Rs. 5,63,910.76 for FY 2020-21) on delayed payment of GST should not be charged and recovered from them under Section 50 of the CGST Act, 2017/Gujarat GST Act, 2017 read with Section 20 of IGST Act, 2017.
- (iv) An amount of Rs. 18,10,415/- (Rupees Eighteen Lakh Ten Thousand Four Hundred Fifteen only) paid by the noticee **vide DRC-03 dated 29.04.2022 & 19.05.2022** should not be appropriated towards the liability at Sr. No.(iii) above.
- (v) Penalty should not be imposed on them under section 73 of CGST Act, 2017/Gujarat GST Act, 2017 read with Section 122(2) (a) of CGST Act, 2017.

DEFENCE REPLY

10. M/s. Docusns submitted their reply to the SCN vide their letters dated 16.01.2024 (received on 18.01.2024), 08.02.2024, 22.02.20214 and 06.03.2024. Summary of their reply is given in following paras.

11. They stated that in their GST Audit conducted by the department, it was observed that there was shortfall in payment of interest and there was no observation regarding shortfall in payment of interest liability.



12. They stated that approximately 96% of their aggregate billings are to Government Organizations namely The Ahmedabad Municipal Corporation and B.R.T.S. Sometimes Government Organizations disburse payments lately and on the other hand they have approximately 800 Security Guard to whom they have to make payment of Salary and wages monthly on time and the GST has to be paid on Invoice Basis. Their company had encountered unavoidable circumstances that have led to the delay in filing our GST returns for the F.Y 2018-19 to 2020-21 and they acknowledged their responsibility for the timely submission of returns.

13. They also stated that they have discharged interest liability on late as pointed out in SCN. They stated that they have been regular in filing GST returns for the period after duration covered by the Show Cause Notice. They further stated that they have deposited interest on the higher side to the extent of Rs.1,20,308/-. They also stated that Audit Party/CERA had calculated interest on the higher side on gross liability without deducting GST input credit. Net interest liability as per M/s. Docsuns came to Rs.28,67,927/- (for FY 2018-19 to FY 2020-21) and they had deposited the same before completion of 30 days of issuance of Show Cause Notice to them. Accordingly, they requested that they may be absolved from penalty proceedings.

14. They further submitted that penalty should not be imposed u/s 73 of CGST Act, 2017 read with section 122(2)(a) of CGST Act, 2017 as they had paid the taxes belatedly at certain instances, however, there has not been any incidence of short payment of the principal liability of GST. They also submitted that the interest is compensatory in nature and penalty is imposed in cases where there are malafide intentions and in their case they do not have any malafide intention. They also relied upon various case laws in support of their contention that they are not liable to pay penalty.

PERSONAL HEARING

15. In the instant case, Personal Hearing was given to M/s. Docsuns on 08.02.2024, which was attended by CA Kiran B. Parikh, Authorised Representative of M/s. Docsuns. He re-iterated their submission dated 16.01.2024 and dated 08.02.2024. He further requested to decide the SCN on merit.

DISCUSSION AND FINDINGS

16. In the instant case, I have carefully gone through the Show Cause Notice issued to M/s. Docsuns, reply to SCN submitted by the noticee and submissions made by M/s. Docsuns. On recapitulating, I find that the issue involved in the present show cause notice is late payment of GST due to late filing of GSTR-3B returns.

17. On perusal of the above referred case records, I find that the issue is came out when the CERA, Ahmedabad, issued Audit Query No. 78 (AENQ-298160). The present Show Cause Notice was issued after verification of the data with GSTR-3B returns filed by M/s. Docsuns and the above Audit Query. I find that in the present case, M/s. Docsuns had filed their GSTR-3B returns after due date of filing and the present SCN has been issued for recovery of interest on late payment and imposition of penalty under Section 73 of the CGST Act, 2017/ Section 73 of the SGST Act, 2017 read with Section 122(2)(a) of the CGST Act, 2017.

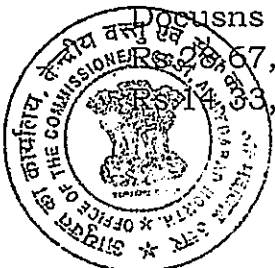
18. From the submission made by M/s. Docsuns, it is noticed that their GST Audit has been conducted by CGST Audit, Ahmedabad, and they had also detected non-payment of interest due to late filing of GSTR-3B returns for the period from July 2017 to March 2020, which was paid by them on being pointed out by the officers.

19. After going through the Show Cause Notice dated 28.12.2013 issued to M/s. Docsuns, I find that the issue involved in the present case is late filing of GSTR-3B Returns. In the SCN, it has been proposed to charge interest under Section 50 and penalty under Section 73 read with Section 122(2)(a) of the CGST Act, 2017/Gujarat GST Act, 2017. I have also considered M/s. Docsuns written submission. Now, I proceed to decide the issue on the basis of material available on record and on merits of the case.

20. M/s. Docsuns have stated that interest has been wrongly calculated by CERA in the SCN. They stated that interest payable for the period from FY 18-19 to FY 20-21 is Rs.28,67,927/- (IGST - Rs.1,298, CGST - Rs. 14,32,973 and SGST - Rs.14,33,656) and they also stated that they have paid interest in excess of the said amount. They also provided detailed calculation of interest payable vide their e-mail dated 22.02.2024. I observe that M/s. Docsuns have calculated interest at reduced rates as per the Notification Nos. Notification No. 51/2020 - Central Tax and 08/2021 - Central Tax dated 1st May, 2021, which was not considered while issuance of the Show Cause Notice. Accordingly, I find that interest payable by M/s. Docsuns comes to Rs.28,67,927/-. I find that they have correctly calculated interest payable by them after considering interest payable at concessional rate as per the above referred notifications. They further stated that they had paid the entire amount of interest before issuance of SCN to them. As per the documents submitted by them, details of payment of interest made by M/s. Docsuns is as follows:-

DRC-03 Date	Debit Entry No.	CGST	SGST	IGST	Amount
29-Apr-22	DC2404220502224	5,00,000	5,00,000	-	10,00,000
19-May-22	DC2405220132105	4,57,763	4,57,763	1,507	9,17,033
12-Jan-23	DC2401230049352	89,881	89,881	126	1,79,888
06-Jan-24	DC2401240023623	1,86,719	1,86,719	-	3,73,438
06-Jan-24	DC2401240023623	2,77,747	2,77,747	-	5,55,494
Total (A)		15,12,110	15,12,110	1,633	30,25,853
Interest for 2017-18 (B)		43,423	43,423	27	86,874
Interest paid for FY 18-19 to 20-21 (C) = (A) - (B)		14,68,687	14,68,687	1,606	29,38,979

21. From the above, it appears that M/s. Docsuns had paid entire amount of interest payable by them within 30 days of issuance of SCN. M/s. Docsuns have not challenged leviability of interest and have paid applicable interest payable by them within 30 days of issuance of SCN. In addition to the above payment, M/s. Docsuns have also paid interest of Rs.31,524/- (CGST and SGST Rs.15,762/- each) and Rs.19,478/- (CGST and SGST Rs.9,739/- each) on 07.02.2024 and 08.02.2024. Accordingly, they have paid interest of Rs.29,88,235/- for the period from April 2018 to March 2021. I find that M/s. Docsuns have paid entire amount of interest payable by them, i.e. Rs.28,67,927/- (IGST - Rs.1,298, CGST - Rs. 14,32,973 and SGST - Rs.14,33,656).



22. Now I proceed to decide the issue of levability of penalty under Section 73 read with Section 122(2)(a) of the CGST Act, 2017 read with Section 122(2)(a) of the CGST Act, 2017. M/s. Docsuns have stated that they have paid applicable interest within 30 days of issuance of Show Cause Notice and have requested to absolve themselves from penalty proceedings. In this regard, it is pertinent to discuss the provisions of sub-section (8) of the Section 73 of the CGST Act, 2017, which is reproduced below for ease of reference:-

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

23. As per the above provisions, no penalty is payable where tax along with interest is paid within 30 days of issuance of Show Cause Notice. In the present case, Show Cause Notice was issued on 28.12.2023 and M/s. Docsuns made payment of interest on 06.01.2024, i.e. within 30 days of issuance of Show Cause Notice. Accordingly, as per the above provisions, penalty is not payable by M/s. Docsuns. Hence, I do not intend to levy penalty on M/s. Docsuns under Section 73 read with Section 122(2)(a) of the CGST Act, 2017/Gujarat GST Act, 2017.

24. In view of the above facts and findings I find that M/s. Docsuns Services Private Limited are liable to pay GST of Rs.5,85,49,457/- (Rupees Five Crore Eighty Five Lakh Forty Nine Thousand Four Hundred Fifty Seven only) along with applicable interest under Section 50 of the CGST Act, 2017 read with Section 50 of the Gujarat GST Act, 2017 and Section 20 of the IGST Act, 2017. Accordingly, I pass the following order.

- i. I confirm the demand of GST of Rs.5,85,49,457/- (Rupees Five Crore Eighty Five Lakh Forty Nine Thousand Four Hundred Fifty Seven only)(including Rs. 2,01,02,659 for the FY 2018-19, Rs. 1,65,24,441 for FY 2019-20 and Rs. 2,19,22,357 for FY 2020-21), and order to recover the same from M/s. Docsuns, under the provisions of Section 73(1) of the CGST Act, 2017/Gujarat GST Act, 2017;
- ii. I order to appropriate GST of Rs.5,85,49,457/- (Rupees Five Crore Eighty Five Lakh Forty Nine Thousand Four Hundred Fifty Seven only)(including Rs. 2,01,02,659 for the FY 2018-19, Rs. 1,65,24,441 for FY 2019-20 and Rs. 2,19,22,357 for FY 2020-21) paid by M/s. Docsuns against the demand of GST liability as per para (i) above;
- iii. I order to charge and recover interest amount of Rs.28,67,927/- (Rupees Twenty Eight Lakh Sixty Seven Thousand Nine Hundred Twenty Seven only) (Rs. 11,71,659/- for FY 2018-19, Rs.11,48,905/- for FY 2019-20 and Rs. 5,47,363/- for FY 2020-21) on delayed payment of GST from M/s. Docsuns under Section 50 of the CGST Act, 2017/Gujarat GST Act, 2017 read with Section 20 of IGST Act, 2017;
- iv. I order to appropriate interest of Rs.28,67,927/- (Rupees Twenty Eight Lakh Sixty Seven Thousand Nine Hundred Twenty Seven

only) (Rs. 11,71,659/- for FY 2018-19, Rs.11,48,905/- for FY 2019-20 and Rs. 5,47,363/- for FY 2020-21) already paid by M/s. Docsuns against interest charged at para (iii) above;

- v. I do not impose penalty of under Section 73 read with Section 122(2)(a) of the Central Goods and Services Tax Act, 2017 on M/s. Docsuns.

26. Accordingly, the Show Cause Notice bearing F.No.GST/15-93/OA/2023-24 dated 28.12.2023 (having DIN 20231264WT0000914389) is disposed of in above terms.

(Lokesh Damor)

Additional Commissioner,
Central Excise & CGST,
Ahmedabad North.

Date:07.03.2024

F.No. GST/15-93/OA/2023-24
BY SPEED POST/HAND DELIVERY

To,
M/s. Docsuns Services Private Limited,
9th Floor, B-901, ATMA House,
Opp. Old RBI Building, Ashram Road,
Ahmedabad, Gujarat, 380015.

Copy to:-

1. The Commissioner, Central GST & Central Excise, Ahmedabad North.
2. The DC/AC, CGST & Central Excise, Division-VII, Ahmedabad North.
3. The Superintendent, Range-I, Division-VII, CGST & Central Excise, Ahmedabad North, **with a request to create Form GST DRC-07 electronically in terms of DSR Advisory no.01/2018 dated 26.10.2018 of the ADG, Systems & Data Management, Bengaluru.**
4. The Superintendent (System), CGST & Central Excise, Ahmedabad North for uploading the order on website.
5. Guard File.



