

SUMMIT BUILDERS

5-4-187/3&4, III Floor, M.G. Road, Secunderabad - 500 003
Ph : 66335551

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. AAYFS2757CST001.

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.

Office of the
Commissioner
Central Excise & Service Tax
Hyd - II, Commissionerate
HYDERABAD.

3. We have not 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 circular 108/2/2009-ST dated 29.01.2009 and the decided case given in the subsequent points.

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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 undertaken 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.

Further we hereby inform you that the project already completed and no more service tax Payable. Hence cancel service tax code and do needful.

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 Summit Builders,



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.

OFFICE OF THE COMMISSIONER OF CUSTOMS, CENTRAL EXCISE AND
SERVICE TAX CELL : HYDERABAD II COMMISSIONERATE
3rd FLOOR : SHAKAR BHAVAN : BASHEERBAGH : HYDERABAD – 500 004
PHONE NO 23242543 / 23244519

C.No: AAYFS2757CST001

Dated: 29.05.2009

To
SUMMIT BUILDERS
5-4-187/3&4
SOHAM MANSION 3RD FLOOR
M.G.ROAD
500003
Sirs,

Sub : Service Tax – Payment of Service tax and filing of Service Tax
Returns under Section 70 of the Finance Act, 1994 – Reg
Ref : Your registration No AAYFS2757CST001

* * * *

With reference to the above, it is noticed that you have not filed ST-3 returns.

You are required to file the returns immediately in form ST-3 under Section 70 of Finance Act 1994 read with Rule 7(1) of the Service Tax rules 1994, for half year ending March 2009. Further, in terms of Section 77 of the Finance Act, 1994, failure to submit the Service Tax return in due time attracts a penalty which may extend to Rs. 5000/- and in addition to this penalty, you are liable to pay the late fee not exceeding Rs. 2000/-, by virtue of Section 70(1) of the Finance Act, 1994.

Also, in terms of section 75 of the Finance Act 1994, delay in depositing tax attracts interest @ 13% per annum. In terms of Section 76 of the Finance Act 1994, failure to pay service tax in due time attracts a penalty of Rs.200/- for every day or 2% of the tax per month during which such failure continues but not exceeding the service tax payable. Penalty under section 78 extending up to twice the amount due can also be imposed.

In view of the above, you are requested to pay the service tax as applicable and submit the required ST-3 returns immediately along with original challans, failing which action will be initiated as per law.

This letter is issued without prejudice to any other action that may be initiated against you under the Finance Act, 1994 and the Rules made here under or any other law for the time being force in India.

Yours faithfully,


(K.JAYANTI KRISHNA)
SUPERINTENDENT
SERVICE TAX-GROUP III

OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE AND CUSTOMS
SERVICE TAX CELL : HYDERABAD-II COMMISSIONERATE
6TH FLOOR : KENDRIYA SHULK BHAVAN : L.B.STADIUM ROAD
BASHEERBAGH : HYDERABAD - 500 004

Date : 17/08/2005

To
M/s. SUMMIT BUILDERS
5-4-187/3&4 SOHAM MANSION 3RD FLOOR
M.G.ROAD SECUNDRABAD HO
HYDERABAD URBAN
PINCODE - 500003
ANDHRA PRADESH

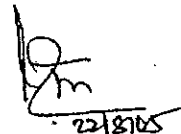
Sir/Madam,

Subject: Allotment of Service Tax Code Number - Application Receipt No. 19626 dated 17/08/2005

1. Your STC Number is AAYES2757CST001
2. The Location Code concerning your registered premise or office is 520000
3. You are advised to deposit Service Tax and other related Government dues in any of the authorised branches of the nominated bank(s). i.e. **STATE BANK OF HYDERABAD**
4. You are required to quote the above STC Number on all the requisite documents and records like challans for duty payment, returns filed etc.,
5. You are advised to indicate account heads as indicated below in all challans used for remitting service tax or other dues (interest, penalty etc)

Service
CONSTRUCTION OF RES. COMPLEX

<u>A/c Head For Tax</u>	<u>A/c Head For Other Dues</u>
00440334	00440335


Signature of the
Deputy Commissioner of Service Tax
with official seal

Place : HYDERABAD

CC : To
(1)The Pay and Accounts Officer, HYDERABAD-II

File NO: WCS/124

OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE AND CUSTOMS
SERVICE TAX CELL : HYDERABAD-II COMMISSIONERATE
6TH FLOOR : KENDRIYA SHULK BHAVAN : L.B.STADIUM ROAD
BASHEERBAGH : HYDERABAD - 500 004

ST-2 Annexure

Date : 29/02/2008

To
M/s. SUMMIT BUILDERS
5-4-187/3 & 4 SOHAM MANSION
M.G.ROAD SECUNDRABAD HO
HYDERABAD URBAN
PINCODE - 500003
ANDHRA PRADESH

Sir/Madam,

Subject : Account Head Details.

Ref : Application Receipt No. **5207** dated **29/02/2008**

1. Your STC Number is **AAYS2757CST001**
2. The Location Code concerning your registered premise or office is **520000**
3. You are advised to deposit Service Tax and other related Government dues in any of the authorised branches of the nominated bank(s). i.e.
CORPORATION BANK
INDIAN OVERSEAS BANK
STATE BANK OF HYDERABAD
4. You are required to quote the above STC Number on all the requisite documents and records like challans for duty payment, returns filed etc..
5. You are advised to indicate account heads as indicated below in all challans used for remitting service tax or other dues (interest, penalty etc)

Service(s)

WORKS CONTRACT SERVICES

A/c Head For

Tax

00440410

A/c Head For

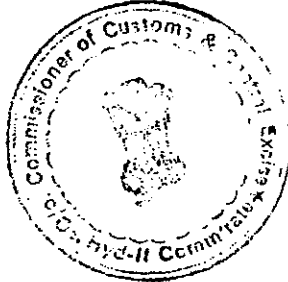
Other Dues

00440411

A/c Head For

Edu. Cess

00440298



Ch. V. S. S. Prasad
Name & Signature of the Central Excise
Officer with official seal

SUPERINTENDENT
Customs, Excise & Service Tax
Service Tax Cell (Stc) X
Hyderabad-II, Commissionerate



OFFICE OF THE SUPERINTENDENT OF CUSTOMS & CENTRAL EXCISE
SERVICE TAX CELL : HYDERABAD - II COMMISSIONERATE
6TH Floor, Kendriya Shulk Bhavan, Basheerbagh : HYDERABAD

Jurisdictional Range Code: 520000

FORM - ST 2

CERTIFICATE OF REGISTRATION UNDER SECTION - 69
OF THE FINANCE ACT, 1994 (32 OF 1994)

To


M/s. SUMMIT BUILDERS
5-4-187/3&4 SOHAM MANSION 3RD FLOOR
M.G.ROAD SECUNDRABAD HO
HYDERABAD URBAN
PINCODE - 500003
ANDHRA PRADESH

SIR/MADAM,

Having undertaken to comply with the conditions prescribed in the Service Tax Rules, 1994 and any orders issued there under is hereby certified to have been registered with the Central Excise Department for payment of Service Tax on services of
CONSTRUCTION OF RES. COMPLEX

1. Your Registration Number is **AAVFS2757CST001**
2. This Certificate is valid only for the premises given above.
3. This Registration Certificate is not transferable.
4. This Certificate shall remain valid till the holder carries on the activity for which the certificate has been issued or where surrender of the certificate is accepted by the Central Excise Officer.

Place : Hyderabad
Date: 17 August 2005


SUPERINTENDENT
SERVICE TAX CELL
CUSTOMS & CENTRAL EXCISE
HYDERABAD- II COMMISSIONERATE

OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE AND CUSTOMS
SERVICE TAX CELL : HYDERABAD-II COMMISSIONERATE
6TH FLOOR : KENDRIYA SHULK BHAVAN : L.B.STADIUM ROAD
BASHEERBAGH : HYDERABAD - 500 004

Date : 17/08/2006

To

M/s. SUMMIT BUILDERS
5-4-187/3&4 SOHAM MANSION 3RD FLOOR
M.G.ROAD SECUNDRABAD HO
HYDERABAD URBAN
PINCODE - 500003
ANDHRA PRADESH

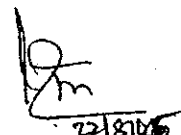
Sir/Madam,

Subject : Allotment of Service Tax Code Number - Application Receipt No. **19626** dated **17/08/2006**

1. Your STC Number is **AAAFS2757CST001**
2. The Location Code concerning your registered premise or office is **520000**
3. You are advised to deposit Service Tax and other related Government dues in any of the authorised branches of the nominated bank(s). i.e. **STATE BANK OF HYDERABAD**
4. You are required to quote the above STC Number on all the requisite documents and records like challans for duty payment, returns filed etc.,
5. You are advised to indicate account heads as indicated below in all challans used for remitting service tax or other dues (interest, penalty etc)

Service
CONSTRUCTION OF RES. COMPLEX

A/c Head For Tax **A/c Head For Other Dues**
00440334 00440335


22/8/06
Signature of the
Deputy Commissioner of Service Tax
with official seal

Place : HYDERABAD

CC : To
(1)The Pay and Accounts Officer, HYDERABAD-II

File NO: WCS/124

OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE AND CUSTOMS
SERVICE TAX CELL : HYDERABAD-II COMMISSIONERATE
6TH FLOOR : KENDRIYA SHULK BHAVAN : L.B.STADIUM ROAD
BASHEERBAGH : HYDERABAD - 500 004

ST-2 Annexure

Date : 29/02/2008

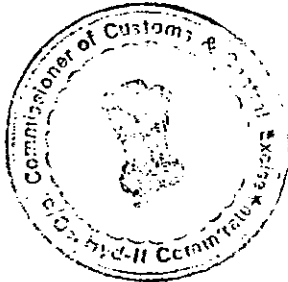
To
M/s. SUMMIT BUILDERS
5-4-187/3 & 4 SOHAM MANSION
M.G.ROAD SECUNDRABAD HO
HYDERABAD URBAN
PINCODE - 500003
ANDHRA PRADESH

Sir/Madam,

Subject : Account Head Details.
Ref : Application Receipt No. 5207 dated 29/02/2008

1. Your STC Number is **AAYES2757CST001**
2. The Location Code concerning your registered premise or office is **520000**
3. You are advised to deposit Service Tax and other related Government dues in any of the authorised branches of the nominated bank(s), i.e.
CORPORATION BANK
INDIAN OVERSEAS BANK
STATE BANK OF HYDERABAD
4. You are required to quote the above STC Number on all the requisite documents and records like challans for duty payment, returns filed etc..
5. You are advised to indicate account heads as indicated below in all challans used for remitting service tax or other dues (interest, penalty etc.)

<u>Service(s)</u>	<u>A/c Head For</u> <u>Tax</u>	<u>A/c Head For</u> <u>Other Dues</u>	<u>A/c Head For</u> <u>Edu. Cess</u>
WORKS CONTRACT SERVICES	00440410	00440411	00440298



Ch. V. S. S. Prasad
Name & Signature of the Central Excise
Officer with official seal

SUPERINTENDENT
Customs, Excise & Service Tax
Service Tax Cell No. X
Hyderabad-II, Commissionerate