

**GOVERNMENT OF ANDHRA PRADESH
ABSTRACT**

Andhra Pradesh Value Added Tax Act, 2005 – Amendment to the Schedule –I
and IV of APVAT Act, 2005 - Notification – Issued.

REVENUE (CT.II) DEPARTMENT

G.O.Ms.No.503,

Dated: 08/05/2009,
Read:

G.O. Ms.No.394, Revenue (CT.II) Dep't., dt.31.3.2005.

ORDER:-

The appended notification shall be published in extraordinary issue of the Andhra Pradesh Gazette.

2. The Commissioner of Printing, Stationery and Stores Purchase, (Publication Wing), Andhra Pradesh, Hyderabad is requested to supply 100(one hundred) copies of the notification to Government and 300 (three hundred) copies to the Commissioner of Commercial Taxes, Andhra Pradesh, Hyderabad.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

G.SUDHIR
PRINCIPAL SECRETARY TO GOVERNMENT.

To

The Commissioner of Printing, Stationery and Stores Purchase (Publication Wing), A.P, Hyderabad for publication of the Notification (2 copies).

The Commissioner of Commercial Taxes, A.P. Hyderabad.

The General Administration (Vigilance & Enforcement) Department, B.R.K.R. Building, Hyderabad.

The Secretary, Sales Tax Appellate Tribunal, Hyderabad.

The Secretary, Sales Tax Appellate Tribunal, D.No.60-50-30/12(2),Meghana Towers, Opp: Gurudwara Bus Stop, Visakhapatnam – 530 013.

The State Representative before the Sales Tax Appellate Tribunal, Hyd.

The Director General, GA (Vig. & Enft.) Deptt., B.R.K.Buildings, Hyderabad.

Copy to:

The Accountant General, Andhra Pradesh, Hyderabad,

The Law (E) Department/Law (F) Department..

The P.S. to Principal Secretary to Chief Minister.

The P.S. to Minister for Commercial Taxes.

The P.S. to Principal Secretary to Government, Revenue Department.

Sf/Sc.

//forwarded : : by order //

Section officer.
{ p.t.o for notification }

NOTIFICATION

In exercise of the powers conferred under Section 78 of the Andhra Pradesh Value Added Tax Act, 2005 (Andhra Pradesh Act No.5 of 2005), the Government of Andhra Pradesh hereby makes the following amendments to the Andhra Pradesh Value Added Tax Rules, 2005 issued in G.O.Ms.No.394, Revenue (CT - II) Department, dt.31-03-2005 and published in the Rules Supplementary to Part-I Extraordinary Issue of the Andhra Pradesh. Gazette No.29, dt.20-04-2005, and as subsequently amended from time to time.

2. The amendment shall be deemed to have come into force on and from 1.5.2009.

AMENDMENTS

In the said rules:

1. **in rule 14**, in sub-rule (2) clause (a) shall be omitted.
2. **in rule 17**,
 - (i) In sub - rule (1), in the table for Standard deductions for Works Contracts after SI.No.4 the following shall be inserted, in the columns (1), (2) and (3) respectively;

(1)	(2)	(3)
"4 (a)	Design, fabrication and installation of centralized Air-conditioning plant, Air Handling units, Refrigeration plants and any other Heating, Ventilating and Air Conditioning systems.	Five Percent

- (ii) in sub-rule (2), after clause (1) the following clause shall be added namely;

"(j) Where tax is collectable at source as per sub-section (3-A) of section 22 of the Act, in case of a contractor who have opted for payment of tax by way of composition, tax @4% on the total value of the contract shall be collected and remitted by the contractee within fifteen days from the date of each payment made to the contractor."

(iii) in sub-rule (3), in clause ©, the words "and when the VAT dealer opts to withdraw from composition, he shall notify the prescribed authority of Form VAT 250A" shall be omitted.

(iv) in sub-rule (4):

(a) the existing clause (c) shall be omitted.

(b) for clause (d) the following shall be substituted namely;

"(d) The VAT dealer shall have to pay tax by way of composition at the rate of four percent (4%) on twenty five percent (25%) of the total consideration received or receivable towards cost of land as well as construction or the market value fixed for the purposes of stamp duty, whichever is higher and the balance seventy five percent (75%) of the total consideration received or receivable shall be allowed as deduction for the purpose of computation of taxable turnover;"

3. **in rule 18** after sub-rule (2), the following shall be added namely;

"(3) (a) Where tax is collectable at source as per sub-section (3A) of section 22 of the Act, tax @4% on the total value of the contract shall be collected and remitted by the contractee within fifteen days from the date of each payment made to the contractor.

(b) Where tax, collected at source as above, is in excess of the liability of the contractor, who have not opted for payment of tax by way of composition, such amount of tax, collected in excess of the liability shall be deemed to have been payable by the contractor and shall be liable to be forfeited."

4. **In rule 20 in** sub-rule (2) after clause (p), the following shall be added, namely;

"(q) Furnace Oil, LSHS and other similar fuels, used in the furnaces and boilers of the factories or manufacturing or processing units"

5. **In rule 23,**

(i) sub-rule (9) shall be omitted.

(ii) after sub-rule (11), the following shall be added, namely;

"(12.) All the returns prescribed under sub-rules (1) to (8) and (10) of this Rule may also be filed electronically through electronic filing system to be created for the purpose.

(13) Every Department of the State and Central government shall submit a return in Form VAT 230 with all the information, required therein, for each month. The

return for each month shall reach the assessing authority of the area, in which the principal place of business is located, on or before 20th day of the succeeding month. The return shall be submitted by the officer of the Department, duly authorized in this behalf by the Head of the Department, concerned. Along with the return, he shall also pay the tax due, if any, as per the return, through cheque, demand draft, pay order or Government treasury challan."

6. In rule 34, in sub-rule (2),-

(i) for clause (c), the following shall be substituted, namely;

"(c) Every dealer, being the principal and claiming exemption on his turnover under clause (b) of sub-section (10) of section 4 shall be in possession, for every tax period, a declaration in form 522C obtained from the registered dealer who, on his behalf as an Agent, sold the taxable goods relating to such turnover and such selling agent shall issue the declaration to his principal within ten days from the end of the month in which such goods were sold."

(ii) for Clause (d), the following shall be substituted, namely;

"(d) Every dealer, being the principal and claiming deduction of input tax on goods, purchased by any other registered dealer on his behalf as a buying Agent, shall be in possession, for every tax period, a declaration in Form 522D, duly obtained from such buying agent, together with the tax invoices in original, relating to such purchases, and such buying agent shall issue the declaration and furnish the tax invoices to his principal with ten days from the end of the month in which such goods were purchased.

7. In rule 35,

(i) in sub - rule (5) for the words, "clauses (b) and (c) of section 8", the words "clause (b) of section 8" shall be substituted.

(ii) after sub-rule (12), the following shall be added, namely;

"(13) The Claim for refund under sub-section (9) of Section 38 of the Act shall be made in Form 510B, along with the proof of payment of tax in original, within 45 days from the end of the month during which the tax was paid, to the Commissioner or to any other officer, authorized by the Commissioner. The refund in such

cases shall be made within a period of 90 days from the date of claim."

8. **In rule 40**, after sub-rule (3), the following shall be added, namely:-

"(4) The application in Form APP404 shall be accompanied by the proof of payment of tax as specified in sub section (2) of Section 33".

9. **In rule 44**, in sub-rule (1) for clause (d), the following shall be substituted namely:-

"(d) It shall be accompanied by satisfactory proof of payment of the amounts, as specified in the first, second and third provisos, as the case may be, under section 33 of the Act."

10. **In rule 59, in the table under sub-rule (1),**

(a) against Serial Number 4, after item (VI) the following shall be inserted in the existing columns (1) (2) and (3) respectively, namely:-

(1)	(2)	(3)
(vii) Proceedings to be issued in consequence to the orders, passed by different Appellate and Revision Authorities under Sections 31,32,33,34 and 35 of the APVAT Act.	Assistant Commissioner, Commercial Tax Officer or the Deputy Commercial Tax officer, as the case may be, having territorial jurisdiction over the dealer, irrespective of the fact whether the original order under appeal or revision has been passed by him or not.	Section 37 and Rules 43 and 49.

(b) after Serial Number 18, the following shall be added; namely,-

	(1)	(2)	(3)
"19	The Authority to whom the transfer of business as an on going concern should be notified.	Assistant Commissioner or Commercial Tax Officer, as the case may be, having territorial jurisdiction over the dealer, who is transferring the business.	Rule 36"

11. In Rule 67 :

(a) for the existing Illustration on sub-rule (3), the following shall be substituted, namely,

"ILLUSTRATION:

CDL Industries was granted tax holiday for a period of 7 Years from 10-10-1999 for an amount of Rs.65, 22,000. As on 31-03-2005, the dealer has availed an amount of Rs.45, 10,000.

The period originally availed is 5 (five) years, 5(five) months and 21 days. The period of availment prior to 01-04-2005, when worked out on doubling the same, is 10(ten) years (11) months and 12 days. Deduct this period from total period of 14 (fourteen) years, as availed to the Units under Deferment Scheme originally. The balance period to be availed after 1-4-2005 is 36 months and 18 days. As per the above sub-rule (1) of this Rule, the dealer now is eligible to avail Tax Deferment for the balance amount of Rs.20,12,000/- for a period of 36 months and 18 days i.e. 01-04-2005 to 18-04-2008.

The amount of deferment, availed for each year, shall be paid after the end of the period of availment to the dealer after the conversion from Tax holiday Scheme to Deferment Scheme.

The Calculation is as follows:

1. Actual period of availment under Tax Holiday Scheme : 10-10-1999 to 9-10-2006
2. Period left as on 01-04-2005 : 01-04-2005 to 9-10-2006
3. Period left : 1 Year 6 months 9 days
4. Period doubled as per rule : 3 Years and 18 days
5. Period up to which the unit is Eligible for incentive : 18-4-2008
6. The Month & year in which the Tax Availed in the year 2005-2006 is payable : May 2008
1. The month & Year in which the Tax Deferment availed in subsequent Year is payable : May 2009 and so on.

(b) after sub-rule (4) the following shall be added namely:

"(5) The amount availed in the first year, in which the unit is converted from Tax holiday Scheme to Deferment Scheme, shall be paid in the month succeeding the month in which the period for which the Unit is eligible for availment of the incentives is completed and the amount availed in the second year, shall be paid in the year, subsequent to the year in which the amount, availed in the first year is paid or payable and son on.'

12. In the Forms appended to the Rules:

(a) for the existing Form VAT 213, Form VAT 230, Form VAT 305A and Form VAT 305, the New Forms appended to this notification, shall be substituted, in their place and

(b) the new Form 510 B and 522C, 522D and 526, appended to this notification, shall be inserted after forms 510A and 522B and 525 respectively.

G.SUDHIR
PRINCIPAL SECRETARY TO GOVERNMENT.

// TRUE COPY //

Section Officer.

**RETURN FOR REPORTING UNDER / OVER DECLARATION OF INPUTS/OUTPUTS AND
VALUE ADDED TAX**

[See Rule 23(6)(a)]

Date Month Year

01. Tax Office Address: _____

02	TIN																					

03. Name _____
Address _____

04. Examination of my records has shown that the correct amount of Value Added Tax in the return for tax period _____ was not declared / over declared. Please find a true and correct summary of my monthly Return as below. The errors were due to _____

05. Input tax credit from previous month
(Box 24 or 24 (b) of your previous tax return)

Rs. _____

<u>PURCHASES IN THE MONTH (INPUT)</u>		<u>Value excluding VAT</u>		<u>VAT Claimed</u>
		(A)		(B)
6	Exempt or non-creditable Purchases	Rs.		
7	4% Rate Purchases	Rs.		Rs.
8	12.5% Rate Purchases	Rs.		Rs.
9	1% Rate Purchases	Rs.		Rs.
10	Special Rate Purchases	Rs.		
11	Total Amount of input tax (5+7(B)+8(B)+9(B))			Rs.

<u>SALES IN THE MONTH (OUTPUT)</u>		<u>Value Excluding VAT</u>		<u>VAT Due</u>
		(A)		(B)
12	Exempt Sales	Rs.		
13	Zero Rate Sales - International	Rs.		

	Exports		
14	Zero Rate Sales – Others (CST Sales)	Rs.	
15	Tax Due on Purchase of goods	Rs.	Rs.
16	4% Rate Sales	Rs.	Rs.
17	12.5% Rate Sales	Rs.	Rs.
18	Special Rate Sales (First Sales only)	Rs.	Rs.
19	1% Rate Sales	Rs.	Rs.
20	Total amount of output tax (15(B)+16(B)+17(B)+ 19(B))		Rs.

21. Details of Under declaration/Over declaration of Input tax / Out put tax during the tax period.

Input Tax declared (Box 11 of VAT 200)	Output Tax declared (Box 20 of VAT 200)	Input Tax found to be correct (Box 11 of VAT 213)	Output Tax found to be correct (Box 20 of VAT 213)	Tax Under / Over declared	Adjustments if any (Box 22 of VAT 213)	Total Amount Payable	Total amount Creditable
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)

22. Payment Details:

Details	Challan /Instrument No.	Date	Bank/Treasury	Branch Code	Amount
Payment Details:					
Total					

22(a). Adjustment Details:

Nature of Adjustment	Details	Amount

The amount in column (7) of Box 21 is payable in Box 22. The amount in column (8) of Box 21 exceeds total of box 20 and you have declared exports in box 13(A) and not adjusting the excess amount against tax liability if any under the CST Act, you can claim a refund in box 23 or carry a credit forward in box 24.

If you have declared no exports in box 13(A) you must carry the credit forward in box 24, unless you have carried forward a tax credit for 24 consecutive months and not adjusting the excess amount against the tax liability if any under the CST Act.

Refund

23	Rs.
----	-----

Credit carried forward

24	Rs.
----	-----

24(a) If you want to adjust the excess amount against the liability under the CST Act please fill in boxes 24(a) and 24(b). Tax due under the CST Act and adjusted against the excess amount in box 24.

24(a)	Rs.
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24(b) Net credit carried forward

24(b)	Rs.
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Declaration:

25. Name.....being (title).....

of the above enterprise do hereby declare that the information given in this return is true and correct.

Signature & Stamp.....

Date of declaration

.....

07. Tax payment details:

Sl.No	Total Tax payable	Tax paid	Cheque/D.D./Pay order/ Challan No.	Date

08. Declaration:

I, Mr/Mrs/Miss -----, authorized to file the return on behalf of the -----Department, declares that the information furnished in this return is true and correct.

Signature of Authorised Officer
Designation:

GOVERNMENT OF ANDHRA PRADESH

COMMERCIAL TAXES DEPARTMENT

FORM VAT 305 A

NOTICE OF ASSESSMENT OF VALUE ADDED TAX

[See Rule 25 (5)]

Date Month Year

01. Tax Office Address:

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02	TIN																		
----	-----	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

03. Name _____

_____ Address _____

Examination of your records on _____ has shown that the correct amounts of Value Added Tax have not been declared in the VAT returns listed below. Under the provisions of APVAT Act 2005 the following tax amounts are proposed to be assessed for the tax periods shown below:

Tax Period	Particulars (input tax / output tax)	Tax declared/ net credit / Or Refund Claimed	Tax Found to be due/ net credit / Or Refund due	Tax Over declared Due to dealer	Tax under declared Due to Tax Department	Total Due to Tax Department

Total amount due to Tax Department

See reverse for explanation
Complete in duplicate.

--: 2:--

Explanation for the above proposals:

From the foregoing it indicates that the dealer has committed an offence under the provisions of APVAT Act, 2005 and the penalty proceeding as per the provisions of APVAT Act will be issued separately.

Further the dealer is liable to pay interest 1% on tax due for the period of delay. Separate proceedings to this effect will be issued.

If you have any objections to the assessment proposed above, you are requested to file written objections along with documentary evidence if any, within 7 days of date of this notice failing which orders will be passed without any further notice in the matter.

**ASSISTANT COMMISSIONER/
COMMERCIAL TAX OFFICER/
DEPUTY COMMERCIAL TAX OFFICER.**

**GOVERNMENT OF ANDHRA PRADESH
COMMERCIAL TAXES DEPARTMENT**

FORM VAT 305

ASSESSMENT OF VALUE ADDED TAX

[See Rule 25(s)]

Date Month Year

01. Tax Office Address:

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02	TIN																		
----	-----	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

03. Name

Address

Upon examination of your records on _____ and the issue of Form VAT 305A on _____ the correct amount of VAT under the provisions of AP VAT Act 2005 has been determined as follows.

- * This has resulted from: -
1. Your agreement at the time of visit on _____
 2. After consideration of your reply received in this office on _____
 3. Your failure to respond to the notice issued on Form VAT 305 A on _____

The total amount payable by you is explained below:

Tax Period	Particulars (input tax / output tax)	Tax declared/ net credit / Or Refund Claimed	Tax Found to be due/ net credit / Or Refund due	Tax Over declared Due to dealer	Tax under declared Due to Tax Department	Total Due to Tax Department

Total amount due to Tax Department Rs.

See reverse for explanation
Complete in duplicate.

*Delete as appropriate

Explanation for the above proposals:

From the foregoing it indicates that the dealer has committed an offence under the provisions of APVAT Act, 2005 and the penalty proceeding as per the provisions of APVAT Act will be issued separately.

Further the dealer is liable to pay interest @1% on tax due for the period of delay. Separate proceedings to this effect will be issued.

*A The amount of _____ shall be paid within 30 days of receipt of this order. Failure to make the payment will result in recovery proceedings under the AP VAT Act 2005.

*B Your refund claim is reduced to _____ and this amount will be refunded to you.

THE PROOF OF PAYMENT OF THE AMOUNT SPECIFIED AT 'A' ABOVE TOGETHER WITH DUPLICATE COPY OF THIS ORDER AND PAYMENT BOXES COMPLETED SHALL BE SUBMITTED WITHIN THE SPECIFIED TIME LIMIT.

An appeal against this order can be filed before the Appellate Deputy Commissioner within 30 days of receipt of this order.

**ASSISTANT COMMISSIONER/
COMMERCIAL TAX OFFICER/
DEPUTY COMMERCIAL TAX OFFICER**

ON DUPLICATE COPY OF THE ORDER

Payment details:

Challan/Instrument No.	Date	Bank / Treasury	Branch Code	Amount

APPLICATION FOR CLAIMING OF REFUND BY

FORM 510B

UN-REGISTERED DEALERS/ PERSONS

[See Sec 38(9) & Rule 35(13)]

Date	Month	Year

01. Tax Office Address:

03. Name of the un-regd dealer

Address: _____

I/We have paid tax/ tax has been deducted at source from my/our amounts during the period ----- as following:

Sl.No	Name & address of the authority who collected the tax	Name & address of the authority who Deducted the Tax at Source.	Amount of tax collected/ paid	Remarks
1.	2.	3.	4.	5.

Therefore I / We request you that the tax paid above may be given as refund as per the provisions of the APVAT Act, 2005.

Signature of the un-registered dealer/
Person.

CERTIFICATE OF PAYMENT OF TAX BY AGENT

See Rule 34(2)(c)

FORM 522C

I/We(full address)..... with.....(TIN) have sold.....(description of goods)..... (Quantity) for Rs (Rupees) for the tax period.....on behalf of my/our principal

M/s.....

(address)

bearing TIN.....

The tax due of Rs..... has been collected and paid by me/us on the above sales.

Particulars of goods sold

Sl. No.	No. and date of tax invoice issued	Description of goods	Quantity	Value of goods	Remarks
1	2	3	4	5	6

Place:

Name and signature and status of the

Date:

person signing the certificate.

Declaration for purchase of goods on behalf of principal

See rule 34(2)(d)

Form 522D

I/We.....(full address)..... with.....(TIN) have purchased.....(description of goods)..... (Quantity) for Rs..... (Rupees) on behalf of my/our principal,

M/s.....

(address)

bearing TIN..... and have paid the tax due of Rs.....has been paid by me/us on the above purchase.

Particulars of goods purchased

Sl. No.	No. and date of tax invoice issued by the seller	Description of goods	Quantity	Net value of goods purchased	Amount of tax	Remarks
1	2	3	4	5	6	7

Place:

Name and signature and status of the

Date:

person signing the declaration.

**DECLARATION TO BE ISSUED BY THE DEALER WHO PURCHASES AND
USES THE GOODS AS INDUSTRIAL INPUTS.
(See note 6 appended to Schedule IV of APVAT Act.)**

I / We carrying on business in the name of M/s. _____
_____ with TIN _____ hereby declare that the
goods purchased by me/us are enumerated under entry 100 of IV schedule to
APVAT Act, 2005, and the said goods have been purchased for the purpose of
using them as industrial inputs and not for any other use.

The details of goods purchased are as under:

1. Name and address of the dealer from whom
the goods are purchased :
2. TIN of the selling dealer :
3. Details of the goods purchased,

Sl.No	Description of goods	HSN Code	Invoice No and Date.	Amount set out in the invoice

The information furnished above is true and correct, and we shall be liable to
penalty if the goods so purchased are used for the purposes other than specified
and we shall also be liable to penalty if this declaration is found to be false or
fabricated.

Place:

Date;

Name and signature of the person
authorized to sign.

CHAPTER - III

INCIDENCE, LEVY AND CALCULATION OF TAX

4. (1) Save as otherwise provided in the Act, every dealer registered or liable to be registered as a VAT dealer shall be liable to pay tax on every sale of goods in the State at the rates specified in the Schedules.
- (2) Every dealer who has not opted for registration as a VAT dealer and who is registered or liable to be registered for TOT or whose taxable turnover in a period of twelve (12) consecutive months exceeds Rs.5,00,000/- (Rupees five lakhs only) but does not exceed Rs. 40,00,000/- (Rupees forty lakhs only) shall pay tax at the rate of one percent (1%) on the taxable turnover in such manner as may be prescribed.
- (3) Every VAT dealer shall pay tax on every sale of goods taxable under the Act on the sale price at the rates specified in the Schedules III, IV and V, subject to the provisions of Section 13.
- (4) Every VAT dealer, who in the course of his business purchases any taxable goods from a person or a dealer not registered as a VAT dealer or from a VAT dealer in circumstances in which no tax is payable by the selling VAT dealer, shall be liable to pay tax at the rate of four percent (4%) on the purchase price of such goods, if after such purchase, the goods are:
- (i) used as inputs for goods which are exempt from tax under the Act; or
- (ii) used as inputs for goods, which are disposed of otherwise than by way of sale in the State or dispatched outside the State otherwise than by way of sale in the course of inter-State trade and commerce or export out of the territory of India; or
- (iii) disposed of otherwise than by way of consumption or by way of sale either within the State or in the course of interstate trade or commerce or export out of the territory of India:

Provided that in respect of purchases of goods specified in Schedule III, the VAT dealer shall be liable to pay tax at the rate specified in that Schedule;

Charge to Tax

- (5) Every dealer shall pay tax on the sale price of goods specified in Schedule VI at the special rates and at the point of levy specified therein;
- (6) Every casual trader who sells goods within the State and any dealer covered under Explanation III and IV of clause (10) of Section 2 shall pay tax on the sale price of such goods at the rates specified in the respective Schedules.
- (7) Notwithstanding anything contained in the Act:-

- a) Every dealer executing works contracts shall pay tax on the value of goods at the time of incorporation of such goods in the works executed at the rates applicable to the goods under the Act:

Sec.13(7) Rule 17(1) Sec.22(3)(4) Rule18

Provided that where accounts are not maintained to determine the correct value of goods at the time of incorporation, such dealer shall pay tax at the rate of 12.5% on the total consideration received or receivable subject to such deductions as may be prescribed;

Rule 17(1)(g) Rule 31

- b) Any dealer executing any works contracts for the Government or local authority may opt to pay tax by way of composition at the rate of 4% on the total value of the contract executed for the Government or local authority and in such cases, the tax at 4% shall be collected at source by such contractee and remitted to Government in such manner as may be prescribed;
- c) Any dealer executing works contracts other than for Government and local authority may opt to pay tax by way of composition at the rate of 4% *{...} of the total consideration received or receivable for any specific contract subject to such conditions as may be prescribed;

Sec.13(5)(a) Rule 17(2) Sec.22(3)(4) Rule18
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Sec.13(5)(a) Rule 17(3) Sec.22(3)(4) Rule18
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(* the words "of fifty percent (50%)" omitted by the Act No 23 of 2005 dated 26th Oct 2005 w.e.f 29-08-2005)

- d) Any dealer engaged in construction and selling of residential apartments, houses, buildings or commercial complexes may opt to pay tax by way of composition at the rate of 4% of twenty

Sec.13(5)(a) Rule 17(4) Sec.22(3)(4) Rule18
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✓ five percent (25%) of the consideration received or receivable or the market value fixed for the purpose of stamp duty whichever is higher subject to such conditions as may be prescribed;

- * (e) any dealer having opted for composition under clauses (b), (c) and (d), purchases or receives any goods from outside the State or India or from any dealer other than a Value Added Tax dealer in the State and uses such goods in the execution of the works contracts, such dealer shall pay tax on such goods at the rates applicable to them under the Act and the value of such goods shall be excluded for the purpose of computation of turnover on which tax by way of composition at the rate of four percent (4%) is payable". ;

**(Inserted by the Act No 23 of 2005 dated 26th Oct 2005 w.e.f 29-08-2005)*

- *f) Any dealer who is liable to be registered for TOT and executing any works contracts shall pay tax at the rate of 1% on total value of the goods at the time of incorporation of the goods used:

**((e) is renumbered as (f) by the Act No 23 of 2005 dated 26th Oct 2005 w.e.f 29-08-2005)*

Provided that where accounts are not maintained to determine the correct value of the goods at the time of incorporation, such dealers shall pay tax at the rate of 1% on the total consideration received or receivable subject to such deductions as may be prescribed.

- * "Provided further that no tax shall be payable under this sub-section on the turnover relating to the consideration received as a sub-contractor if the main contractor opted to pay tax by way of composition subject to the condition that the sub-contractor shall pay tax in respect of any goods purchased or received from outside the State of India or from any person other than a Value Added Tax dealer in the State on the value of such goods at the rates applicable to them under the Act".

** (Proviso is inserted by the Act No 23 of 2005 dated 26th Oct 2005 w.e.f 29-08-2005)*

- (8) Every VAT dealer who transfers the right to use goods taxable under the Act for any purpose whatsoever, whether or not for a specified period, to any lessee or licensee for cash, deferred payment or other valuable consideration, in the course of his business shall, on the total amount realized or realizable by him by way of payment in cash or otherwise on such transfer of right to use such goods from the lessee or licensee pay a tax for such goods at the rates specified in the Schedules.

- * (9) notwithstanding anything contained in the Act, every dealer running any restaurant, eating house, catering establishment, hotel, coffee shop, sweet shop or any establishment by whatever name called and any club, who supplies by way of or as part of any services or in any other manner whatsoever of goods being food or any other article for human consumption or drink shall pay tax at the rate of twelve and half percent (12.5%) on sixty percent (60%) of the taxable turnover, if the taxable turnover in a period of preceding twelve months exceeds Rs.5,00,000/- (Rupees five lakhs) or in the preceding three months exceeds Rs.1,25,000/- (Rupees one lakh twenty five thousand).

**(substituted by Act No 10 of 2006 dated 4th January 2006, w.e.f 24-11-2006. for the words "Every VAT dealer running any restaurant, eating house, or hotel by whatever name called, who supplies, by way of or as part of any service or in any other manner whatsoever of goods, being food or any other article for human consumption or drink other than liquor and whether or not such goods have suffered tax under the Act, where such supply or service is for cash, deferred payment or other valuable consideration, may opt to pay tax by way of composition at the rate of twelve and half percent (12.5%) on sixty percent (60%) of the total amount charged by the said VAT dealer for such supply.")*

5. Nothing contained in the Act shall be deemed to impose or authorise the imposition of a tax on the sale or purchase of any goods, where such sale or purchase takes place:
- outside the State; or
 - in the course of the import of the goods into, or export of the goods out of the territory of India; or
 - in the course of inter-State trade or commerce.

Explanation: - The provisions of Chapter II of the Central Sales Tax Act, 1956, shall apply for the purpose of determining when a sale or purchase takes place in the course of inter-State trade or commerce or outside a State or in the course of import or export.

Sec.13(9)
Sec.22(3)(4)
Rule 17(5)
Rule18

Act not to
apply to
sales or
purchases
outside the
State, in the
course of
import or
export etc.

Central
Act 74 of
1956

**GOVERNMENT OF ANDHRA PRADESH
COMMERCIAL TAXES DEPARTMENT**

**PROCEEDING OF THE
AUTHORITY FOR CLARIFICATION AND ADVANCE RULING
(Under Section 67 of APVAT Act, 2005)**

**Present : Sri T.Yugandhar Reddy, Additional Commissioner (VAT)
Dr. Sri K.Raghavaiah, Joint Commissioner (Audit)
Sri P. Satyanarayana Reddy, Joint Commissioner (Enft)**

CCT's Ref.No.PMT/P&L/A.R.Com/566/2005

Dt:18-05-2006

Ref: CCT'S Ref.No.PMT/P&L/A.R.COM/2005, Dt:13-4-2005.

ORDER:

M/s. Kashi Kanchan, Tirumalgherry (TIN No.28560155020), Hyderabad have filed an application and sought clarification and Advance Ruling on the following items under Section 67 of the APVAT Act, 2005 read with Rule 66(2)(i) of APVAT Rules,2005 along with the application fee of Rs.1000/-. The application is examined and found in order. Hence admitted.

According to the applicant he is executing works contract for Defence Department by construction of buildings and civil works. He is seeking to know whether he is eligible for composition under sub section (7)(d) of Section 4 of A.P.VAT Act, 2005. He is also seeking clarification regarding goods purchased from outside A.P. by issuing Form-C and tax implications for such goods used in the execution of works contract.

The case was posted for hearing on 16-5-2006. Sri Abhimanyu Padhi, Managing Director appeared and explained the case.

After examining the provisions of sub section (7) of Section 4 including amendment made w.e.f. 29.8.2005, it is clarified as under :

The provisions for composition under clause (d) of sub section (7) of Section 4 of A.P.VAT Act, 2005 are applicable only in respect of builders and developers who have a right to sell such constructed apartments, houses, buildings or commercial complexes. The tax rate of 4% on 25% of the consideration received is specifically linked to consideration received or receivable or market value fixed for the purpose of stamp duty. Therefore, this provision is not applicable in respect of contractors who execute work for construction of buildings but do not have any right to sell such property. This category of contractors can opt for composition under clause (b) or clause (c) of sub section (7) of Section 4 as the case may be.

With regard to the goods purchased from outside A.P. by issuing Form-C, the applicant is liable to pay tax applicable to such goods purchased from outside A.P. and he can deduct such value from the total taxable turnover and on the remaining taxable turnover he can

either pay by way of composition or pay tax according to the rates applicable to the goods used if the transaction is outside composition.

ADDL.COMMISSIONER JT.COMMISSIONER JT.COMMISSIONER

Note: An appeal against this proceedings can be filed before the Sales Tax Appellate Tribunal, A.P., Hyderabad within 30 days of this ruling.

To

M/s. Kashi Kanchan,
Behind Hanuman Temple,
DAD Quarters,
H.No.14, Opp.RTA Office,
Tirumalgherry, Secunderabad – 15.

Copy submitted to the Commissioner of Commercial Taxes, A.P., Hyderabad.

Copy to the Deputy Commissioner (CT), Begumpet Division.

Copy to the Commercial Tax Officer, Maredapally Circle.

GOVERNMENT OF ANDHRA PRADESH
COMMERCIAL TAXES DEPARTMENT

PROCEEDINGS OF THE
AUTHORITY FOR CLARIFICATION AND ADVANCE RULING
(Under Section 67 of APVAT Act, 2005)

Present: Sri T. Yugandhar Reddy, Addl. Commissioner(VAT)
Dr. K. Raghavaiah, Jt. Commissioner(Audit)
Sri P. Satyanarayana Reddy, Jt. Commissioner (Enft.)

CCT's Ref.No: PMT/P&L/A.R.Com/ 80/ 2006.

Dated 30-7-2006.

Ref:- CCT's.Ref.No: PMT/P&L/A.R.Com/2005, Dated 13-04-2005.

ORDER:

M/s Maytas Hill Country Pvt.Ltd., 6-3-1186/5/A,III Floor, Amogh Plaza, Begumpet, Hyderabad (TIN 28690270478) have filed an application Dated 26-7-2006 and sought clarification and advance ruling on the following items under Section 67 of APVAT Act, 2005 read with Rule 66(2)(i) of APVAT Rules, 2005 along with the application fee of Rs.1,000/-

The applicant has submitted the following documents :

- a) Note on the nature of transactions for issuing Advance Ruling.
- b) Development Agreement-cum-General Power of Attorney.
- c) Sale Deed and
- d) Agreement of Sale.

Sri M.Ramachandra Murthy, Authorised Representative appeared for hearing on 28-7-2006 and explained the case.

They sought clarification on the following:

The applicant has sought clarification as to whether the following two categories of transactions fall under the ambit of Section 4(7)(d) of the AP VAT Act, 2005.

The applicant is engaged in the business of constructing and selling houses/flats.

As explained by the applicant their business transactions are of two categories..

- 1) *On the land owned by the applicant, house is constructed and then land along with the house is sold to the customer. In such a situation, there would be only one sale deed.*
- 2) *In the second category a piece of land belonging to the applicant is sold to the customer through a sale deed for the sale of land and then through a separate construction agreement the applicant takes up construction of a house on such land purchased by the customer. In this situation there is a sale deed for the sale of land and also a construction agreement between the applicant and the customer which is also Registered with the Sub-Registrar.*
- 3) *The applicant has further stated that, in both the situations, (where the land and house constructed thereon are sold through a single deed or where the land is first sold and a construction agreement is then entered into) the consideration received/receivable would be the same and this is clearly laid down in the initial agreement of sale.*

The issue is examined with reference to the provisions of the AP VAT Act and Rules and in particular with reference to sub-section (7) of Section 4 of the Act.

The tripartite agreements of sale entered into by the applicant with the buyers have been examined. It is found that land owners, the applicant as developer and buyers of individual units (houses) are parties to the agreement. In clause 2(a), it is specified that developer and the landowner have agreed to sell the property consisting of a finished house for a total price specified in Schedule 2 of the agreement. The specified price is found to be the total price for the land and construction cost. In clause 6, it is specified that landowner and developer shall construct in accordance with the specifications mentioned in Schedule IV and they shall maintain common areas of township without any additional charges till 31st December 2010. In Clause 9, it is mentioned that purchaser can terminate the agreement only when developer

fails to construct the property within the period stipulated and the given grace period and additional 8 months penalty period.

All the terms and conditions in the agreement of sale clearly prove that the transaction is for the complete execution for the total price agreed upon.

Taking this into consideration, the ruling is given that ;

- 1) the applicant shall be eligible for composition under Section 4(7)(d) to pay tax @ 4% on 25% of the total consideration originally agreed upon whether received in composite manner or in separate portions towards land cost and construction cost.
- 2) the applicant is not eligible to opt to pay 4% of 25% consideration received towards construction cost by excluding cost of land though it could be registered separately at any stage.
- 3) if the property is registered only as a land through a sale deed in the second category of transactions explained by the applicant and there is no subsequent registration after completion of construction, the applicant shall ensure payment of 1% of total consideration received or receivable (as per initial agreement of sale) by way of demand draft in favour of CTO/Asst. Commissioner concerned at the time of execution of sale deed before Sub-Registrar as prescribed in clause (i) of sub rule (4) of Rule 17 of AP.VAT Rules, 2005.

Addl. Commissioner

Jt. Commissioner

Jt. Commissioner.

NOTE:- An appeal against this proceedings can be filed before the Sales Tax Appellate Tribunal, A.P. Hyderabad within 30 days of this ruling.

To

M/s Maytas Hill Country Pvt.Ltd.,

6-3-1186/5/A, III Floor, Amogh Plaza, Begumpet, Hyderabad.

Copy submitted to the Commissioner of Commercial Taxes, A.P. Hyderabad

Copy to the Deputy Commissioner (CT) Abids Division.

Copy to the Commercial Tax Officer, Basheer Bagh Circle.

Dear Sir,
Kind Attn:- Shankar Reddy garu,

In connection with the appeal filed before the STAT for the Assessment year 2005-06/VAT ,
For admission of appeal 73,759/- which is the balance tax as per the CTO's order is required to
be paid which is admitted tax and 25% of the disputed tax amounting o Rs.59,921/- is required
to be paid as informed to you during your visit to our Office and even on Phone several times..
Since an amount of Rs.94,000/- is paid an amount of Rs.39,678/- is required to be paid for
admission of appeal.

This is the final remainder . If the said amount is not paid and acknowledgement is not
produced before STAT the appeal filed is liable to be rejected.

admission Value - 2,39,684 =
25% Admitted Tax \Rightarrow 59,921 =
We already Paid 94,000 \Rightarrow
Details given for Rs 94,000/-
Kindly advise.

**GOVERNMENT OF ANDHRA PRADESH
ABSTRACT**

**Andhra Pradesh Value Added Tax Act, 2005 – Increase of rate
of tax on goods notified under Schedule-IV from 4% to 5% –
Notification – Orders - Issued.**

REVENUE (CT.II) DEPARTMENT

G.O.Ms.No.1718.

DATED:13/9/2011.

READ:

From the CCT, Ref.No.AIII(1)/68/2011-3, dt.20.4.2011

-:-

ORDER :-

The appended Notification will be published in Part-I
Extraordinary issue of Andhra Pradesh Gazette, DATED:14/9/2011.

2. The Commissioner of Printing, Andhra Pradesh, Hyderabad is
requested to supply 100 copies of the notification to this
Department and 300 copies to the Commissioner of Commercial
Taxes, Andhra Pradesh, Hyderabad.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

**M.SAHOO
PRINCIPAL SECRETARY TO GOVERNMENT.**

To

The Commissioner of Printing, Stationery and Stores
Purchase (Publication Wing), A.P, Hyderabad for
publication of the Notification (2 copies).

The Commissioner of Commercial Taxes, A.P. Hyderabad.

The Secretary, Sales Tax Appellate Tribunal, Hyderabad.

The Secretary, Sales Tax Appellate Tribunal, D.No.60-50-30/12 (2),
Meghana Towers, Opp:Gurudwara Bus Stop, Visakhapatnam-530 013.

The State Representative before the Sales Tax Appellate Tribunal,
Hyd. The Director General, GA (Vig.& Enft.) Deptt., B.R.K.Buildings,
Hyderabad.

Copy to:

The Accountant General, Andhra Pradesh, Hyderabad,

The Law (E) Department/The Law (F) Department.

The P.S. to Principal Secretary to Chief Minister.

The P.S. to Principal Secretary to Government, Revenue
Department. Sf/Sc.

//forwarded :: by order//

Section Officer.

[PTO for Notification]

::2::

NOTIFICATION

In exercise of the powers conferred by sub-section (1) of Section 79 read with sub-section (3) of Section 4 of the Andhra Pradesh Value Added Tax Act, 2005 (Andhra Pradesh Act No.5 of 2005), the Governor of Andhra Pradesh hereby makes the following amendment to the Schedule-IV of the said Act.

2. This amendment will come in force with effect from 14th September, 2011.

AMENDMENT

In the said Act, in Schedule IV, in the heading, for the expression "4%" the expression "5%" shall be substituted.

M.SAHOO
PRINCIPAL SECRETARY TO GOVERNMENT.

//true copy//

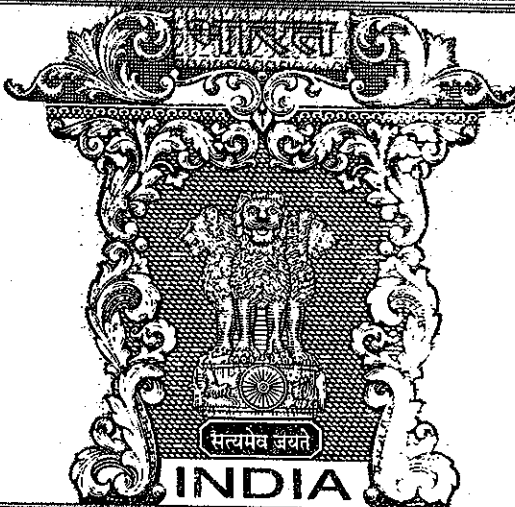
Section Officer.

PDF to Word

भारतीय गैर न्यायिक

बीस रुपये

रु. 20



Rs.20

TWENTY RUPEES

INDIA NON JUDICIAL

20/05/2005 05/11/2005
 ఆంధ్ర ప్రదేశ్ ANDHRA PRADESH SANDHYA PAPER 30AA 754944
 Y. Ramachandra Murthy
 P.V. Subbarao Reddy & Associates
 For whom: M. Sai Baba & Co. Hye.
 Registered Stamp
 No. 18 07
 Date 4/2005
 Show: 303, Ashoka Scintilla, Hyderabad-500 029.
 Ph. No. 9397071321, 9895510081

FORM OF AUTHORISATION

FORM 565

[See Rule 65(7)]
 Authorisation to be filed by a person appearing before any authority on behalf of a dealer under Section 66 of the Andhra Pradesh Value Added Tax Act '2005

To,

Name _____
 Address: _____

Date Month Year

--	--	--

TIN / GRN

28790571789

I, SCHAM MCDI, MANAGING PARTNER hereby appoint Sri.M.Ramachandra Murthy who is a Chartered Accountant and U.V.Pavan Kumar, Advocate to attend on my behalf/benefit of the said _____ before _____ (State the Tax Authority) the proceedings (describe the proceedings) _____ before the said (State the Tax Authority) and to produce accounts and documents / statements and to receive on my behalf/benefit of the said _____ any notice or documents / statements issued in connection with the said proceedings Sri.M.Ramachandra Murthy and U.V. Pavan Kumar are hereby authorised to act on my behalf/benefit of the said _____ in the said proceedings.

We agree/ the said _____ agrees to ratify all acts done by the said Sri M Ramachandra Murthy and U.V.Pavan Kumar in pursuance of this authorisation.

We Sri.M.Ramachandra Murthy and U.V.Pavan Kumar accept the above responsibility

Signature(s) of the Authorizing person(s)

Signature(s) of Authorised person(s)
 M.Rama Chandra Murthy,
 Chartered Accountant,
 Flat No.303, Ashoka Scintilla,
 Opp. To KFC, Himayatnagar,
 Hyderabad-500 029

U.V.Pavan Kumar
 Advocate

**SUMMIT BUILDERS,
MG ROAD, SECUNDERABAD.**

Statement of facts:-

12/05 to 10/06/VAT

1. Appellant is a dealer engaged in the business of execution of works contracts and is an assessee on the rolls of the CTO, MG Road Circle, Hyderabad. As the appellant has been constructing and selling independent houses, apartments etc., it has opted to pay tax under Section 4 (7) (d) of the APVAT Act, 2005 (hereinafter referred to as Act) under composition scheme.
2. The DCTO, Begumpet passed assessment order dated 17.4.2007 for the tax period from December, 2005 to October, 2006 demanding output tax of Rs.73,757.
3. Subsequently, the learned Deputy Commissioner (CT), Begumpet Division (for short DC) issued revision notice under Section 32 (2) of the Act proposing to revise the said assessment order. In that notice, it has been proposed to levy tax on the alleged short reported works contract receipts turnover for the tax periods Decemebr'2005 to March'2006 and April'2006 to October'2006 based on the information stated to have been received from other State Government Departments of Andhra Pradesh. It is also proposed to demand tax on 4% and 12.5% taxable goods purchases from un registered sources.
4. Subsequently, the appellant has filed objections in two instalments.
5. However without properly considering the objections filed, the learned DC passed the revision order dated 31.3.2011.
6. Aggrieved by such revision order, appellant prefers this appeal on the following grounds, amongst others:-

Grounds of appeal:-

- a. The impugned revision order is highly illegal, arbitrary, unjustifiable and contrary to facts and law.
- b. Whereas the appellant is an assessee on the rolls of the CTO, MG Road Circle, the assessment order dated 17.4.2007 has been passed by the DCTO, Begumpet without any authorization. It has been held in the case of Sri Balaji Flour Mills Vs CTO, Chittor in a decision dated 30.12.10 by the Honourable High Court of A.P., that such assessments are unauthorized and illegal. It is therefore submitted that the assessment order passed by the DCTO itself is illegal and unauthorized.
- c. Appellant submits that the question of revising an illegal order does not arise. Law does not permit to revise an order, which is illegal. For this ground only, the impugned order is liable to be set aside.
- d. It is next submitted that the relevant Section 32 relating to revisional powers, reads as follows:-
"32. Revision by Commissioner & others prescribed authorities

- (1) The Commissioner may suo moto call for and examine the record of any order passed or proceeding recorded by any authority, officer or person subordinate to him under the provisions of the Act, including sub-section (2) and if such order or proceeding recorded is **prejudicial to the interests of revenue**, may make such enquiry, or cause such enquiry to be made and subject to the provisions of the Act, may initiate proceedings to revise, modify or set aside such order or proceeding and may pass such order in reference thereto as he thinks fit.
- (2) Powers of the nature referred to in sub-section (1) may also be exercised by the Additional Commissioner, Joint Commissioner, Deputy Commissioner and Assistant Commissioner in the case of orders passed or proceedings recorded by the authorities, officers or persons subordinate to them”
- e. The impugned revision order very much shows that the assessment order of the DCTO is not prejudicial to the interests of revenue. There is nothing to suggest in the present revision order that the order of the DCTO is prejudicial to the interests of revenue. In such circumstances, there is no case for making revision of that order. It is therefore submitted that the action of the learned DC under Section 32 (2) is unauthorized exercise of power. For this ground also the impugned order is liable to be set aside.
- f. **Levy of tax of Rs.45,954:-** In the revision show cause notice it is stated that appellant has received amounts on account of execution of works contracts to a tune of Rs.56,44,500/- and on account of car parking and service tax payments, an amount of Rs.10,73,384-00 totaling to Rs.67,17,884/- against which appellant has reported a turnover of Rs.21,22,500/- only for the period from **December'2005 to March'2006** resulting in short reporting of a turnover of Rs.45,95,384/-. Tax has been proposed on this amount @ 1%, which is not correct.
- g. Appellant has opted to pay tax @ 1% under composition under Sec.4 (7) (d) of the APVAT Act'2005. Hence the consideration received or receivable which relates to the sale of apartments, houses etc., is only taxable, but not the credits or installments or any other amounts like car parking and service tax payments received during that period. During the period from December'2005 to March'2006 Appellant has sold the independent houses and registered the same in favour of the prospective buyers, for an amount of Rs.30,05,000 with the Sub-Registrar's office and paid VAT @ 1% on the registration value which is the sale consideration received. Appellant has declared the said turnover in the monthly returns for the said periods (xerox copies of returns filed before the DC).
- h. Appellant has informed the DC in writing that it is not clear from the revision show cause notice where from the works contracts receipts turnover of Rs.56,44,500/- is extracted. Appellant has therefore


- requested the DC to kindly consider the turnover of Rs.30,05,000/- for the period from December'2005 to March'2006 and drop further action in the matter on this issue. It is further requested 'If it is proposed to proceed further on this issue we request to kindly furnish the break up for the figures adopted in the revision notice, to enable us to file effective objections in the matter.'
- i. However to the surprise of the appellant, the learned DC committed a grave error in not furnishing the break up and simply confirmed the proposal. The DC observed that certain information has been furnished to the appellant. Revisional authority is not a post master to just furnish the information received from the others. When a particular turnover is proposed in the revision notice, it is for the revisional authority to explain the break up and source of that turnover. As the DC failed to furnish the required information, the impugned levy is illegal and is in violation of principles of natural justice.
 - j. **Tax of Rs.68,860:-** In the revision notice, tax @ 3% was proposed on the purchases of sand, stone metal and bricks purchased from unregistered dealers and tax @ 11.5% on the purchases of goods taxable @ 12.5%. In fact there is no purchase tax, that has been provided in the Act. Further sand, stone metal and bricks are purchased from non VAT dealers to an extent of Rs.502356/-. All these non VAT purchased goods are used in the construction of Apartments on which appellant has opted for composition and paid tax @ 1% at the time of registration of the Apartments. As the goods are used in the construction, the property in these goods is already included in the value of the Apartments and hence the levy of tax on these non vat purchases is also not correct.
 - k. This tax has been levied under Section 4 (7) (e) of the Act. It is submitted that clause (e) is applicable only to a dealer, who has opted for composition under all the three clauses i.e., (b), (c) and (d) and it does not apply to a dealer, who opts under any one of the three clauses. The language of the clause is very clear and there is no possibility for second opinion. In this case, appellant has opted for composition only under clause (d) and hence the said clause (e) cannot be applied. For this ground alone, no tax is payable on the goods specified in clause (e).
 - l. Without prejudice to the above, appellant submits that even if for any reason the said clause (e) is made applicable, no tax need be paid at the higher rates because clause (e) is very clear in saying that under clause (e) tax is payable only at the rates applicable to those goods under the Act. In this case appellant has opted for composition under Section 4 (7) (d) of the Act. In respect of the goods used by the appellant in the execution of works contract, the rate of tax is 4% of 25% of the consideration received or receivable. Clause (e) says **THE RATE APPLICABLE UNDER THE ACT**. The rate applicable under

the Act is 4% of 25%. Clause (e) does not authorize collection of tax at the full rate of 4% or 12.5%, as there is no mention of 'Schedules to the Act' in that clause. For example in respect of 'lease tax', in Section 4 (8) of the Act, it is specifically mentioned 'at the rates specified in the Schedules'. As, such words do not find place in Section 4 (7) (e), it cannot be assumed that the rates in the Schedules have to be applied. It is settled law that there cannot be any presumption with reference to the charge to tax. Any ambiguity in the provision shall be interpreted in favour of the tax payer. It is also settled law that when there is possibility to apply two rates of tax on the same commodity, the least of the two has to be applied. It is therefore submitted that on mere presumption, higher rates of tax cannot be applied. There is no authorization in clause (e) to collect tax at the rates of 4% or 12.5% as the case may be. Further appellant has paid tax at the rate of 4% only under clause (d) and not at 1%. As appellant has already paid tax 4% on the same goods, the question of paying tax once again @ 4% does not arise. What has been reduced under clause (d) is only the quantum of turnover to 25% but the rate of tax of 4% has been retained. In the result no tax becomes payable either @ 4% or @ 12.5.

- m. The learned DC has simply avoided discussing any objections of the appellant, which would tantamount to admitting to them.
- n. It is therefore submitted that levy of tax under clause (e) is neither correct nor legal.
- o. **Tax of Rs.54,996:-** Similarly for the period from April'2006 to October'2006, the DC has adopted output turnover of Rs.2,65,19,128/- against the turnover of Rs.2,10,19,500/- reported in the monthly returns alleging short reporting of a turnover of Rs.54,99,628/-. Appellant has reported a turnover of Rs.2,10,19,500/- in the monthly returns for the tax periods April'06 to October'2006 and paid tax @ 1% along with the returns. The revision notice also shows Rs.2,10,19,500/- as the turnover reported in the returns in Form VAT 200 for the said periods. It is not clear from the revision notice where from the output turnover of Rs.2,65,19,128/- has been taken. Appellant has therefore requested to adopt the turnover of Rs.2,10,19,500/- only for the said periods and drop further action in the matter. Appellant has also stated 'If it is proposed to proceed further on this issue we request to kindly furnish the break up for the figures adopted in the revision notice.'
- p. However to the surprise of the appellant, the learned DC committed a grave error in not furnishing the break up and simply confirmed the proposal. The DC observed that certain information has been furnished to the appellant. Revisional authority is not a post master to just furnish the information received from the others. When a particular turnover is proposed in the revision notice, it is for the revisional authority to explain the break up and source of that

turnover. As the DC failed to furnish the required information, the impugned levy is illegal and is in violation of principles of natural justice.

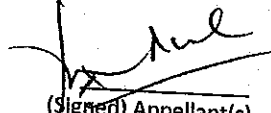
- q. **Tax of Rs.69,874:-** This amount of tax has been levied under Section 4 (7) (e) of the Act. All the grounds that are mentioned earlier on this issue may kindly be read as applicable to this tax amount also.
- r. It is submitted that levy of tax of Rs.1,14,814 for the period from December, 2005 to March, 2006 and Rs.1,24,870 for the period from April, 2006 to October, 2006 under the above heads in the so called revision is therefore not correct.
- s. For these grounds and the other grounds that may be urged at the time of hearing, appellant prays to set aside the impugned order as illegal and to allow the appeal.


(Signed) Appellant(s)

VERIFICATION

I, _____ of the appellant herein do hereby declare that the facts stated above are true and correct to the best of my knowledge and belief.

Verified today the 02nd day of May, 2011


(Signed) Appellant(s)

FORM APP 401
FORM OF APPEAL MEMORANDUM TO THE APPELLATE TRIBUNAL
[Under Section 33] [See Rule 44(1) (a)]

**In the Sales Tax Appellate Tribunal,
Andhra Pradesh.**
No..... of 2011....

M/s.Summit Builders, M.G. Road, SecunderabadAppellant (s)

Versus

State of Andhra Pradesh..... Respondent

1. Name, address and TIN/GRN
No. of the Dealer : M/s.Summit Builders
D.No.5-4-187/3 & 4, Soham Mansion
M.G. Road, Secunderabad
28790571789
2. Tax period / Tax periods : December'2005 to October'2006/VAT
3. Authority passing the original order
in dispute : Deputy Commercial Tax Officer,
Begumpet Division, Hyderabad
4. Appellate Deputy Commissioners of
Commercial Taxes passing the order under
Section _____ or the Deputy Commissioner
or Joint Commissioner (Commercial Taxes)
Legal, passing an order under Section _____ : Dy. Commissioner(CT)
Begumpet Division, Hyderabad
5. Date of Communication of the order now
appealed against. : 05/04/2011
6. Address to which notice may be sent
to the Appellant. :M. Ramachandra Murthy,
Chartered Accountant,
Flat No.303,Ashoka Scintilla,
D.no.3-6-520, Opp. KFC, Himayatnagar
Hyderabad
Tel.:040-30878935/36
7. Address to which notices may be
sent to the Respondent. : State Representative before the
A.P. Sales Tax Appellate Tribunal
Hyderabad.
8. Relief claimed in appeal
 - (a) Taxable turnover determined by the
assessing authority passing the
assessment order disputed. : NIL
 - (b) Taxable turnover confirmed by Appellate : NIL
Deputy Commissioner of Commercial
Taxes or by Deputy Commissioner or
Joint Commissioner (Commercial
Taxes) as the case may be.

(c) If taxable turnover is disputed

(i) Disputed taxable turnover

(ii) Tax due on the disputed taxable turnover

: NIL

: Rs.2,39,684/-

(d) If rate of tax is disputed

(i) Taxable turnover involved

(ii) Amount of tax

: NIL

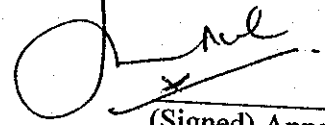
: NIL

e) Specify, if any, other relief claimed.

: Other grounds that may be urged at the time of hearing.

9 Grounds of appeal, etc.

: Separately enclosed



(Signed) Appellant(s)

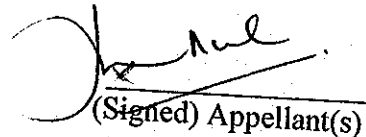
(Signed) Authorized representative, if any

VERIFICATION

I, SOHAM MODI

of the appellant(s) do hereby declare that what is stated above is true to the best of my / our knowledge and belief.

Verified today the 2nd day of May'2011



(Signed) Appellant(s)

(Signed) Authorized representative, if any

CTO-MG ROAD(BEGUMPET)

From: JC-COMPUTERS **Sent:** Tue 2/8/2011 1:40 PM
To: all_divisions; all_acs_ltu; all_ctos
Cc: Commissioner of Commercial Taxes; Addl.Commissioner (Policy); JC-AUDIT1; AC-COMPUTER
Subject: Amended Rule24 of APVAT Rules- ePayment-publicity
Attachments:

To
Deputy Commissioner(CT)s of All Divisions,

Sir/Madam,

I am to inform you that Government through GOMs No 1292 Rev(CT.II)Dept dated 14-10-2010 amended Rule24 of APVAT Rules2005 wef 01-10-2010.

As per the amended provisions, the tax declared to be due shall be paid by way of remittance into the treasury or by way of online payment through Internet website of the CT Department. In other words, the facility to pay monthly tax due through cheque/DD is withdrawn wef 01-10-2010 as per the amended Rules.

However, in view of the requests of the representatives of the dealers, the date of mandatory implementation of the said Rule was extended twice and till 31-01-2011.

But even now, representations are received by Commissioner(CT) from tax practitioners and some dealers that the withdrawal of the facility of payment of tax through cheque/DD is not known to all the dealers due to inadequate publicity at field level.

I am therefore directed by the Commissioner(CT) to inform you to make publicity through trade meetings and news items that payment will be accepted through ePayment or through treasury challan only as per latest amendment and this will be mandatory for all VAT/CST payments with effect from April 1, 2011.

Regards,

T.Ramesh Babu, B. Tech, MBA,
Joint Commissioner(CT) (Computers)
Commissioner(Commercial Taxes)
MJ Market Road, Nampally,
Hyderabad
Andhra Pradesh, PIN-500001
Phone:9140-24602171