

MODI & MODI CONSTRUCTIONS

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

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

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,

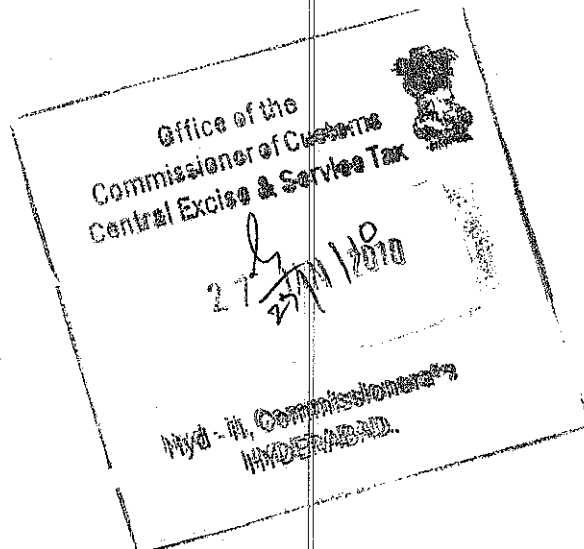
Ref.: Your summons dated 13.1.2010 vide letter no. HQST No.: 59/09 AE -IV
4.1.2010 for personal appearance at 11 am on 27.01.2010.

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 & Modi Constructions,


Soham Modi,
Managing Partner



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

Date: 18.01.2010.

Dear Sir,

Sub.: Request for furnishing of certain information.

Ref.: Notice for furnishing of furnishing of certain information, vide letter no. HQST
No. 59/2009 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.

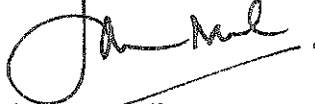
It is not possible to distinguish payments received from customers towards sale, construction agreement, VAT, stamp duty and other charges, etc., as payments are received from customers on an adhoc basis. In our books of accounts, we are debiting these costs periodically as and when due to the customer 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.

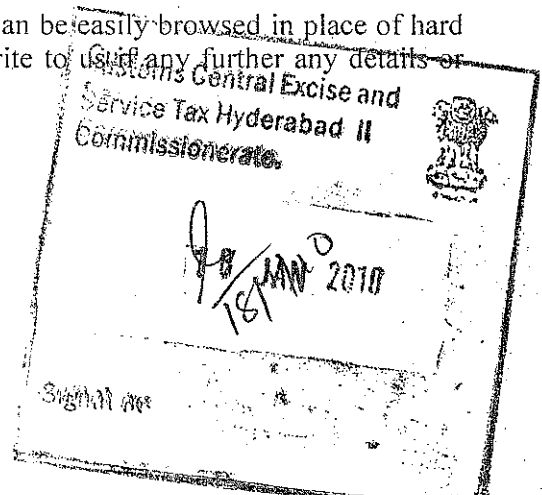
We have given all the above information on a CD which can be easily browsed in place of hard copies as the total no. of pages exceeds 5,500. Please write to us if any further any details or information is required.

Thank You.

Yours sincerely,
For MODI & MODI CONSTRUCTIONS,



Soham Modi,
Managing Partner



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

Date: 25.11.2009

Dear Sir / Madam,

Sub.: Statement of amounts received against sales made.

Ref.: 1. Notice for furnishing of records by the department, letter no. HQST No. 59/09 AE IV dated 6.11.09.

2. Our representation dated 18.11.2009

Mr. Shankar Reddy – Manger Admin had met you personally to discuss the details of documents to be produced as requested in reference 1 above. You have clarified that, at the moment a statement showing details of sale deeds executed along with construction contract executed pertaining to those sale deeds with details of receipts is required by the department. Details of service tax paid upto date should also be furnished.

Accordingly please find enclosed the following documents:

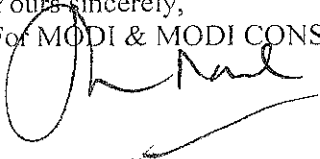
1. Statement of sale deeds executed.
2. Statement of construction contract pertaining to those sale deeds and the amounts received against the said construction contracts.
3. Details of service tax paid.
4. Copies of sale deed and construction contract of 3 customers.

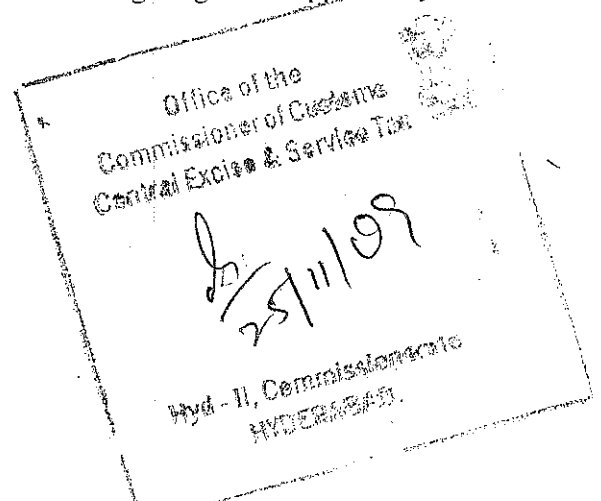
Balance sheets, trial balance and bank statements can be produced upon request. Copies of ST3 returns and challans can also be produced upon request. Please write to us if any further information and documents are required.

We have been regularly paying service tax to the department until the circular no. 108/2/2008 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 & MODI CONSTRUCTIONS,


Soham Modi.



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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/123 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 8.07.2009.

5. Notice for furnishing of records by the department, letter no. HQST No. 59/2009 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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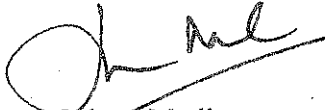
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We have been regularly paying service tax to the department until the said circular was issued. Because of the circular and its ambiguous wording, our customers have refused to pay service tax. In light of the above, we request you to not to take any 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 & Modi Constructions,


Soham Modi.

GUANO

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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 21.02.2009

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 & MODI CONSTRUCTIONS,


Soham Modi.

Office of the
Commissioner of Customs
Central Excise & Service Tax

13/3/09

Hyd - II; Commissionerate
HYDERABAD.

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

Date: 09.02.2009

To,
Mr. R. L. Ramesh Ram,
Assistant Commissioner,
Service Tax – Anti Evasion.

Dear Sir,

Sub.: Submission of details as per schedule – reg.

Ref.: Your letter no. HQST NO.15/2009 ST AE dated. 27.01.2009.

With reference to the above, we request your good selves to grant two more days' time i.e. upto 11.02.09 to submit all documents which mentioned schedule in summon vide no HQST NO.15/2009 ST AE dated 27.01.09 as we are in taking of legal opinion from service tax experts with reference to circular no. 108/02/09 of CBEC. Which says "Sale of property won't come under purview of service tax's.

Please do the needful and oblige.

Thanking you,

For Modi & Modi Constructions.


Authorised Signatory.

