\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_

To The ld. Assistant Commissioner (Details of the Officer)

Subject: - reply of Notice for the difference in supply value in GSTR 1 to GSTR 3B

GSTIN: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Ref: - a) Letter No. \_\_\_\_\_\_\_\_\_\_\_dated \_\_\_\_\_\_\_\_\_\_\_

Respected Sir/Madam,

1. Kindly refer to your office letter No 1234567 dated 01-01-2001 wherein your good self has informed us that there is difference in taxable turnover involved as reported in GSTR 3B Vis-à-Vis GSTR 1 in respect of ABC Pvt Ltd for the period of July 2017 to Feb 2020 and you have directed us to explain the reason for the difference.
2. We are registered person in the Goods and Service Tax Act 2017 (hereinafter referred as “Act”) on dated with Registration Name ABC Ltd, registered Address Rajasthan, PAN No ABCD with name of Proprietor Mr. ABC with Registered Date 01/01/2017. We are doing business of Trading/Manufacturing/Service (details of the nature of business required) Clerical Error Reason: -
3. We would like to submit that the difference in the GSTR 1 to GSTR 3B is due to clerical error reason, due to issue in the network, supply of Rs. 20000 mentioned in the R3 as 200000. This is human natural mistake, since GSTR 3B is not having any revision facility as on date, the difference arises in our case.
4. Section 126 of the Act also mentioned that no penalty imposed if there is clerical error. Rectifiable mistake and gross negligence, our case is fall in this Section of the act, we have mentioned value of supply 2 Lakh instead of 20K mentioned in the GSTR 1 which is actual, so we have paid tax on 20K only in the GSTR 3B as per the details mentioned in the GSTR 1, so penalty cannot be imposed on us as per the provision of the law. Extract of the Section 126 is reproduced for your reference.

126. General disciplines related to penalty.— (1) No officer under this Act shall impose any penalty for minor breaches of tax regulations or procedural requirements and in particular, any omission or mistake in documentation which is easily rectifiable and made without fraudulent intent or gross negligence.

Explanation.––For the purpose of this sub-section,––

(a) a breach shall be considered a ‗minor breach‘ if the amount of tax involved is less than five thousand rupees.

(b) an omission or mistake in documentation shall be easily rectifiable if the same is an error apparent on the face of record.

(2) The penalty imposed under this Act shall depend on the facts and circumstances of each case and shall be commensurate with the degree and severity of the breach.

(3) No penalty shall be imposed on any person without giving him an opportunity of being heard.

(4) The officer under this Act shall while imposing penalty in an order for a breach of any law, regulation or procedural requirement, specify the nature of the breach and the applicable law, regulation or procedure under which the amount of penalty for the breach has been specified.

(5) When a person voluntarily discloses to an officer under this Act the circumstances of a breach of the tax law, regulation or procedural requirement prior to the discovery of the breach by the officer under this Act, the proper officer may consider this fact as a mitigating factor when quantifying a penalty for that person.

(6) The provisions of this section shall not apply in such cases where the penalty specified under this Act is either a fixed sum or expressed as a fixed percentage.

1. It is also submitted that Hon’ble court also held in the S129 cases allow the same view that penalty cannot be invoked in the case of mistake apparent from the record, reliance is placed on the Hon’ble Kerala High court decision in the case of Sabitha Riyaz Vs UOI WPC 34874/2018, whereas Hon’ble court whereas Registered Person (hereinafter Referred as RP) mentioned shown distance 280 Km instead of 2800 KM in the Eway bill, later detained of vehicle by department on account of expiry of bill way bill, Court has allowed the writ petition of the RP in this case.
2. Reliance is also placed on the decision of Hon’ble Kerala High court in the case of Diamond Metal v. State of U.P [2018] 100 taxmann.com 166 (Allahabad)-Dated 30th October 2018, Hon’ble Allahabad High court allow the release of vehicle on account of typo mistake of the RP.
3. Reliance is also placed on the decision of Rajawat Steels v. State of U.P. [2018] 98 taxmann.com 387 (Allahabad)-Dated 27th September 2018 8. It is further submitted that Hon’ble Delhi high court allow and directed to the department for the revision of the GSTR 3B in the case of Bharti Airtel Limited Vs Union of India & Ors. W.P. No. 6345/2018 which is still pending at GSTN level. If this revision facility provided to the us, then this clerical error can be easily rectified.
4. It is respectfully submitted based on the Section 126 read with above mentioned decision of Hon’ble court, our case falls in the clerical mistake which can be easily rectifiable nature, so Notice for the mismatch of GSTR 1 Vis a Vis GSTR 3B should be dropped in our case. Missed to Report Sales in GSTR 3B from GSTR 1 10. It is respectfully submitted that our supply for the month July 17 was Rs. 1.20 Lacs whereas by the mistake of documentation, we have mentioned the value of supply in the July 17 in GSTR 3B Rs. 1.10 Lacs, later same is rectified I the month of Nov 17 return when we identified this mistake. Reconciliation table of month to month is submitted below for your reference.
5. It is further submitted that we have made payment off the output tax on account of output liability by the Electronic Credit Ledger (herein after referred as ITC Ledger) mainly, so interest liability as per the Section 50(1) do not arise in our case as per the CBIC Notification No. 63/2020-Central Tax dated 25th August 2020 , in pursuant of the 31 GST Council Meeting .
6. further it is also submitted that Central Government also proposed to change in the Section 50(1) in Union Budget 2021 dated 01-02-2021 with retrospective from July 17 for liability of the interest only on the net tax liability, extracted of Budget 2021 is reproduced below for your reference.

103. In section 50 of the Central Goods and Services Tax Act, in sub-section (1), for the proviso, the following proviso shall be substituted and shall be deemed to have been substituted with effect from the 1st day of July 2017, namely:–– “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 payable on that portion of the tax which is paid by debiting the electronic cash ledger.”.

1. Based on the retrospective amended in the Law and submitted return for the notice period, it is submitted since we have made payment during the month from the ITC Credit ledger only, so interest cannot be levied on us for the late payment of the tax in GSTR 3B from the GSTR 1 of the period.
2. You can also refer the GST annual return/audit (As the case may be) whereas this mistake of underreporting the sales is mentioned as well as reconcile as per the process prescribed in the Annual return/Audit by us. Mismatch in the case of Transporter due to Reverse Charge Tax on his output supply which attract RCM at recipient :- 14. While filling GSTR 1, the output supplies, which attract GSTR under reverse charge mechanism must show in Table 4B (supply attracting tax on reverse charge basis) and there is a specific tab of “Supply attract reverse charge” which must be ticked, Further, in the summary screen of GSTR 1, total value of service provided by us includes the taxable amount of goods transportation service and tax payable thereon (tax payable in this case is by the recipient of service) is also shown,
3. There is no option for the supplier of service to show the value of services which are suppled by him to a recipient whereas tax is required to be paid by such recipient under reverse charge method, such option is only available in the case of inward suppliers only.
4. As explained above, as the option of showing taxable value and tax payable amount on reverse charge transaction are available only in GSTR 1 and not in GSTR 3B, therefore we are unable to show details of reverse charge transaction in 3B, so there is no difference in value of service in GSTR 1 and GSTR 3B, however kindly note that there will be no additional GST liability in our hand due to non-availability of such option in the GSTR 3B Return.
5. Month wise detail breakup of the return is submitted for your reference. M/s ABC Ltd