



आयुक्त का कार्यालय

OFFICE OF THE COMMISSIONER

केंद्रीय वस्तु एवं सेवा कर तथा केंद्रीय उत्पाद शुल्क, अहमदाबाद उत्तर
CENTRAL GOODS & SERVICES TAX & CENTRAL EXCISE, AHMEDABAD NORTH

पहली मंजिल, कस्टम हाउस, नवरांगपुरा, अहमदाबाद - 380009

FIRST FLOOR, CUSTOM HOUSE, NAVRANGPURA, AHMEDABAD - 380009

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निबन्धित पावती डाक द्वारा/By R.P.A.D
फा.सं./F.No. GST/15-95/OA/2023-24

DIN- 20240464WT000000C53A

आदेश की तारीख/Date of Order: - 25.04.2024

जारी करने की तारीख/Date of Issue :- 25.04.2024

द्वारा पारित/Passed by:-

लोकेश डामोर /Lokesh Damor

अपर आयुक्त / Additional Commissioner

मूल आदेश संख्या / Order-In-Original No. 08/ADC/LD/GST/2024-25

जिस व्यक्ति(यों) को यह प्रति भेजी जाती है, उसके/उनके निजी प्रयोग के लिए मुफ्त प्रदान की जाती है।
This copy is granted free of charge for private use of the person(s) to whom it is sent.

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 रु. 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 केंद्रीय 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।

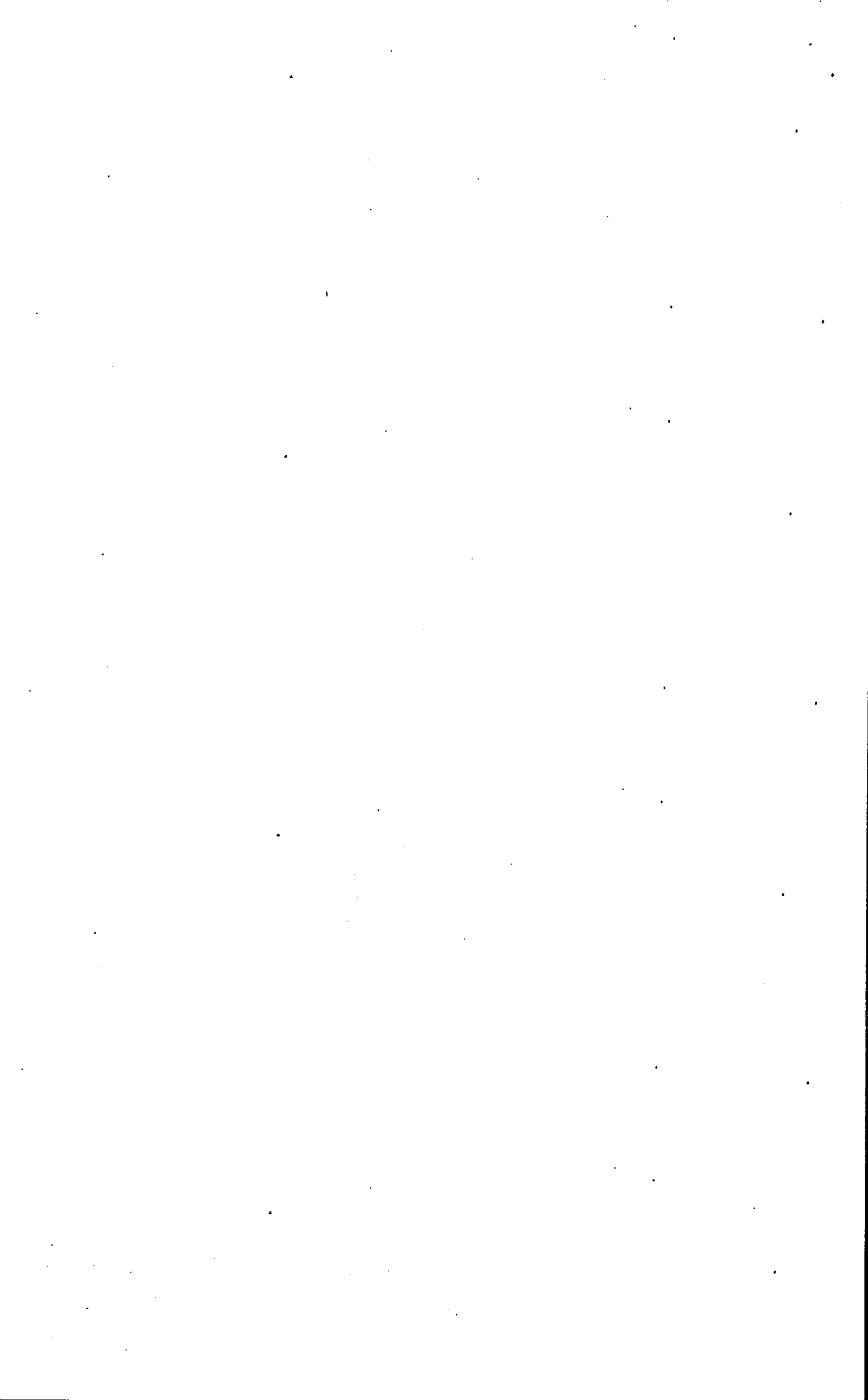
- (1) उक्त अपील की प्रति।
- (2) निर्णय की प्रतियाँ अथवा जिस आदेश के विरुद्ध अपील की गई है, उनमें से कम से कम एक प्रमाणित प्रति हो, या दूसरे आदेश की प्रति जिसपर रु. 5.00 (पांच रुपये) का न्यायालय शुल्क टिकट लगा होना चाहिए।

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/15-95/OA/2023-24 dated 28.12.2023 and Corrigendum dated 14.03.2024 issued to M/s. Max Vigil Security Export Private Limited, 3, 307, A Park, Shahibaug Under Bridge, Panchal Milan Mandir Trust, Shahibaug, Ahmedabad, Gujarat - 380004





BRIEF FACTS OF THE CASE

M/s. Max Vigil Security Expert Private Limited, 3, 307, A Park, Shahibaug Under Bridge, Panchal Milan Mandir Trust, Shahibaug, Ahmedabad, Gujarat, 380004 (earlier registered at 4TH FLOOR, 42, ASTHA AVENUE, OPP RTO, SUBHASHBRIDGE, Ahmedabad, Gujarat, 380027) (hereinafter referred to as "the noticee" or "the taxpayer") are holding Goods and Service Tax Identification No. 24AAF0319Q1ZC for supplying of taxable goods/services. The noticee 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.

02. Whereas, 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. D-21 (AENQ-300431) dated 21.06.2023 (RUD 1) which reads as under:

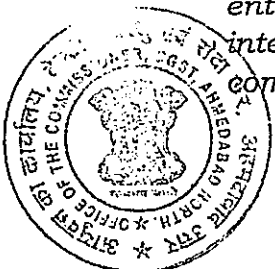
D-21(AENQ-300431) SHORT PAYMENT OF INTEREST ON DELAYED PAYMENTS

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 cash component.



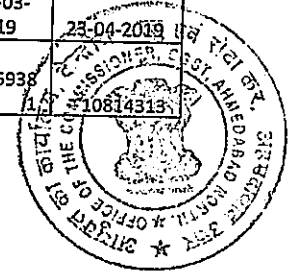
The list of taxpayers with high value deviations, with potential short payment of interest pertaining to your jurisdiction, are brought out below. It is requested that the reason for the inconsistencies may be ascertained from the taxpayers and intimated to Audit. Further, the details of action taken,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

Name of Taxpayer	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>
MAX VIGIL SECURITY EXPERT PRIVATE LIMITED	24AAAH19017C	202021	"202005,202012,202103,202102,202101,202005,202010,202004,202011,202009,202007,202005"	"2020-07-28", '2021-02-22', '2021-05-20', '2021-04-19', '2021-03-19', '2020-08-17', '2020-12-30', '2020-07-11', '2021-02-04', '2020-10-19', '2020-09-21', '2020-11-24"	"31,33,30, 90,27,28, 40,52,46, 29,32,35"	NULL	112159 1.289	0	"77799.172932,100 964.144055,19022 9.631781,94657.22 137,76345.913086, 77469.480986,101 988.848219,6348.4 02411,152800.276 932,80426.556493, 81242.259283,613 19.981644"	1121591.28
		201819	"201811,201901,201809,201807,201810,201804,201812,201902,201808,201805,201806,201903"	"2019-03-15", '2019-05-02', '2019-02-21', '2018-12-06', '2019-02-25', '2018-11-30', '2019-03-31', '2019-05-31', '2019-01-26', '2018-11-30', '2018-12-01', '2019-08-30"	"85,69,11 9,104,97, 194,70,72 124,163, 134,132"	432342 0.738	432342 0.738	0	"318180.89589,228 793.107452,44454 6.337315,358624.0 14904,373837.255 89,34654.895014,2 09735.638904,268 409.802092,46104 2.645918,471373.5 46192.451255.264 767,703967.33391 8"	4323420.73
		201920	"201908,201912,201910,202001,201905,201906,201909,201904,202003,201911,202002,201907"	"2020-01-16", '2020-03-16', '2020-02-10', '2020-04-20', '2019-11-19', '2019-12-05', '2020-01-30', '2019-03-25', '2020-07-07', '2020-02-10', '2020-05-15', '2019-12-18"	"118,69,8 2,60,152, 198,102,1 28,78,49, 56,120"	NULL	288924 6.29	0	"340334.106411,15 7179.863342,2462 29.919014,158401. 73589,458747.518 685,360479.84942 5,268480.84537,10 319.840219,40494 0.102904,138074.0 79452,0,346064.42 9589"	2889246.29

03. The said AENQ was intimated to the noticee vide letter F. No. CGST/Abad North/Div-VII/AR-V/57/2022-23/4022 dated 23.06.2023 (DIN No. 20230664WT0000611945)(RUD-2) and reminders dated .04.10.2023. However, the noticee assured to pay interest as due for FY 2018-19 to 2020-21 vide their reply email dated 04.10.2023 but has not paid the same till date.

04. During verification of the data with GSTR 3B returns filed by the taxpayer, it is noticed that the noticee has delayed filing their GSTR-3B during the FY 2018-19, 2019-20 and 2020-21. The Return filing trends of noticee is provided in given below Annexure A:

HEADING	APR 2018	MAY 2018	JUN 2018	JUL 2018	AUG 2018	SEP 2018	OCT 2018	NOV 2018	DEC 2018	JAN 2019	FEB 2019	MAR 2019
3B Filing Date	30-11-2018	30-11-2018	01-12-2018	06-12-2018	26-01-2019	21-02-2019	25-02-2019	15-03-2019	31-03-2019	02-05-2019	31-05-2019	30-08-2019
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 COMPON	362229	5864054	6828697	6992402	7303844	7575136	7815040	7590590	6046707	672379	755938	10814313



ENT												
No. of Days late	192	163	134	104	128	119	97	85	70	69	72	129
IGST Interest Payable	16389.10948	168863.3556	139733.1074	115800.1762	156949.742	158279.364	116975.3987	100338.406	81071.6104	81074.8677	87948.0158	256195.6752
CGST Interest Payable	8954.259288	151255.0953	155761.0787	121411.9193	152046.452	143133.487	128430.9286	108921.2449	63832.0142	73859.1199	90230.8932	215886.2005
SGST Interest Payable	8954.259288	151255.0953	155761.0787	121411.9193	152046.452	143133.487	128430.9286	108921.2449	63832.0142	73859.1199	90230.8932	215886.2005
Total Interest Liability	34297.62805	471373.5462	451255.2648	358624.0149	461042.646	444546.337	373837.2559	318180.8959	208735.639	228793.107	268409.802	687968.0763
Total	4307064.214											

FY 2019-20												
HEADING	APR 2019	MAY 2019	JUN 2019	JUL 2019	AUG 2019	SEP 2019	OCT 2019	NOV 2019	DEC 2019	JAN 2020	FEB 2020	MAR 2020
3B Filing Date	25-09-2019	19-11-2019	05-12-2019	18-12-2019	16-01-2020	30-01-2020	10-02-2020	10-02-2020	18-03-2020	20-04-2020	15-05-2020	07-07-2020
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 COMPON ENT	163392	6119987	5296906	5847848	5848491	5337446	6089019	5713950	5495273	5353392	5925669	10527289
No. of Days late	128	152	138	118	118	102	82	49	58	60	41	63
IGST Interest Payable	10313.84022	168416.0916	134854.2503	134492.0292	113643.369	103602.21	86180.40493	48704.61995	57290.5726	55012.5962	42353.133	121324.36
CGST Interest Payable	0	145165.7135	112812.7996	102902.33	113345.369	82439.3175	80024.75704	44684.72975	49944.6454	51694.5699	38729.512	102871.32
SGST Interest Payable	0	145165.7135	112812.7996	102902.33	113345.369	82439.3175	80024.75704	44684.72975	49944.6454	51694.5699	38729.512	102871.32
Total Interest Liability	10313.84022	458747.5187	360479.8494	340296.6891	340334.106	268480.845	246229.919	138074.0795	157179.863	158401.736	119812.16	327067.01
Total	2925417.61											

FY 2020-21												
HEADING	APR 2020	MAY 2020	JUN 2020	JUL 2020	AUG 2020	SEP 2020	OCT 2020	NOV 2020	DEC 2020	JAN 2021	FEB 2021	MAR 2021
3B Filing Date	11-07-2020	28-07-2020	17-08-2020	21-09-2020	19-10-2020	24-11-2020	30-12-2020	04-02-2021	22-02-2021	19-03-2021	19-04-2021	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 COMPON ENT	270958	5089014	5610389	5148164	5623696	4711361	5170268	6735761	6167157	5733798	6398127	12858114
No. of Days late	37	38	28	32	29	35	40	46	33	27	30	30
IGST Interest Payable	4479.789699	36431.227	26736.81337	28214.43682	27837.4162	36294.5416	34688.73205	53379.16373	33078.135	25734.5388	30760.3677	64775.264
CGST Interest Payable	232.1329315	29467.751	25366.33381	26513.91123	26294.5701	22512.42	33650.05808	49710.5566	33643.0045	25305.6871	31948.4268	62727.184
SGST Interest Payable	232.1329315	29467.751	25366.33381	26513.91123	26294.5701	22512.42	33650.05808	49710.5566	33643.0045	25305.6871	31948.4268	62727.184
Total Interest Liability	4944.055562	95366.728	77469.48099	81242.25929	80426.5565	81319.3816	101988.8482	152800.2769	100364.144	76345.9131	94657.2214	190229.63
Total	1137154.497											

From the above, it appeared that the noticee 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 attracts interest liability. The total quantification of interest on cash component of tax paid during the FY 2018-19 to 2020-21 occurs on the basis of return filing data as given below in table-A:

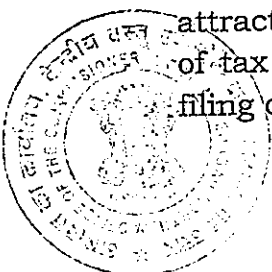


TABLE-A

Year	Interest payable
2018-19	4307064.21
2019-20	2925417.61
2020-21	1137154.497

5. On analyzing the data received from CERA Audit in AEQN, it is observed that the interest liability appeared to Rs. 4323420.73 for FY 2018-19, Rs. 28,89,246.29 for FY 2019-20 and Rs. 1121591.28 for FY 2020-21 are due to be paid. Whereas, the interest liability as per data available in GSTR 3B indicates Rs. 4307064.21 for FY 2018-19, Rs. 2925417.61 for FY 2019-20 and Rs. 1137154.497 for FY 2020-21 (as mentioned in above TABLE-A) are pending due to be paid. Therefore, on comparing both the data, it is found that the interest liability for FY 2018-19 as per AENQ is higher whereas for the FY 2019-20 & 2020-21 interest as per GSTR 3B (as per data available with AIO) is higher. Keeping the view for the protection of Govt. Revenue the following amount has been taken as interest liability as under:-

Year	Interest liability Rs.	Base
2018-19	4323420.73	As per AENQ
2019-20	2925417.61	As per GSTR-3B of AIO
2020-21	1137154.497	As per GSTR-3B of AIO
Total	8385992.83	

06. LEGAL PROVISIONS

(a) Section 39 of the CGST Act, 2017 reads as under:

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

(2) to (6)

(7) *Every registered person, who is required to furnish a return under sub-section (1) or sub-section (2) or sub-section (3) or sub-section (5), shall pay to the Government the tax due as per such return not later than the last date on which he is required to furnish such return.*

(b) Section 59 of the CGST Act, 2017 reads as under:

Section 59. *Self-assessment. – Every registered person shall self-assess the taxes payable under this Act and furnish a return for each tax period as specified under section 39.*

(c) Rule 61 of CGST Rules, 2017 reads as under:

Rule 61. *Form and manner of furnishing of return – (1) Every registered person other than a person referred to in section 14 of the Integrated Goods and Services Tax Act, 2017 or an Input Service Distributor or a non-resident taxable person or a person paying tax under section 10 or section 51 or section 52 shall, in the case may be, under section 52 shall furnish a return in Form GSTR-3B.*



electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner, as specified under-

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

(ii) Proviso to sub-section (1)

(2) Every registered person required to furnish return, under sub-rule (1) shall, subject to the provisions of section 49, discharge his liability towards tax, interest, penalty, fee or any other amount payable under the Act or the provisions of this chapter by debiting the electronic cash ledger or electronic credit ledger and include the details in the return in Form GSTR 3B.

(d) Section 73 (1) of CGST Act, 2017 reads as under:

Section 73 - Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason other than fraud or any wilful-misstatement or suppression of facts

(1) Where it appeared 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 utilized 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 utilized 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.

(e) Section 50 of CGST Act, 2017 reads as under:

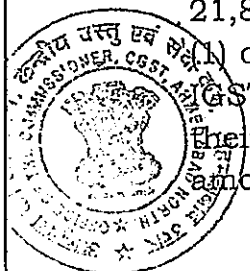
Section 50 - Interest on Delayed Payment of Tax

(1) Every person who is liable to pay tax in accordance with the provisions of this Act or the rules made thereunder, but fails to pay the tax or any part thereof 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.

(2) The interest under sub-section (1) shall be calculated, in such manner as may be prescribed, from the day succeeding the day on which such tax was due to be paid.

07. From the above it appeared that the noticee has paid the net tax in cash amounting to Rs. 21,87,11,653/- (Rs. 8,14,76,184/- for FY 2018-19, Rs. 6,77,18,662/- for FY 2019-20 and Rs. 6,95,16,807/- 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, the said noticee has deliberately failed to discharge their GST liability on or before the due date of GST payment. Thus, it appeared that the said delayed payment of GST totally amounting to Rs. 21,87,11,653/- is required to be demanded from the noticee under Section 73

(1) of the CGST Act, 2017/ Gujarat GST Act, 2017 read with Section 20 of the CGST Act, 2017. However, the noticee has already paid the entire tax amount in their delayed filed GSTR-3B return for the respective period. Therefore, the said amount of tax paid by the noticee after due date is required to be adjusted and



appropriated towards the proposed demand of GST. Further it appeared that the interest amount Rs. 83,85,992.83/- (Rs. 43,23,420.73 for FY 2018-19 + Rs. 29,25,417.61 for FY 2019-20 + Rs. 1137154.497 for FY 2020-21) on the delayed payment of tax amounting to Rs. 21,87,11,653/- (Rs. 8,14,76,184/- for FY 2018-19, Rs. 6,77,18,662/- for FY 2019-20 and Rs. 6,95,16,807/- for FY 2020-21) not paid by the noticee is liable to be recovered/demanded in terms of provision of Section 50(1) of the CGST Act.

08. The noticee has 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 has been received by this office till date. Therefore, to protect the Government revenue the demand is being 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 provision of SGST/IGST Act, 2017.

09. Accordingly, Show Cause Notice No. GST/15-95/OA/2023-24 dated 28.12.2023 and corrigendum dated 14.03.2024 was issued to M/s. Max Vigil Security Expert Private Limited, having his office at 3, 307, A Park, Shahibaug Under Bridge, Panchal Milan Mandir Trust, Shahibaug, Ahmedabad, Gujarat, 380004, asking them to show cause as to why:-

- (i) The amount of Rs. 21,87,11,653/- (Rupees Twenty One Crore Eighty Seven Lakh Eleven Thousand Six Hundred Fifty Three only) (including Rs. 8,14,76,184 for FY 2018-19 + Rs. 6,77,18,662/- for FY 2019-20 and Rs. 6,95,16,807/- 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. 83,85,992.83/- (Rupees Eighty Three Lakhs Eighty Five Thousand Nine Hundred Ninety Two and Eighty Three Paise Only) (included Rs. 43,23,420.73 for FY 2018-19 + Rs. 29,25,417.61 for FY 2019-20 + Rs. 1137154.49 for FY 2020-21) on delayed payment of GST as demanded at (i) should not be charged and recovered under Section 50 of the CGST Act, 2017/Gujarat GST Act, 2017 read with Section 20 of IGST Act, 2017.
- (iv) Penalty should not be imposed on them under section 73(1) of CGST Act, 2017/Gujarat GST Act, 2017 read with Section 122(2)(a) of CGST Act, 2017.

DEFENCE REPLY

10. M/s. Max Vigil Security Expert Pvt Ltd submitted their reply to the SCN vide their submission dated 07.02.2024 submitted during the course of personal hearing on 08.02.2024, which is reproduced as under:-



10.1 They stated that they are in the business of supply of Security Service and surveillance service and services related to man power supply.

10.2 They submitted that interest amount as per SCN and Central GST Audit Commissionerate (FAR report) for FY 2018-19 to FY 2020-21 is as under:-

Financial Year	As per SCN	As per FAR (Audit)
2018-19	43,23,420.73	42,89,705.00
2019-20	29,25,417.61	24,82,840.37
2020-21	11,21,591.28	10,24,472.13
Total	83,70,429.62	77,97,017.50

10.3 They further stated that as Per Final Audit Report No. GST-1144/2023-24 (Revenue Para-2), interest amount is as mentioned above and out of that they had paid partial amount of Rs. 3,00,000/-.

10.4 They contested that during the audit process they had provided all the information for interest calculation after considering the Covid relaxation and notifications for interest calculation and interest also paid through DRC-03 also.

10.5 They submitted that in one of the returns, wrongly, ITC amount goes in Negative so liability increased however the actual liability was different in the FEB-19 GSTR-3B.

10.6 They further stated that their nature of business directly connected with employees/man power where they have to make payment on time to their employees and even in COVID situation they paid salaries to their security staff (employees), so the payment of GST was getting delayed. They submitted that they made more than 90% GST liability through Cash ledger and GSTR-3B can't be filed with partial payment of GST, due to which their GSTR-3B returns delayed. They stated that during COVID Pandemic, interest was not waved and for the payment of interest they requested for sufficient time since the amount is very huge. They also submitted that they started to make payment of interest through DRC-03 and as on 05/02/2024, amount of Rs. 3,00,000/- has been paid vide ARN AD240224002836F.

11. M/s. Max Vigil Security Expert Pvt Ltd has further submitted additional reply dated 22.04.2024, which is reproduced as under:-

11.1 Audit Query No. D-21 (AENQ - 300431) - For the same period, Audit Commissionerate initiated audit process under Section 65 of CGST Act by issuing ADT-01 for the period FY 2018-19 to FY 2021-22.

11.2 Interest amount as per SCN and Central GST Audit Commissionerate (FAR report) from FY 2018-19 to FY 2020-21:-

Financial Year	As per SCN	As per FAR (Audit)
2018-19	43,23,420.73	42,89,705.00
2019-20	29,25,417.61	24,82,840.37
2020-21	11,21,591.28	10,24,472.13
		77,97,017.50

They had paid partial amount of Rs. 3,00,000/-. During the audit process, they provided all the information for interest calculation after considering the Covid relaxation and notifications for interest calculation and interest paid through DRC-03.



11.4 In their Business, they made more than 90% GST liability payment through cash ledger and GSTR-3B can't be filed with partial payment of GST. Late fees was waved due to COVID Pandemic however interest not waved. They further submitted that they had started to make payment of interest and paid amount of Rs. 3,00,000/- as on 05.02.2024 through DRC-03 ARN AD240224002836F.

PERSONAL HEARING

12. In the instant case, Personal Hearing was given to M/s. Max Vigil Security Expert Pvt Ltd on 08.02.2024. Shri Ankit Sethiya, CA and authorized representative of the noticee appeared for personal hearing. He re-iterated their written submission dated 07.02.2024 submitted during personal hearing. He further submitted Final Audit Report No. GST-1144/2023-24 of the period April-2018 to March-2022. He further requested to decide the SCN on merit.

Personal Hearing was again fixed on 22.04.2024. Shri Sandeep Ozha, authorized representative of the Taxpayer appeared for personal hearing. He re-iterated their written submission dated 07.02.2024. He further requested to decide the matter on merits.

DISCUSSION AND FINDINGS

13. In the instant case, I have carefully gone through the Show Cause Notice issued to M/s. Max Vigil Security Expert Private Limited, reply to SCN submitted by them and other evidences available on record. On recapitulating, I find that the issue involved in the present show cause notice is related to (i) non-payment/late-payment of tax, due to late filing of GSTR-3B returns; (ii) interest due to late filing of GSTR-3B returns; (iii) imposition of penalty under Section 73(1) of CGST Act, 2017/Gujarat State GST Act, 2017 read with Section 122(2)(a) of CGST Act, 2017/Gujarat State GST Act, 2017.

14. On perusal of the above Show Cause Notice and reply submitted by M/s. Max Vigil Security Expert Private Limited, I find that the Taxpayer has failed to discharge their GST liability for the FY 2018-19, 2019-20 and 2020-21 on or before the due date of GST payment. Further, the Taxpayer has discharged entire tax liability in their delayed filed GSTR-3B returns for the respective period and paid net tax in cash amounting to Rs. 21,87,11,653/- (Rs. 8,14,76,184/- for FY 2018-19, Rs. 6,77,18,662/- for FY 2019-20 and Rs. 6,95,16,807/- for FY 2020-21) from their electronic cash ledger. I find that in the Show Cause Notice, the said amount of Rs. 21,87,11,653/- (Rs. 8,14,76,184/- for FY 2018-19, Rs. 6,77,18,662/- for FY 2019-20 and Rs. 6,95,16,807/- for FY 2020-21) was proposed to be appropriated against demand of GST. Accordingly, I find that as per the Show Cause Notice issued to M/s. Max Vigil Security Expert Private Limited, GST of Rs. 21,87,11,653/- (Rs. 8,14,76,184/- for FY 2018-19, Rs. 6,77,18,662/- for FY 2019-20 and Rs. 6,95,16,807/- for FY 2020-21) payable by the Taxpayer has already been paid by them by way of filing GSTR-3B returns. Therefore, there is no dispute regarding Taxpayer's GST liability and the same has been accepted and discharged by them. Accordingly, I do not delve into the issue of quantum of GST liability and payment thereof as there is no dispute regarding this.

15. Now, I would like to discuss the applicability of interest on said delayed payment of tax. From the Show Cause Notice issued to the Taxpayer, I find that:



the Show Cause Notice has proposed demand of interest amounting to Rs. 83,85,992.83/- (Rs. 43,23,420.73 for FY 2018-19 + Rs. 29,25,417.61 for FY 2019-20 + Rs.1137154.49 for FY 2020-21) on the delayed payment of tax amounting to Rs. 21,87,11,653/- (Rs. 8,14,76,184/- for FY 2018-19, Rs. 6,77,18,662/- for FY 2019-20 and Rs. 6,95,16,807/- for FY 2020-21). Thus, I take up the issue regarding interest liability of the Taxpayer for the FY 2018-19, 2019-20 and 2020-21.

The provisions of Section 50(1) of the CGST Act, 2017, prescribe interest on late payment of tax. For ease of reference, the relevant provisions is reproduced as under:-

“Section 50. Interest on delayed payment of tax.-

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

(2) The interest under sub-section (1) shall be calculated, in such manner as may be prescribed, from the day succeeding the day on which such tax was due to be paid.

16. In view of above, it is evident that interest liability would squarely arise on M/s. Max Vigil Security Expert Private Limited for late payment of GST, due to late filing of GSTR-3B Returns. Further, I find that a new Rule 88B of Central Goods and Service Tax Rules, 2017, regarding manner of calculating interest on delayed payment of tax has been inserted retrospectively w.e.f. 01.07.2017 vide CBIC Notification No. 14/2022-Central Tax, dated 05.07.2022, for ease of reference the same is reproduced as under:-

“Rule 88B. Manner of calculating interest on delayed payment of tax.-

(1) In case, where the supplies made during a tax period are declared by the registered person in the return for the said period and the said return is furnished after the due date in accordance with 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, the interest on tax payable in respect of such supplies shall be calculated on the portion of tax which is paid by debiting the electronic cash ledger, for the period of delay in filing the said return beyond the due date, at such rate as may be notified under sub-section (1) of section 50.

(2) In all other cases, where interest is payable in accordance with sub section (1) of section 50, the interest shall be calculated on the amount of tax which remains unpaid, for the period starting from the date on which such tax was due to be paid till the date such tax is paid, at such rate as may be notified under sub-section (1) of section 50.

(3) In case, where interest is payable on the amount of input tax credit wrongly availed and utilised in accordance with sub-section (3) of section 50, the interest shall be calculated on the amount of input tax credit



wrongly availed and utilised, for the period starting from the date of utilisation of such wrongly availed input tax credit till the date of reversal of such credit or payment of tax in respect of such amount, at such rate as may be notified under said sub-section (3) of section 50.

Explanation.-For the purposes of this sub-rule, -

(1) input tax credit wrongly availed shall be construed to have been utilised, when the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed, and the extent of such utilisation of input tax credit shall be the amount by which the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed.

(2) the date of utilisation of such input tax credit shall be taken to be, -

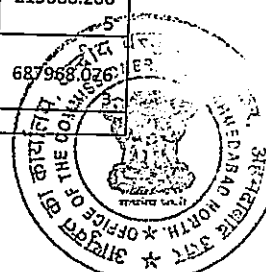
(a) the date, on which the return is due to be furnished under section 39 or the actual date of filing of the said return, whichever is earlier, if the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed, on account of payment of tax through the said return; or

(b) the date of debit in the electronic credit ledger when the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed, in all other cases."

17. In view of the above, I hold that Interest due to late filing of GSTR-3B returns, is correctly applicable on portion of tax which is paid by debiting the electronic cash ledger and for the period of delay in filing returns beyond the due date as per provisions of Section 50(1) of the CGST Act, 2017 read with sub rule (1) of Rule 88B of the CGST Rule, 2017, as amended. Interest payable by M/s. Max Vigil Security Expert Private Limited for the period F.Y. 2018-19, 2019-20 and 2020-21 is calculated in the following paras:-

(a) Interest liability for the F.Y. 2018-19 is calculated as under:-

FY 2018-19												
HEADING	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	30-11-2018	30-11-2018	01-12-2018	06-12-2018	26-01-2019	21-02-2019	25-02-2019	15-03-2019	31-03-2019	02-05-2019	31-05-2019	30-08-2019
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
IGST Paid in cash	173091	2100720	2114535	2257856	2486400	2697104	2445362	2393694	2348503	2382635	2476931	4027193
CGST Paid in cash	94569	1881667	2357081	2367273	2408722	2439016	2684839	2598448	1849102	2170578	2541225	3393560
SGST paid in cash	94569	1881667	2357081	2367273	2408722	2439016	2684839	2598448	1849102	2170578	2541225	3393560
TOTAL CASH COMPONENT	362229	5864054	6828697	6992402	7303844	7575136	7815040	7590590	6046707	6723791	7559381	10814313
No. of Days late	192	163	134	104	128	119	97	85	70	69	72	129
IGST Interest Payable	16389.10948	168863.3556	139733.1074	115800.1762	156949.742	158279.364	116975.3987	100338.406	81071.6104	81074.8677	87948.0158	256195.6752
CGST Interest Payable	8954.259288	151255.0953	155761.0787	121411.9193	152046.452	143133.487	128430.9286	108921.2449	63832.0142	73859.1199	90230.8932	215886.2005
SGST Interest Payable	8954.259288	151255.0953	155761.0787	121411.9193	152046.452	143133.487	128430.9286	108921.2449	63832.0142	73859.1199	90230.8932	215886.2005
Total Interest Liability	34297.62805	471373.5462	451255.2648	358624.0149	461042.646	444546.337	373837.2559	318180.8959	208735.639	228793.107	268409.802	687968.0265
Total	4307064.214											



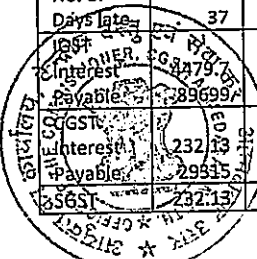
(b) Interest liability for the F.Y. 2019-20 is calculated as under:-

FY 2019-20												
HEADING	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	25-09-2019	19-11-2019	05-12-2019	18-12-2019	16-01-2020	30-01-2020	10-02-2020	10-02-2020	18-03-2020	20-04-2020	15-05-2020	07-07-2020
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
IGST Paid in cash	163392	2246779	1981554	2311186	1952911	2059630	2131155	2015554	2002975	1859222	2094701	3905061
CGST Paid in cash	0	1936604	1657676	1768331	1947790	1638908	1978932	1849198	1746149	1747085	1915484	3311114
SGST paid in cash	0	1936604	1657676	1768331	1947790	1638908	1978932	1849198	1746149	1747085	1915484	3311114
TOTAL CASH COMPONENT	163392	6119987	5296906	5847848	5848491	5337446	6089019	5713950	5495273	5353392	5925669	10527289
No. of Days late	128	152	138	118	118	102	82	49	58	60	41 (*9% interest applicable upto 24.06.2020, then 18% interest applicable)	63 (*9% interest applicable upto 24.06.2020, then 18% interest applicable)
IGST Interest Payable	10313.84022	168416.0916	134854.2503	134492.0292	113643.369	103602.21	86180.40493	48704.61995	57290.5726	55012.5962	21176.5663	73179.77326
CGST Interest Payable	0	145165.7135	112812.7996	102902.33	113345.369	82439.3175	80024.75704	44684.72975	49944.6454	51694.5699	19364.7561	62049.36921
SGST Interest Payable	0	145165.7135	112812.7996	102902.33	113345.369	82439.3175	80024.75704	44684.72975	49944.6454	51694.5699	19364.7561	62049.36921
Total Interest Liability	10313.84022	458747.5187	360479.8494	340296.6891	340334.106	268480.845	246229.919	138074.0795	157179.863	158401.736	59906.0784	197278.5117
Total	2735723.037											

- * For Feb-2020, 9% interest applicable upto 24.06.2020 as per Notification No. 51/2020-Central Tax dated 24.06.2020.
- * For March-2020, 9% interest applicable upto 24.06.2020 as per Notification No. 51/2020-Central Tax dated 24.06.2020. Afterwards 18% interest applicable.

(c) Interest liability for the F.Y. 2020-21 is calculated as under:-

FY 2020-21												
HEADING	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	11-07-2020	28-07-2020	17-08-2020	21-09-2020	19-10-2020	24-11-2020	30-12-2020	04-02-2021	22-02-2021	19-03-2021	19-04-2021	20-05-2021
3B Due Date	04-06-2020	27-06-2020	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
IGST Paid in cash	245514	1944064	1936297	1787894	1946486	2102779	1758526	2353067	2032579	1932738	2079173	4378328
CGST Paid in cash	12722	1572475	1837046	1680135	1838605	1304291	1705871	2191347	2067289	1900530	2159477	4239893
SGST paid in cash	12722	1572475	1837046	1680135	1838605	1304291	1705871	2191347	2067289	1900530	2159477	4239893
TOTAL CASH COMPONENT	270958	5089014	5610389	5148164	5623696	4711361	5170268	6735761	6167157	5733798	6398127	12858114
No. of Days late	37	31	28	32	29	35	40	46	33	27	30	30 (*9% interest applicable for first fifteen days, then 18% interest applicable)
IGST Interest Payable	29720.21	26736.81	28214.43	27837.41	36294.54	34688.73	53379.16	33078.13	25734.5	30760.5388	48581.4476	7
CGST Interest Payable	23213	24039.48	25366.33	26513.91	26294.57	22512.42	33650.05	49710.55	33643.00	25305.6871	31948.4268	47045.3880
SGST Interest Payable	23213	24039.48	25366.33	26513.91	26294.57	22512.42	33650.05	49710.55	33643.00	25305.6871	31948.4268	47045.3880



Interest Payable	29315	082	381	123	01		808	66	45	6871	4268	8
Total Interest Liability	4944.0	77799.17	77469.48	81242.25	80426.55	81319.38	101988.8	152800.2	100364.1	76345.	94657.	142672.223
Total	55562	293	099	929	65	16	482	769	44	9131	2214	8
1072029.534												

* For May-2020, due date extended to 27.06.2020 as per Notification No. 36/2020-Central Tax dated 03.04.2020

* For March-21, 9% interest applicable for the first fifteen days as per Notification No. 08/2021-Central Tax dated 01.05.2021. Afterwards 18% interest applicable

In view of the above, interest payable by the Taxpayer during F.Y. 2018-19 is Rs. 4307064.214, during F.Y. 2019-20 is Rs. 2735723.037 and during F.Y. 2020-21 is Rs. 1072029.534. Thus, total interest payable by the Taxpayer during the period F.Y. 2018-19 to 2020-21 is Rs. 81,14,817/- which is required to be recover under Section 50(1) of the Central Goods and Services Tax Act, 2017 read with Rule 88B of the CGST Rules, 2017, Section 50(1) of the Gujarat State GST Act, 2017 and Section 20 of the IGST Act, 2017.

18. I further find that the Taxpayer has already deposited Interest amount of Rs. 3,00,000/- through DRC-03 having ARN AD240224002836F dated 05.02.2024, the same needs to be appropriated against said demand of interest of Rs. 81,14,817/-.

19. Now, Coming to next limb regarding imposition of penalty under the provisions of Section 73(1) of the CGST Act, 2017 read with Section 122(2)(a) of the CGST Act, 2017. I find from facts of case elaborated in the notice that the demand of non payment of tax has been proposed by invoking the provisions of Section 73(1) of the CGST Act, 2017 and penalty has been proposed under Section 73(1) of the CGST Act, 2017 read with Section 122(2)(a) of CGST Act, 2017. Before going ahead, it would be pertinent to look into the provisions of Section 122(2)(a) of CGST Act, 2017 first, the same is reproduced as under:-

"Section 122(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 utilised,-

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

20. From plain reading of the above provisions, it is evident that clause (a) of the Section 122(2) of the Act, speaks about the penalty commensurate to Section 73(9) of the Act for contravention of the provisions of the Act. Further, it is also evident that quantum of penalty equal to ten thousand or ten per cent of tax due, whichever is higher, is liable on a registered taxable person who supplies any goods or services or both; or where tax has not been paid or short paid for reason other than fraud or any willful misstatement or suppression of facts to evade tax. Looking to the facts of the case, non-payment of tax has been soundly established in the instant case. Accordingly, they have made themselves liable for penalty under the provisions of Section 73(9) of CGST Act, 2017 read with Section 122(2)(a) of CGST Act, 2017 read with corresponding provisions of Gujarat State GST Act, 2017 read with Section 20 of IGST Act, 2017.

21. In view of the above discussion and findings, I pass the order as under



ORDER

- (i) I confirm the demand of GST amounting to Rs. 21,87,11,653/- (Rupees Twenty One Crore Eighty Seven Lakh Eleven Thousand Six Hundred Fifty Three only) (Rs. 8,14,76,184/- for FY 2018-19 + Rs. 6,77,18,662/- for FY 2019-20 and Rs. 6,95,16,807/- for FY 2020-21) and order to recover the same from M/s. Max Vigil Security Expert Private Limited under Section 73(9) of the CGST Act, 2017 read with Section 73 (9) of the Gujarat GST Act, 2017 and further read with Section 20 of the IGST Act;
- (ii) Since the said tax amount mentioned at (i) above has already been paid by them, I order to appropriate the same against the confirmed demand at (i) above;
- (iii) I order to recover interest amount of Rs. 81,14,817/- (Rupees Eighty One Lac Fourteen Thousand Eight Hundred Seventeen only) (Rs. 4307064.214 for FY 2018-19 + Rs. 2735723.037 for FY 2019-20 + Rs. 1072029.534 for FY 2020-21) on (i) above under Section 50(1) of the Central Goods and Services Tax Act, 2017 read with Rule 88B of the CGST Rules, 2017, Section 50(1) of the Gujarat GST Act, 2017 and Section 20 of the IGST Act, 2017. Since, the Taxpayer has already deposited interest amount of Rs. 3,00,000/-, I order to appropriate the same against the said demand of interest. Further, I drop the demand of remaining amount of interest of Rs. 2,71,175.83/- (83,85,992.83 - 81,14,817).
- (iv) I impose penalty equivalent to ten per cent of the demand of GST confirmed at Sr. No. (i) above, upon them under Section 73(9) of the CGST Act, 2017 read with Section 122(2)(a) of the CGST Act, 2017 read with corresponding provisions of Gujarat GST Act, 2017 and further read with Section 20 of the IGST Act, 2017.

22. Accordingly, the Show Cause Notice No. GST/15-95/OA/2023-24 dated 28.12.2023 (having DIN 20231264WT0000777C67) and corrigendum dated 14.03.2024 (having DIN 20240364WT000000F31A) is disposed off in above terms.



(Lokesh Damor)
Additional Commissioner,
Central Excise & CGST,
Ahmedabad North.

F.No. GST/15-95/OA/2023-24

Date: 25.04.2024

BY RPAD

To

M/s. Max Vigil Security Expert Private Limited,
3, 307, A Park, Shahibaug Under Bridge,
Panchal Milan Mandir Trust, Shahibaug,
Ahmedabad, Gujarat - 380004

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-V, 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.