

MODI VENTURES

5-4-1&7/3&4, III Floor M.G. Road, Secunderabad - 500 003
☎ : 66335551 (4 lines) Fax : 040-27544058
E-mail : info@modiproperties.com Website : www.modiproperties.com

Date: 30-5-11

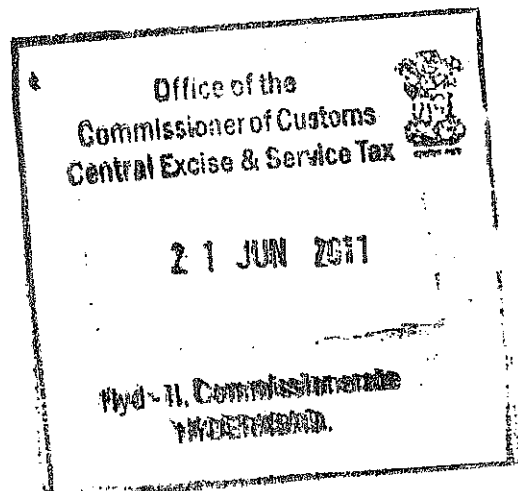
To
The Superintendent of Service Tax,
Hyderabad – II Commissionerate,
L.B.Stadium Road,
Basheerbagh,
Hyderabad – 500 004.

Dear Sir,

Sub: Applicability of Service tax sales made prior to 01-07-2010

Ref: Our STC No. AAJPM0646DST001

1. We Modi Ventures are engaged in development and sale of residential flats/Villa on the land purchased by us outright. We enter into agreement to sell with the customer and later the same would be registered by executing a sale deed after the completion of the construction.
2. We understand that we are not liable to service tax based on the decision of Gauhati High Court in case of Magus Construction (P) Ltd., [2008 (11) S.T.R. 225 (Gau.)], the clarification given by Board vide Circular No. 108/02/2009 – ST dated 29.01.2009 and also the recent trade notice No. Commissioner of Central Excise, Pune-III, Trade facility No. 1/2011, dated 15-2-2011 which clearly clarifies that there was no liability of service tax on the same upto 01.07.2010.
3. We also understand that since the flat is put to personal use, service tax is not applicable even today due to exclusion of the same in definition of "Residential Complex" under section 65(91a) of the Finance Act and also as clarified by the board vide Circular No. 108 referred above.



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4. However since the matter has been litigated by the department, for the sake of operational connivance, we would be paying service on the consideration received after 01.07.2010 and also for the flats sold upto receipt of the completion certificate.
5. We understand for the service rendered after 1-7-2010 for which payment was made prior to 1-7-2010, service tax has been exempted by Government, based on documentary evidence vide notification no. 36/2010- ST dated 28-6-2010 as amended.
6. We shall make the payment of service tax at the rate of 2.575% as per notification 1/2006-ST, dated 01.03.2006. Tax on sale made after receiving Completion Certificate shall be exempt so we shall ignore all collection for the flats book after receipt of such certificate.

We assume the above understand is in accordance with the law, in case the same is otherwise please let us know for our future course of action. We shall be glad to provide any further information of explanation in this regard. Kindly acknowledge the receipt of the same.

Thanking you,
Yours sincerely,
For MODI VENTURES.



Authorized signatory

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To,

The Superintendent,
Service Tax, Anti-evasion,
Commissionerate -II,
Sakkar Bhavan,
Fathemaidan,
Hyderabad.

Date: 7.02.2011

Dear Sir,

Ref.: Your notice dated 17.1.01, C No. WCS/Modi and Modi.

We wish to bring to your notice that there is considerable ambiguity in the applicability of service tax since the issue of circular No.108/2010 and thereafter, an amendment to the Finance Act 2010 has clarified that service tax is payable from 01.07.10 where amounts are received from customers before completing the construction of their residential unit. We understand that Service tax if at all applicable, is payable only to amounts received after 01.07.2010 @ 2.575% on the entire sale consideration under the abatement scheme.

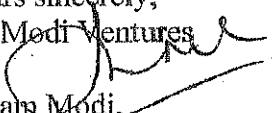
Since we are of the view that our customers use the complex for this personal use, we are not liable for service tax as clarified under Circular No. 108. However as a law abiding person we are here with producing the details as required by you.

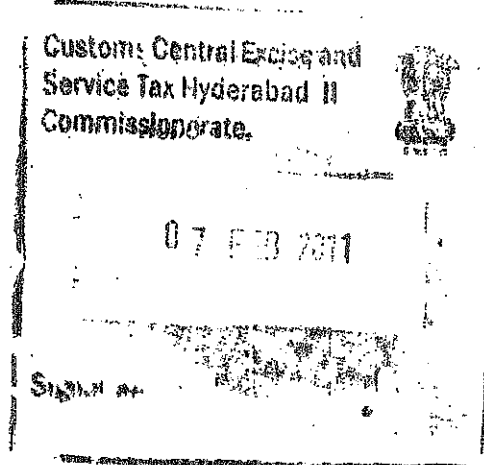
Please find enclosed a statement of amounts received from customers from July 2010 to December 2010 on which service tax has been paid earlier. An additional amount of Rs. 2.4 lakhs was paid in the months of January and February, 2011 (Challan copy enclosed).

Thank You.

Yours sincerely,

For Modi Ventures


Soham Modi,
Managing Partner.



MODI VENTURES *de*

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To,
The Assistant Commissioner (AE),
Central Excise Customs & Service Tax,
Commissionerate II,
Shakar Bhavan, Fathemaiddan,
Hyderabad.

Date: 16.10.2010.

Dear Sir,

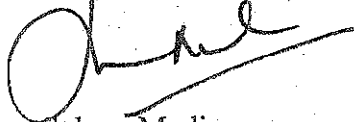
Sub.: Submission of value of material involved in the construction – Reg.
Ref.: Your request dated 4.10.10.

The matter regarding payment of service tax is under scrutiny by the service tax department. All records pertaining to payment of service tax, sales, receipts, expenditure for construction, etc., have been provided to service tax department vide letters dated 20.01.2010 & 25.01.2010. Copies of the letters are enclosed. Please note that extensive data has been given to your department and you are requested to contact the concerned officer for the required details.

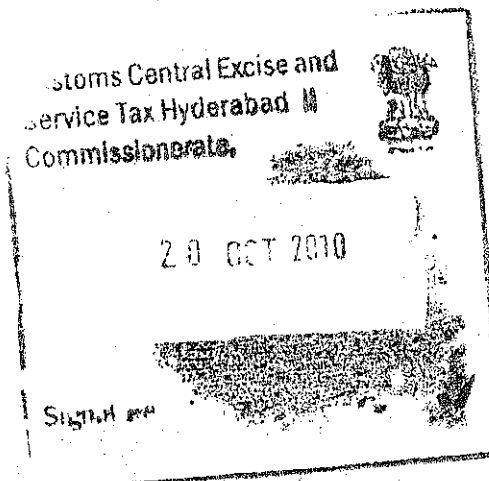
Please note that a show cause notice is also been issued to us and we have made our representation.

Thank You.

Yours sincerely,
For Modi Ventures,



Soham Modi
Managing Partner



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To,
The Additional. Commissioner,
Anti Aviation, Service Tax
Central Excise, Customs & Service Tax
Commissionerate II
Hyderabad.

Date: 13.09.2010

Respected Sir

Sub: Gentle follow up on our earlier letter – Reg
Ref: Our letter dated 16.08.2010.

The above referred letter was filed in your office and was duly acknowledge on 16.08.10. In that letter, we had communicated our understanding with respect to the liability of service tax under the category "Construction of Complex Service".

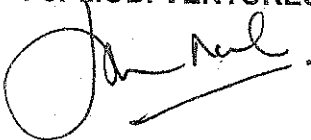
We request you to kindly confirm if our understanding therein is correct or otherwise so that appropriate decision can be taken at our end as to whether service tax has to be collected and paid.

Requesting to revert on this at the earliest as per convenience on this issue.

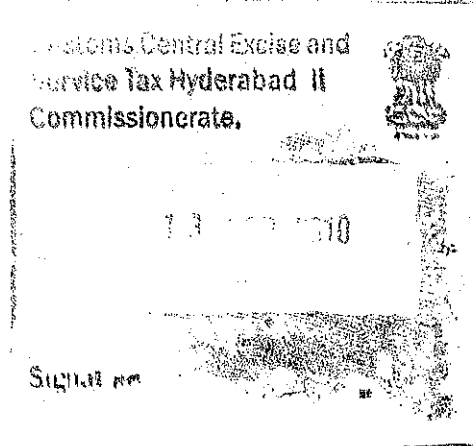
Thanking You.

Yours Truly

For MODI VENTURES,



Authorised Signatory.



MODI VENTURES

o/c

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To,
The Additional Commissioner,
Group III, Hyderabad – II Commissionerate,
L.B. Stadium Road,
Basheerbagh,
Hyderabad – 500004.

Date: 16.08.2010.

Dear Sir,

Sub.: Intimation regarding payment of service tax from 01.07.2010 - Reg.
Ref.: STC No. AAJFM0646DST001.

1. With reference to above, we would like to inform that we are Builders/Developers of Residential Apartments. We wish to recall our letter no. Nil dated 12.03.2009 where in, we had informed that we would not be liable for service tax and accordingly we had stopped remitting the payment of service tax also.
2. The reason for termination of payment of service was as under
 - a. Single Agreement: since the transaction involved is sale of immovable property (stamp duty has been suffered) service tax would not be payable in view of the Gauhati High Court in case of Magus Construction (P) Ltd., (2008 (11) S.T.R. 225 (Gau.)) and circular no. 108/02/2009-ST dated 29.0.2009.
 - b. Sale deed & construction agreement: For the consideration relating to Sale Deed the stand same as mentioned for single agreement would be applied. In case of construction, since the construction is for the customer for his personal use, the same has been excluded in the definition of the Residential Complex, which was also clarified vide Circular no. 108/02/2009-ST dated 29.01.2009.
 - c. Customer was not reimbursing the service tax, since the same was not liable based on the above view.
3. Now we understand that, recently there are amendments vide the Finance Act, 2010 r/w recent circulars and notifications issued in this regard. The essence of the amendment is that if we receive any amount/advance prior to taking completion certificate, then we would be liable for service tax under "Construction of Residential Complex Service", whereas if the entire consideration is received post obtaining completion certificate, then the same would be totally excluded from the service tax.

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4. We understand that such explanation inserted is not constitutionally valid for the reason that this intends to tax transfer of immovable property by apply the Doctrine of Pith and substance. Transfer of immovable property has been governed by List II of the seventh Schedule to Indian Constitution, which is exclusively state subject and union cannot levy tax on the same. Interim stay by the Bombay High Court has also been granted in this regard.
5. Further we understand, since the taxable object in the instant case is "Residential Complex", which excludes personal use of the customer. Therefore insertion of this explanation in the taxable service definition does not dilute our view taken in our earlier letter. Further to illustrate this with an example in construction of a single independent house and advance is taken prior to completion certificate would not be liable for service tax even w.e.f. 01.07.2010. Similarly the personal use complex would also be not liable for service tax.
6. However if we intend not litigating on the above ground, we understand that such amendment is prospective and applicable only from 01.07.2010 for the reasons mentioned below.
 - a. Since there is no specific retrospective provision in Finance Act 2010 as provided for the explanation inserted for "Commercial Coaching & training Center Service".
 - b. The explanation was inserted to enhance the scope of the existing service and hence the same can be only prospectively and ^{not} retrospectively. This view is also supported by a recent decision of Supreme Court in case of Union of India v. Martin Lottery Agencies Ltd. (2009) 20 STT 203(SC).
 - c. Circular F.No.334/03/2010-TRU dated 01.07.2010 clarifies that this service came into effect only after 01.07.2010 and further the receipts received prior to such date was not liable for service tax as the same was specifically exempted.
7. Hence the transactions and receipts prior to 01.07.2010 are not liable to service tax at all. In the instant case the taxable event is "Construction of Complex" and for such construction of complete if the consideration has been received in advance/ installments before the completion certificate then the same is deemed to be taxable service. Therefore the construction (taxable event) performed prior to 01.07.2010 would not be taxable.



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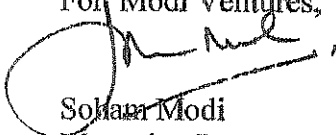
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8. Based on the above explanation, we have approached our customer, whether they are willing to reimburse service tax. Most of the customers expressed their willingness to pay service tax if at all they are liable from 01.07.2010 at 2.575% for the amounts payable by them after this date.
9. Hence we would be paying only in respect of amounts received after 01.07.2010. We would be paying service tax at the rate of 2.575% (i.e., on 25% of value @ 10.3%). We have obtained occupancy certificates for Phase I on 8.6.07, 23.9.08, 3.11.08 & 26.12.08. Phase II F & G blocks service tax shall be paid. We understand this exemption would not be eligible subject to following condition.
 - a. Not availing the CENVAT credit
 - b. Not availing exemption under notification 12/2003-ST as amended.
 - c. Not only completion and finishing services in relation to residential complex.
 - d. Value of goods and materials supplied or provided or used for providing the taxable service by the service provider should be included in the value.
 - e. Cost of land has not been separately recovered from the buyer by the builder or his representative.
10. In our case we have satisfied all the condition above and hence we would be paying service on the amount received after 01.07.2010.
11. We had earlier classified ourself under works contract service as per the advice of the Additional Commissioner under works contract service upto Dec 2008 later the payment was stopped in view of exclusion for personal use. Now our customer are willing to pay service tax at 2.575% levied under 'Residential Complex Service' hence we intend to pay the same accordingly as long as the same is reimbursed by the customer.
12. We hope all our understanding is corrected and we would be glad to provide you with any further information that may be required in this regard. We request you to kindly confirm the same so that we can start collecting and making the payment of service tax.

Kindly acknowledge the receipt of the same.

Thank You,
Yours Faithfully,
For Modi Ventures,


Soham Modi
Managing Partner.

CC to AC/DC, Asst. Commissioner (A.E).

Received 2 Copies
Addl. Commr. & Asst. Commr.
Copies
Customs Central Excise and
Service Tax Hyderabad II
Commissionerate.

17/8/10 17 AUG 2010

Signature

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To,
Mr. R.L. Ramesh,
Asst. Commissioner, Service Tax
Office of the Commissioner of Custom,
Central Excise & Service Tax,
Hyderabad -II, Commissionerate,
Shakar Bhavan, Basheerbagh,
Hyderabad.

Date: 27.01.2010.

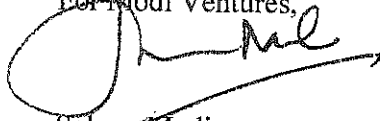
Dear Sir,

Ref.: Your summons dated 13.1.2010 vide letter no. HQST No.: 58/09 AE -IV
4.1.2010 for personal appearance at 11 am on 27.01.2010.

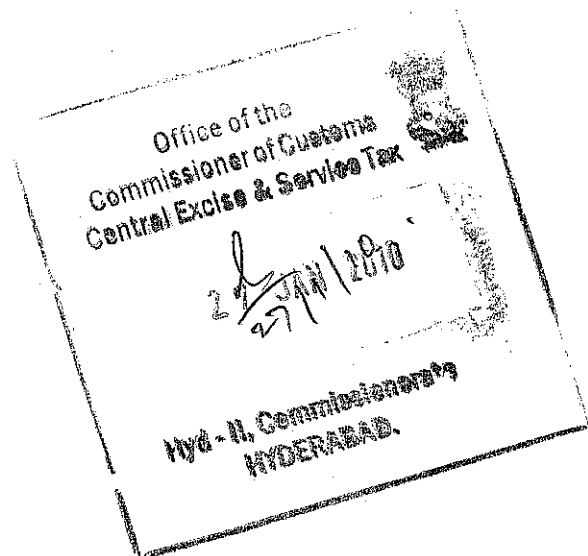
Mr. Shankar Reddy, DGM- Administration has unexpectedly taken leave today for personal reasons. He is aware of all the matters regarding service tax. I request you to grant us another date for a personal hearing. However, I am sending you a representation along with the copy of all documents requested for along with this letter.

Thank You.

Yours sincerely,
For Modi Ventures,



Soham Modi,
Managing Partner



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To,
Mr. R.L. Ramesh,
Asst. Commissioner. Service Tax
Office of the Commissioner of Customs,
Central Excise & Service Tax,
Hyderabad -II, Commissionerate.
Shakar Bhavan. Basheerbagh,
Hyderabad.

Date: 25.01.2010.

Dear Sir,

Ref.: Your summons dated 13.1.2010 vide letter no. HQST No.: 58/09 AE -IV for personal appearance at 11 am on 27.01.2010.

We have received your summons dated 13.1.10 requesting for documents pertaining to the financial year 2005 – till date. Please note that all the documents requested for have already been provided to the service tax department vide our letters dated 18.1.2010 and 30.11.2009 (copy enclosed).

Please find enclosed scanned copies of following document on a CD as requested by you.

- Bank statements from 1.4.2005 till 31.12.2009.
- Copies of all sale deeds and construction contracts.
- Books of accounts from 1.4.2005 till 31.03.2009.
- Un audited books of accounts from 1.4.2009 till 31.12.2009.

We are unable to meet your request for providing a month wise statement of amounts received towards sale deed, construction contract, etc., for comparison with the balance sheet as we are not sure as to how to make such a statement. It is not possible to distinguish payments received from customers towards sale deed, construction agreement, VAT, stamp duty and other charges, etc.. as payments are received from customers on an adhoc basis. In our books of accounts, we are debiting these costs periodically as and when due to the customer account. Payment received from them are credited to their accounts. Therefore, the ledger copy of each individual customer needs to be looked into to determine the details of payments towards sale consideration, VAT, registration charges, etc. Ledger copies of every customer is enclosed in the CD.

Further, several customers have paid us advances towards purchase of flats / villas wherein no sale deed has been executed in their favour. The amounts are received towards tentative booking subject to cancellation and refund. On later dates which may vary from customer to customer sale deed (in some cases construction agreement) is executed in favour of the customer. Therefore, it is not possible to make a month wise detailed statement as requested by you.

Office of the
Commissioner of Customs
Central Excise & Service Tax

Hyd - II, Commissionerate
HYDERABAD.

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5-4-187/3 & 4, II Floor, M.G. Road, Secunderabad - 500 003.

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Further, we are not to certain about our liability under service tax rules and the method of computation to be adopted for payment of service tax. We are unsure about the section under which we are liable to pay service tax i.e., under works contract or under residential complex services. In light of circular 108/2/2009 we believe that we do not fall under the ambit of service tax.

However, please find enclosed a month wise statement of receipts from customers. Please note that this statement does not bifurcate payments received towards sale deed, construction contract, finishing and completion services, VAT, service tax, stamp duty and registration charges, etc. Further it does not distinguish payments received towards sales made for phases/blocks/residential units completed prior to the notification of service tax u/s. 65(105)(zzzh) or 65(105)(zzzza). Therefore, it may be difficult to compute service tax liability based on the monthly receipts statement.

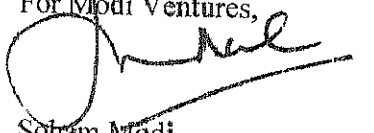
We request you to please clarify the ambiguity in the application of service tax and the method for computation of service tax liability. Please clarify the following:

- a. Whether we are liable to pay service tax under works contract or residential complex services.
- b. Can we exclude residential units whose construction was completed before respective date of notification.
- c. Can we exclude payments made towards sale deed, VAT, service tax, stamp duty and registration charges, etc., and calculate service tax liability only on value of construction contract.
- d. Can we exclude construction contracts executed prior to date of notification.

We await your advise on the above issues so that we can prepare a month wise statement as requested by you. Please write to us if any further details or information is required.

Thank You.

Yours sincerely,
For Modi Ventures,



Soham Modi,
Managing Partner

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To,
The Superintendent (AE) Service Tax (AF - Group IV),
Office of the Commissioner of Customs,
Central Excise & service Tax,
Hyderabad -II, Commissionerate,
Shakar Bhavan, Basheerbagh,
Hyderabad.

Date: 20.01.2010.

Dear Sir,

Sub.: Request for furnishing of certain information.

Ref.: Notice for furnishing of furnishing of certain information, vide letter no. HQST

No. 56 /2009 AE IV 4.1.2010.

We have received your notice dated 04.01.2010 requesting for documents pertaining to the financial year 2005 – till date. Please note that balance sheet, profit and loss statement and IT returns for those years have already been submitted to your office a few weeks ago. We have also given details of sale deeds, construction agreements and service tax paid vide our letter dated 29.12.09. Balance sheets, profit & loss statement, etc., have not been finalized for the financial year 2009-10 and therefore can not be produced.

Please find enclosed scanned copies of following document on a CD as requested by you.

- Bank statements from 1.4.2005 till 30.09.2009.
- Copies of all sale deeds and construction contracts.
- Books of accounts from 1.4.2005 till 31.03.2009.

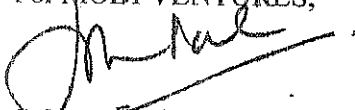
It is not possible to distinguish payments received from customers towards sale, construction agreement, VAT, stamp duty and other charges, etc., as payments are received from customers on an adhoc basis. In our books of accounts, we are debiting these costs periodically as and when due to the customer account. Payment received from them are credited to their accounts. Therefore, the ledger copy of each individual customer needs to be looked into to determine the details of payments towards sale consideration, VAT, registration charges, etc. Ledger copies of every customer is enclosed in the CD. Further, several customers have paid us advances towards purchase of flats / villas wherein no sale deed has been executed in their favour. The amounts are received towards tentative booking subject to refund. On later dates which may vary from customer to customer sale deed (in some cases construction agreement) is executed in favour of the customer. Therefore, it is not possible to make a month wise detailed statement as requested by you.

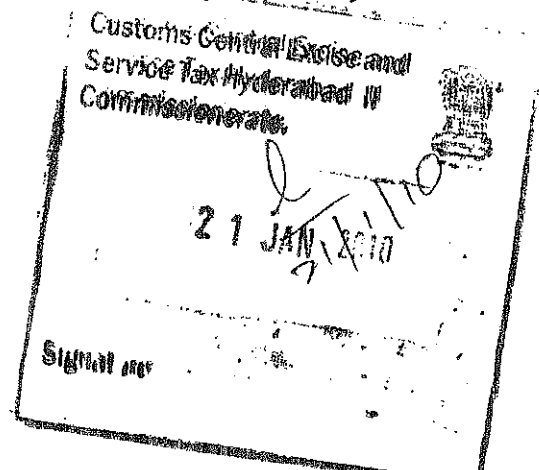
Further, we are not to certain about our liability under service tax rules and the method of computation to be adopted for payment of service tax. In light of circular 108/2/2009 we believe that we do not fall under the ambit of service tax.

We have given all the above information on a CD which can be easily browsed in place of hard copies as the total no. of pages exceeds 20,000. Please write to us if any further any details or information is required.

Thank You.

Yours sincerely,
For MODI VENTURES,


Soham Modi,
Managing Partner



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9/c

To,
The Asst. Commissioner,
Service Tax: Anti Evasion
O/o. Commissioner of Central Excise and Service Tax,
Hyderabad II Commissionerate,
Hyderabad.

Date: 18.11.2009

Dear Sir / Madam,

Sub.: Request for time for providing required information

Ref.: 1. Your notice bearing no. WCS/125 dated 2.1.09

2. Our letter dated 13.03.2009

3. Notice for furnishing of records by the department, letter no. HQST No. 15/2009 ST
AE dated 27.1.09.

5. Our letter dated 2.07.2009.

5. Notice for furnishing of records by the department, letter no. HQST No. 58/2009 AEIV
dated 6.11.09.

We have received your notice on 7.11.09. You have requested for details like service tax paid challans, ST3 return copies, bank statements, balance sheet, etc., for the period 2005 to 2009. Please note that you have requested for the same details for the period 2005 to 31.12.2008 vide reference 5 above. These details were furnished to the department over several visits. The same has also been stated in our letter dated 12.3.09 (reference 4).

Vide our letters addressed to the service tax department (Reference 2 & 4) we have clearly and in detail given reasons for non-applicability of service tax to our business in lieu of circular no. 108/2/2009 – ST dated 21.1.09. We have also requested for withdrawal of service tax registration.

Till date the department has not replied to our detailed representation or issued any show cause notice. Instead you have requested for details, most of which have been given to you on an earlier date.

As the information requested by you in reference 1 above is voluminous, we request you to grant us 15 days time to provide the information.

We further request you to please reply to our detailed representations regarding non-applicability of service tax to our operations. Infact, on an earlier date in our meeting with Mrs. Manjula, Deputy Commissioner of Service Tax, she had assured us that builders will not be pressurized to pay service tax until clarification on circular no. 108/2/2009 is received from CBEC. She had promised to write to CBEC seeking clarification in the matter. We have not heard from her or the department since then.

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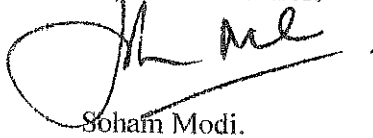
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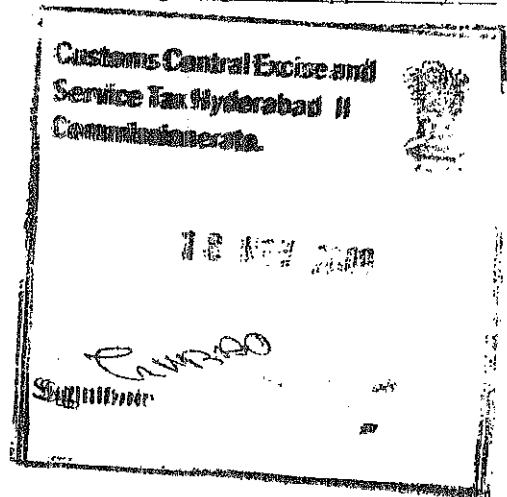
E-mail : info@modiproperties.com Website : www.modiproperties.com

We have been regularly paying service tax to the department until the said circular was issued. Because of the circular and its ambiguous wording, our customers have refused to pay service tax. In light of the above, we request you to not to take any coercive action for payment of service without issuing a show cause notice as provided in law and giving us an opportunity for a hearing in the said matter.

Thank You.

Yours sincerely,
For Modi Ventures,


Soham Modi.



MODI VENTURES

5-4-187/3 & 4, II Floor, M.G. Road, Secunderabad - 500 003.

☎ : 66335551 (4 Lines) Fax : 040-27544058

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Date: 02.07.2009.

To,
The Superintendent of Service Tax
Hyderabad –II Commissionerate
L. B. Stadium Road, Basheerbagh
Hyderabad - 500 004

Dear Sir,

Sub: Non-filing of ST-3 returns for the half year ended 31.03.2009

Ref: Our STC No. AAJFM0646DST001.

1. We acknowledge the receipt of the above referred letter on 06.06.2009. We had earlier corresponded with Asst Com of Service Tax (AE) as to non-applicability of service tax liability for our operation.
2. With this regard, we again wish to clarify the above with the brief background of our company for your better appreciation. We are engaged in development of residential projects. The present project is with respect to development and selling of the residential flats. The transaction with the customer shall be as under
 - a. The customer interested in buying the property approaches us.
 - b. We sell the undivided portion of land along with the semi-constructed flat on which applicable stamp duty shall be paid by the purchaser.
 - c. We also enter into the construction/completion agreement with each of such customer for the construction/finishing of the flat.
 - d. The total consideration shall be received in installments, which is generally spread across the period i.e. right from the customer approach and completion of construction.
3. We have paid service tax on the said projects under "construction of complex service"/ "Works Contract Service" upto December 2008. However we have not made any remittance of tax for the month of January 2009 onwards in view of view the Central Excise Order No. 29.01.2009 and the decided case given in the subsequent points.

Hyd - II, Commissionerate
HYDERABAD.

MODI VENTURES

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4. The consideration received for the first part of the transaction is not taxable for the reason
 - a. The transaction is in the nature of sale of immovable property therefore the same is not liable for service tax.
 - b. The construction undertaker is for oneself and there is no distinct service receiver and provider.

5. The above view is as per the Gauhati High Court in case of Magus Construction (P) Ltd., [2008 (11) S.T.R. 225 (Gau.)] and circular no. 108/02/2009-ST dated 29.01.2009.

6. The second part of the consideration is not taxable in view of the recent clarification given vide circular no. 108/02/2009-ST dated 29.01.2009 clarifies that if the ultimate owner enters into a contract for construction of a residential complex with a promoter / builder / developer, who himself provides service of design, planning and construction; and after such construction the ultimate owner receives such property for his personal use, then such activity would not be subjected to service tax.

7. Instantly in our case, we execute construction for the owner of the semi-constructed flat, where the construction, service of designing and planning is done by our self. On completion of the said construction such owner receives for his/her personal use. Therefore the said circular exactly applies in our case and therefore we are not liable for payment of service tax.

8. Since the personal use exclusion is given in the definition on residential complex definition, there shall be no levy either under Construction of Complex service or under works contract service.

9. Therefore the service provided by us is not covered in the definition of the residential complex given under section 65(91a) of the Finance Act and accordingly no service tax is payable either under construction of complex service or under works contract service. Therefore the entire amount remitted by us has to consider as a deposit and not tax and accordingly we are eligible for refund of the same.

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10. Further we also wish to clarify that this circular does not states that exclusion is only when the entire complex is being put to use by a single person. Any such notion may not be in line with clarification provided in the circular. This clarification is provided with an intention of construction of residential units only, therefore the same is applicable although the same is put to use by multiple service receiver.
11. In view of the above we have stopped paying service tax with effect from January 2009. Since the service provided by us is not liable for service tax no returns is required to be filed as clarified in the Board Circular no. 97/08/2007 dated 23.08.2007 in Para 6.1.
12. However since some amount has been paid in this regard till December 2008, we are submitting the returns herewith duly filled along with the late filing fee of Rs. 2000/- as prescribed.

We hope our understanding is clear and correct. We would like to request your good self to drop initiating any further proceedings in this regard.

We shall be glad to provide any further information or explanation in this regard. Kindly acknowledge the receipt of the following

Thanking You
Yours truly,

For Modi Ventures,



Managing Partner

Encl

1. Copy of Circular No.108/02/2009-ST dated 29.01.2009
2. ST- 3 returns
3. Copy of counterfoil of the payment challan.

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To,
The Asst Commissioner,
Service Tax: Anti Evasion,
Office of The Commissioner of Customs,
Central Excise & Service Tax,
Hyderabad II Commissionerate,
Hyderabad, A.P.

Date: 12.03.2009

- Ref.: 1. Your summon dated 27.1.09 bearing no. HQST No. 15/2009ST AE.
2. Circular No. 108/02/2009 issued by the Central Board of Excise and Customs dated 29.01.2009
3. Clarification issued by The Joint Commissioner, Service Tax on 28.02.2009

Dear Sir,

Mr. Shankar Reddy - Admin Manager has produced the relevant documents requested by you in reference 1 from time to time, as per your request, over the last several weeks. Mr. Shankar Reddy has also explained in detail the method adopted for computing service tax. In any case, please find enclosed the copy of challans showing proof of payment of service tax along with copies of ST3 returns filed for the period 1.06.2006 to 31.12.08. Please write to us if any further clarification are required

You are aware that there is a great deal of uncertainty regarding the applicability and method of computation for payment of service tax by builders. We have paid service tax on advances received from purchasers as per our understanding of applicability of service tax, after regular consultation with our counsel and also in consultation with the Excise Department. The Excise Department had issued clarification regarding applicability of service tax (Reference 3 above) and we have been following the same. Upto date service tax payments have been made upto 31.12.08.

Vide circular given in reference 2, The Central Board of Excise and Customs has clarified that the builders, promoters and developers are not liable for payment of service tax under the circumstances mentioned in the said circular. We are developing flats/independent houses by providing our own design, planning and construction and the prospective purchaser is purchasing units in our projects by way of an agreement of sale. Therefore, as per circular given in reference 2, we are not liable for payment of service tax.

Under the circumstances we request you to please drop any proceedings as mentioned in your summons (Reference 1). Further, we wish to withdraw our service tax registration. We request you to please do the needful. We are willing to provide any further details or documents that you may require.

Thank You.

Yours sincerely,
For MODI VENTURES,


Soham Modi

OFFICE
Commissioner
Central Excise & Service Tax

Hyd - II, Commissionerate
HYDERABAD.