



PAYABLE AT PAR AT ALL BRANCHES OF HDFC BANK LTD

Preferred
Date 31/3/07

PAY C.T.O m.b. Road circle

OR BEARER

RUPEES Two lakhs twenty five thousand
five hundred only

Rs. 2,25,500=00

A/c No. 0422000011257

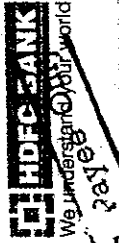
CA

For MEHTA AND MODI HOMES

HDFC BANK LTD.
Usha Kiran Complex, S.D.Road,
Secunderabad - 500 003, Andhra Pradesh.
RTGS / NEFT IFSC : HDFC0000042

Authorised Signatories

⑈842452⑈ 500240003⑈ 433699⑈ 29



Prefered
Date 15/2/07

A/c. PAY C TO MG Road Secunderabad. OR BEARER

RUPEES two lakhs sixteen thousand
seven hundred and twenty three only.

Rs. 2 16 773/-

A/c No. 0422000011257 CA
HDFC BANK LTD.
Usha Kiran Complex, S.D.Road,
Secunderabad - 500 003, Andhra Pradesh.
RTGS / NEFT IFSC : HDFC0000042

FOR MEHTA AND MODI HOMES
[Signature]

Authorised Signatories

⑈806888⑈ 500240003⑈ 133699⑈ 11

Securitas eForms Pvt. - Chennai

HDFC BANK
We understand your world

Preferred
Date: 05/10/06

PAY C.T.O M.G. Road circle, Secunderabad OR BEARER

RUPEES one lakh seventy one thousand
one hundred and thirty six only

Rs. 1,71,136=00

A/c No. 0422000011257

CA

HDFC BANK LTD.
Usha Kiran Complex, S.D.Road,
Secunderabad - 500 003, Andhra Pradesh.

RTGS / NEFT IFSC : HDFC0000042

Praveen Kumar

For MEHTA AND MODI HOMES
John Modi
Authorised Signatories

⑆66484⑆ 500240005⑆ 133699⑆ 1⑆

Advance Ruling No : PMT/P&L/A.R.Com/ 80/ 2006
 Date : 30/07/2006
 Subject : Execution of sale deed
 Council for the Petitioner / Appellant : M/s Maytas Hill Country Pvt.Ltd., Amogh Plaza, Begumpet, Hyderabad.

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.

o/c

MEHTA & MODI HOMES

5-4-187/3 & 4, III Floor, M.G. Road, SECUNDERABAD – 500 003.
① 55335551 (4 Lines) Fax: 040-27544058

Date: 11th April 2012

To
The Deputy Commissioner (CT),
Begumpet Division,
Hyderabad.

Dear Sir,

Sub: APVAT Act'2005 - M/s. Mehta & Modi Homes, Secunderabad –
assessment for the tax period 01/09/2006 to 28/02/2007 – under APVAT
Act – Completed by the Commercial Tax Officer (Audit), Begumpet
Division – Certain discrepancies noticed – Revision of Assessment under
Section 32(2) of APVAT Act'2005 – proposed – Show Cause notice
issued - objections called for –Filed – Personal hearing notice issued –
Reg.

Ref: 1. Revision show cause notice dated 24.1.2012 from 9/06 to 2/07-VAT
2. Our Letter dated 27th March 2012

In continuation of the objections filed earlier, we make the following submissions for
kind consideration:-

Section 4 (7) (d) of the Act read as follows during the relevant time:

“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 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;”

It may kindly be seen from the above that it is just sufficient to pay tax under clause (d) if
the dealer is engaged in construction and selling of houses etc.. No other condition has
been specified. Such dealer who is engaged in the construction and selling of houses has
to pay tax @ 4% on 25% of the specified consideration. In our case, the mother
agreement amply proves that we did construction and sale of independent houses. All
other activity subsequent to the agreement is to comply with the conditions of
agreement. Subsequent registration of land, construction and handing over etc., are only
to comply with the agreement of constructing and selling the independent house. If there
is no such agreement, it would have been a different case. Hence we are perfectly
covered by Section 4 (7) (d) of the Act.

✓

MEHTA & MODI HOMES

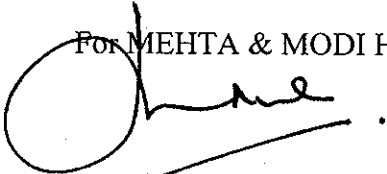
5-4-187/3 & 4, III Floor, M.G. Road, SECUNDERABAD – 500 003.
① 55335551 (4 Lines) Fax: 040-27544058

Without prejudice to the above, we may also invite your kind attention to Government Memo No.33263/CT.II (1) /2010-5, dated 17.6.2011 through which directions were issued to the effect that the builders, who are not registered with the Department and who have not opted for composition of tax under Section 4 (7) (d) of the Act can pay tax of 1% only. Hence clause (d) is specifically applicable to 'BUILDERS'. We are undoubtedly a builder. When the unregistered builder, who is not on the rolls of the Department and who has not opted to pay tax by filing form VAT 250 is permitted by Government without any hair splitting to pay tax @ 1% on the consideration, it would be highly discriminatory and unjustifiable to hair split and propose to raise huge demand. In fact registered dealers must receive better benefit from the Department and not in the nature of huge demands. Equity and justice demand that the present proposal must be dropped. We therefore request to kindly drop the proposal.

Thank You.

Yours sincerely,

For MEHTA & MODI HOMES



Soham Modi
Managing Partner



MEHTA & MODI HOMES

5-4-187/3 & 4, IInd Floor, Soham Mansion, M.G. Road, Secunderabad – 500003
Phone: +91-40-66335551, Fax: 040-27544058

To,
The Deputy Commissioner (CT),
Begumpet Division,
Hyderabad.

Date: 02.03.2012

Dear Sir,

Sub: Written objections against revised show cause notice issued to us
Dtd. 24.01.2012 – Reg.

Ref: 1. your show cause notice no: Rc.No.E3/R/219/2011 dated 24.01.2012
2. CTO (Audit), Begumpet Division Form VAT 305 dtd. 29-04-2008 for the tax
Period 01-09-06 to 28-02-2007.

We, M/s. Mehta & Modi Homes, H.No. 5-4-187/3 &4, IInd floor, M.G. Road, Secunderbad are registered dealer of works contract under APVAT act with TIN No. 28840298894 and opted for composition as per section 4(7) (d) of APVAT Act 2005.

With reference to the above, notice issued by you is invalid and injustice as you charged tax amount of Rs. 27, 46,805 U/s. 4(7) (c).

We would like bring your notice that we have registered U/s. 4(7) (d) and we have been paying the VAT under composition @1%; hence your notice is invalid.

The vigilance & enforcement officials visited our site (office) on 10.12.2008 and verified all records and we have cooperated fully for their verification.

On examination they made an objection that sand, metal, bricks and hardware material purchased from unregistered dealers which are liable to tax under section 4(7)(e) of APVAT Act 2005 and we have not declared and not paid tax to the department accordingly. For the above objection to kindly consider on the following grounds.

DCTO (Audit) of Begumpet division audited our records and accordingly CTO of (Audit), Begumpet had passed an order to pay Rs.41, 000/- on unregistered purchases and we paid it off.

Further we submit that sec-4(7) (d) of the APVAT Act reads as under.

“Any dealer engaged in construction and selling of residential apartments, houses or commercial complexes may opt to pay tax by way of composition at the rate 4% of twenty five percent (25%) of the consideration received or receivable on the market value fixed for the purpose of stamp duty whichever is higher subject to such conditions as may be prescribed.....”



MEHTA & MODI HOMES

5-4-187/3 & 4, IInd Floor, Soham Mansion, M.G. Road, Secunderabad – 500003

Phone: +91-40-66335551, Fax: 040-27544058

As per the above clause, a dealer engaged in construction and sale of apartment, houses etc. is liable to pay tax@4% of 25% of the consideration received or receivable on the market value fixed for the purpose of stamp duty whichever is higher

We submit that every hardware material was purchased from VAT Dealers on which we already paid tax. Infact there is no purchase tax that has been provided in the Act. Further we submit that sand, stone, metal and bricks were purchased from non VAT dealers and all these non VAT purchases or used in the constructions of houses on which we have opted for composition and paid tax@1% under composition scheme of APVAT Act 2005. As the goods are used in the constructions the property in these goods is already included in the value of houses and hence the levy of tax on these non VAT purchases is also not correct.

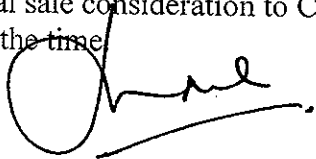
You have raised a question that whether the dealer is liable to tax4% on 25% on receipts under section 4(7)(d) or liable to tax 4% on all receipts under section4(7)(c) of APVAT Act-2005. In this connection the Advance Ruling issued by the authority and Advance Ruling of the commercial tax department in the case of M/s. Maytas hill country Pvt. Ltd., Begumpet, Hyderabad to be persuaded

Here we submit that the department clarified that “ 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 any stages.

In our case initially we enter into an agreement of sale with the prospective customer and this is legal document which consists full total sale consideration of the villa and we have been paying 4% of 25% of total consideration basing on this agreement of sale. We neither excluding the land value nor paying 4% of 25% towards construction cost as per construction agreement.

In the same M/s. Maytas hill country Pvt. Ltd., Begumpet, Hyderabad case the department clearly said that “ 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 at the time of execution of sale deed before sub-registrar as prescribed in clause (1) of sub rule (4) of Rule 17 of APVAT rules 2005”.

The above clarification from the department clearly says that the initial agreement of sale which discloses total sale consideration and on this the applicant can pay 1% of tax of total sale consideration to CTO/Asst. Commissioner and we have been doing the same for all the time



MEHTA & MODI HOMES

5-4-187/3 & 4, IInd Floor, Soham Mansion, M.G. Road, Secunderabad – 500003

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If any builder or developer completed as house/houses in all aspects and they were ready to occupy by the prospective customer by executing a single sale deed with registration here no tax payable as sale of house is being immovable property.

In M/s. Kashi Kanchan, Tirumalgiri case the department has given one more clarification that the provisions of composition under clause (d) of sub section (7) of section 4 of APVAT Act 2005 are applicable only in respect of builders and developers who have right to sell such constructed apartments, houses, buildings or commercial complexes. The tax rate of 4% of 25% of the consideration received is specifically linked to consideration 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 building 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.

In the above clarification it clearly applicable for us that we are very much builders and developers and have a right to sell the property and we very much deserved to opt composition under clause (d) of sub section(7) of section 4 of APVAT Act. 2005

For your kind information, I want to remind you one clarification that previous Deputy Commissioner, Begumpet wrote a letter to the Commissioner of Commercial Taxes in this regard but the clarification is still pending with the Commissioner.

We therefore request you to drop show cause notice issued to us as matter has been discussed in length and clarified as above.

Thanking you,

Yours truly,

For MEHTA & MODI HOMES

Authorised Signatory

- CC to: 1. CTO (Audit), Begumpet.
2. Additional Commissioner (CT)
3. Commissioner (CT)

MEHTA & MODI HOMES

5-4-187/3 & 4, IInd Floor, Soham Mansion, M.G. Road, Secunderabad – 500003

Phone: +91-40-66335551, Fax: 040-27544058

Date: 05.03.2012

To,
The Dy. Commissioner (CT),
Begumpet Division,
Hyderabad.

Dear Sir,

Sub: APVAT Act'2005 - M/s. Mehta & Modi Homes, Secunderabad – Assessment for the tax period 01/09/2006 to 28/02/2007 – under APVAT Act – Completed by the Commercial Tax Officer (Audit), Begumpet Division – Certain discrepancies noticed – Revision of Assessment under Section 32(2) of APVAT Act'2005 – proposed – Show Cause notice issued - objections called for –Filed – Personal hearing notice issued – Reg.

Ref 1) DC(CT), Begumpet Division notice for personal hearing in R.C.No.E3/R/219/2011 dated 03/03/2012.


We submit that we are in receipt of the notice for personal hearing for the revision of assessment for the period from 01/09/2006 to 28/02/2007 on 09/03/2012 at 11.30 A.M.

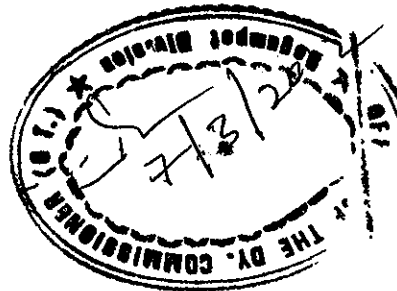
We submit that Sri Shankar Reddy, GM-HR & Admin., who is in charge of the accounts and finance has recently resigned our organization and a new person has recently joined to look after the accounts and finance its take time for verification of the records and the accounts by the new person.

We therefore request you to kindly grant time upto 22/03/2012 for filling the objections and also for personal hearing.

Kindly do the needful and oblige.

for MEHTA & MODI HOMES


Authorized Signatory



MEHTA & MODI HOMES

5-4-187/3 & 4, II Floor, Soham Mansion, M.G. Road, Secunderabad - 500 003.
Phone : +91-40-66335551, Fax :

To,
Dy. Commissioner (CT),
Begumpet Division,
Hyderabad.

Date: 27th March 2012

Sir,

Sub: APVAT Act'2005 - M/s. Mehta & Modi Homes, Secunderabad - Revision of Assessment for the tax period 01/09/2006 to 28/02/2007 - Show cause notice issued - Objections filed - Personal hearing notice issued - Reply submitted - Reg.

- Ref: 1) CTO (Audit), Begumpet Division Form VAT 305 dated 29/04/2008 for the tax period 01/09/2006 to 28/02/2007.
2) DC (CT), Begumpet Division, revision show cause notice in RC.No.E3/R/219/2011 dated 24/01/2012.
3) Our reply dated 02/03/2012.
4) Notice for personal hearing dated 03/03/2012.

We submit that we are in receipt of the revision show cause notice dated 24/01/2012 proposing to revise the assessment order passed by CTO, (Audit), Begumpet Division for the tax period 01/09/2006 to 28/02/2007 under Sec.32 (2) of the APVAT Act, 2005. We have submitted our written objections to the said revision show cause notice through our letter dated 02/03/2012 with a request you to drop the revision proposal.

We are given the notice of personal hearing dated 03/03/2012 requesting us to appear on 09/03/2012 to which we have requested time up to 22/03/2012. As our GM-HR & Admin who is in charge of the accounts and finance has recently resigned our organization and a new person has recently joined to look after the accounts and finance, we have requested time for verification of the records and the accounts by the new person upto 28/03/2012 in our letter dated 22/03/2012. We request to kindly consider our further objections on the following grounds:-

We submit that we are engaged in the business of construction and selling of independent Bungalows at Charlapalli, Ghatkesar Mandal, R.R. District and opted for payment of tax @ 1% under composition under Sec. 4(7) (d) of the APVAT Act. We have declared the turnover relating to construction and sale of flats in the monthly VAT returns and paid the tax on the amounts received from the customers @ 1%. The CTO, Audit, Begumpet Division has passed assessment order dt.29/04/2008 for the tax period 01/09/2006 to 28/02/2007 proposing tax @ 4% on the receipts / receivables under Sec.4(7)© of the APVAT Act. On the consideration of the objections filed by us and based on the clarification given by the

MEHTA & MODI HOMES

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

Phone : +91-40-66335551, Fax :

Advance Ruling Committee in the case of M/s. Maytas Hills Country Pvt. Ltd., vide CCT Ref. No. PMT/P&L/A.R.Com 180/2006 dated 30/07/2006 the CTO passed the order stating that the payment of tax by us @ 1% under Sec. 4 (7)(d) is in order.

In the revision notice it is alleged that we execute a sale deed for sale of land and later we enter into two separate contracts for development of plot and for construction of bungalow. Based on the Advance Ruling issued in the case of Maytas Hill Company Pvt. Ltd., Begumpet dated 30/07/2006 it was stated that we are not eligible to opt to pay tax @ 4% of 25% consideration received towards construction cost by excluding cost of land though it could be registered separately at any stage. It is further stated that this clarification matches with the transactions of our company and hence the transactions of development and construction of bungalow fall under category of execution of civil works contract and proposed to tax @ 4% on receipts under Sec.4 (7) © of the APVAT Act.

We submit that our transactions are totally misconceived and misunderstood by your good self. We submit that in the course of our business we in the first instance enter into agreement with our prospective buyers for sale of independent Bungalows of similar size, similar elevation, same colour scheme etc., along with certain amenities. The agreement of sale consists of the consideration received through sale of land, development charges of land and cost of construction of the bungalow. We have paid VAT @ 1% on the total consideration received from these three components of the agreement. In the Advance Ruling in the case of Maytas dated 30/07/2006 the ruling is given as under:-

- 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 cast 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 APVAT Rules,2005.

At page 3 of the present notice the following para is included as part of the above Advance Ruling:

MEHTA & MODI HOMES

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

Phone : +91-40-66335551, Fax :

"The applicant shall not be eligible for composition under Sec. 4(7)(d) to pay tax @ 4% on 25% on the total consideration."

In fact this sentence does not form part of the above Advance Ruling.

From the above Ruling it is quite clear that if the property is registered only as a land through a sale deed 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 the initial agreement of sale. We submit that we enter into agreement of sale with our prospective buyers where in the sale value of land, development charges of land for laying of roads, drains, parks etc., and cost of construction are mentioned in this single document of sale agreement. Even though we enter into agreement for construction and agreement for development charges subsequently the amount mentioned in these two agreements are already shown in the original agreement of sale and we have paid VAT @ 1% on the total consideration received as per the original agreement of sale. Thus the payment of tax @ 1% by us is as per the provisions of Section 4(7) (d) which is also accepted by the assessing authority.

We submit that the Advance Ruling Authority in the above ruling without any ambiguity has clearly given the ruling that VAT has to be paid @ 1% on the total consideration received as per initial agreement of sale originally agreed upon whether in separate portions for land and construction cost.


We submit that the said ruling is binding on all the officers under Section 67 (4) (iii) of the Act. We are therefore eligible for payment of tax @ 1% on the total consideration as per the mother agreement.

The observation made in the revision notice that the clarification given in the Advance Ruling cited above that in the event a piece of land belonging to the applicant is sold to the customer through a sale deed and then through a separate construction agreement matches with our transactions is not at all correct. It is a factual error. Hence the proposal made in the revision show cause notice that our turnover is liable to tax @ 4% on all the receipts under Sec. 4 (7) © of the said Act may kindly be dropped.

We therefore request you to kindly drop the proposal to levy tax under Section 4 (7) (c) of the Act and on the part of the total consideration agreed. We also request to provide us an opportunity of personal hearing to substantiate our contentions.

Thanking you,

Yours faithfully
for MEHTA & MODI HOMES


Authorised Signatory



MEHTA & MODI HOMES

5-4-187/3 & 4, IInd Floor, Soham Mansion, M.G. Road, Secunderabad – 500003
Phone: +91-40-66335551, Fax: 040-27544058

To,
The Deputy Commissioner (CT),
Begumpet Division,
Hyderabad.

Date: 02.03.2012

Dear Sir,

Sub: Written objections against revised show cause notice issued to us
Dtd. 24.01.2012 – Reg.

Ref: 1. your show cause notice no: Rc.No.E3/R/219/2011 dated 24.01.2012
2. CTO (Audit), Begumpet Division Form VAT 305 dtd. 29-04-2008 for the tax
Period 01-09-06 to 28-02-2007.

We, **M/s. Mehta & Modi Homes**, H.No. 5-4-187/3 & 4, IInd floor, M.G. Road, Secunderbad are registered dealer of works contract under APVAT act with TIN No. 28840298894 and opted for composition as per section 4(7) (d) of APVAT Act 2005.

With reference to the above, notice issued by you is invalid and injustice as you charged tax amount of Rs. 27, 46,805 U/s. 4(7) (c).

We would like bring your notice that we have registered U/s. 4(7) (d) and we have been paying the VAT under composition @1%; hence your notice is invalid.

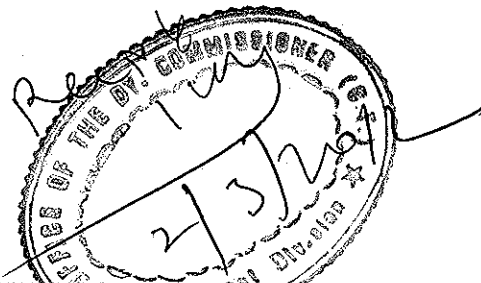
The vigilance & enforcement officials visited our site (office) on 10.12.2008 and verified all records and we have cooperated fully for their verification.

On examination they made an objection that sand, metal, bricks and hardware material purchased from unregistered dealers which are liable to tax under section 4(7)(e) of APVAT Act 2005 and we have not declared and not paid tax to the department accordingly. For the above objection to kindly consider on the following grounds.

DCTO (Audit) of Begumpet division audited our records and accordingly CTO of (Audit), Begumpet had passed an order to pay Rs.41, 000/- on unregistered purchases and we paid it off.

Further we submit that sec-4(7) (d) of the APVAT Act reads as under.

“Any dealer engaged in construction and selling of residential apartments, houses or commercial complexes may opt to pay tax by way of composition at the rate 4% of twenty five percent (25%) of the consideration received or receivable on the market value fixed for the purpose of stamp duty whichever is higher subject to such conditions as may be prescribed.....”



MEHTA & MODI HOMES

5-4-187/3 & 4, IInd Floor, Soham Mansion, M.G. Road, Secunderabad – 500003

Phone: +91-40-66335551, Fax: 040-27544058

As per the above clause, a dealer engaged in construction and sale of apartment, houses etc. is liable to pay tax@4% of 25% of the consideration received or receivable on the market value fixed for the purpose of stamp duty whichever is higher

We submit that every hardware material was purchased from VAT Dealers on which we already paid tax. Infact there is no purchase tax that has been provided in the Act. Further we submit that sand, stone, metal and bricks were purchased from non VAT dealers and all these non VAT purchases or used in the constructions of houses on which we have opted for composition and paid tax@1% under composition scheme of APVAT Act 2005. As the goods are used in the constructions the property in these goods is already included in the value of houses and hence the levy of tax on these non VAT purchases is also not correct.

You have raised a question that whether the dealer is liable to tax4% on 25% on receipts under section 4(7)(d) or liable to tax 4% on all receipts under section4(7)(c) of APVAT Act-2005. In this connection the Advance Ruling issued by the authority and Advance Ruling of the commercial tax department in the case of M/s. Maytas hill country Pvt. Ltd., Begumpet, Hyderabad to be persuaded

Here we submit that the department clarified that “ 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 any stages.

In our case initially we enter into an agreement of sale with the prospective customer and this is legal document which consists full total sale consideration of the villa and we have been paying 4% of 25% of total consideration basing on this agreement of sale. We neither excluding the land value nor paying 4% of 25% towards construction cost as per construction agreement.

In the same M/s. Maytas hill country Pvt. Ltd., Begumpet, Hyderabad case the department clearly said that “ 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 at the time of execution of sale deed before sub-registrar as prescribed in clause (1) of sub rule (4) of Rule 17 of APVAT rules 2005”.

The above clarification from the department clearly says that the initial agreement of sale which discloses total sale consideration and on this the applicant can pay 1% of tax of total sale consideration to CTO/Asst. Commissioner and we have been doing the same for all the time.



MEHTA & MODI HOMES

5-4-187/3 & 4, IInd Floor, Soham Mansion, M.G. Road, Secunderabad – 500003

Phone: +91-40-66335551, Fax: 040-27544058

If any builder or developer completed as house/houses in all aspects and they were ready to occupy by the prospective customer by executing a single sale deed with registration here no tax payable as sale of house is being immovable property.

In M/s. Kashi Kanchan, Tirumalgiri case the department has given one more clarification that the provisions of composition under clause (d) of sub section (7) of section 4 of APVAT Act 2005 are applicable only in respect of builders and developers who have right to sell such constructed apartments, houses, buildings or commercial complexes. The tax rate of 4% of 25% of the consideration received is specifically linked to consideration 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 building 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.

In the above clarification it clearly applicable for us that we are very much builders and developers and have a right to sell the property and we very much deserved to opt composition under clause (d) of sub section(7) of section 4 of APVAT Act. 2005

For your kind information, I want to remind you one clarification that previous Deputy Commissioner, Begumpet wrote a letter to the Commissioner of Commercial Taxes in this regard but the clarification is still pending with the Commissioner.

We therefore request you to drop show cause notice issued to us as matter has been discussed in length and clarified as above.

Thanking you,

Yours truly,

For MEHTA & MODI HOMES

Authorised Signatory

- CC to: 1. CTO (Audit), Begumpet.
2. Additional Commissioner (CT)
3. Commissioner (CT)

MEHTA & MODI HOMES

5-4-187/3 & 4, IInd Floor, Soham Mansion, M.G. Road, Secunderabad – 500003
Phone: +91-40-66335551, Fax: 040-27544058

Date: 05.03.2012

To,
The Dy. Commissioner (CT),
Begumpet Division,
Hyderabad.

Dear Sir,

Sub: APVAT Act'2005 - M/s. Mehta & Modi Homes, Secunderabad –
Assessment for the tax period 01/09/2006 to 28/02/2007 – under APVAT
Act – Completed by the Commercial Tax Officer (Audit), Begumpet
Division – Certain discrepancies noticed – Revision of Assessment under
Section 32(2) of APVAT Act'2005 – proposed – Show Cause notice
issued - objections called for – Filed – Personal hearing notice issued –
Reg.

Ref 1) DC(CT), Begumpet Division notice for personal hearing in
R.C.No.E3/R/219/2011 dated 03/03/2012.

We submit that we are in receipt of the notice for personal hearing for the revision of
assessment for the period from 01/09/2006 to 28/02/2007 on 09/03/2012 at 11.30 A.M.

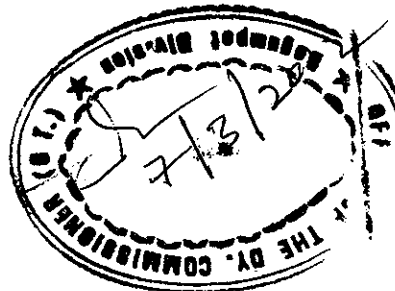
We submit that Sri Shankar Reddy, GM-HR & Admin., who is in charge of the accounts
and finance has recently resigned our organization and a new person has recently joined
to look after the accounts and finance its take time for verification of the records and the
accounts by the new person.

We therefore request you to kindly grant time upto 22/03/2012 for filling the objections
and also for personal hearing.

Kindly do the needful and oblige.

for MEHTA & MODI HOMES


Authorised Signatory



GOVERNMENT OF ANDHRA PRADESH
COMMERCIAL TAXES DEPARTMENT

Office of the
Deputy Commissioner(CT),
Begumpet Division, Hyderabad.

Rc.No.E3/R/219/2011 Dt.02-03-2012.

NOTICE FOR PERSONAL HEARING UNDER APVAT ACT FOR THE TAX
PERIOD 01-09-2006 to 28-02-2007.

Sub:- AP VAT Act, 2005 - M/s.Mehta & Modi Homes, Sec'bad
- Assessment for the tax period 01-09-2006 to 28-02-2007
under AP VAT Act - Completed by the Commercial Tax
Officer(Audit), Begumpet Division - Certain discrepancies
noticed - Revision of Assessment under Section 32(2) of
AP VAT Act, 2005 proposed - Show Cause Notice issued
- Objections called for - Filed - Personal hearing notice
issued - Regarding.

Ref:- 1).CTO (Audit), Begumpet Division Form VAT 305
Dt.29-04-2008 for the tax period 01-09-06 to 28-02-07.
2).DC(CT), Begumpet Revision Show Cause Notice in
Rc.No.E3/R/219/2011 Dt.24-01-2012.
3).Dealers reply Dt.02-03-2012.

M/s.Mehta & Modi Homes, H.No.5-4-187, M.G.Road,
Secunderabad are registered dealers under the AP VAT Act with TIN
28840298894 and assesseees on the rolls of Commercial Tax Officer, M.G.Road
Circle and engaged in execution of works contract under APVAT Act 2005.

The Firm was audited and assessed by the Commercial Tax
Officer (Audit), Begumpet Division for the period 01-09-2006 to 28-02-2007
in Form VAT 305 Dt.29-04-2008 in the reference 1st cited accepting the tax
paid by the dealer @ 1% on the contractual receipts as per Section 4(7)(d) of
AP VAT Act, 2005.

On perusal of the Assessment Record with reference to
Assessment Order revealed the following which is found to be prejudicial to
the interest of State Revenue.

M/s.Mehta & Modi Homes, Secunderabad are constructing
Independent Bungalows at Charlapalli, Ghatkesar Mandal, Ranga Reddy
District. The Vigilance & Enforcement Officials visited the said work site on
10-12-2008 and obtained details of the entire construction work of the dealer
and sent the record to the Commercial Tax Officer, M.G.Road.

On examination of the record it is noticed that the Company is registered under AP VAT Act Bearing TIN No.28840298894 and have opted to pay tax under Composition Scheme @ 4% on 25% of receipts under Section 4(7)(d) of AP VAT Act, 2005.

It is noticed that they have purchased Sand, Metal, Bricks and hardware material from unregistered dealers which are liable to tax under Section 4(7)(e) of AP VAT Act 2005 but, they have not declared and paid tax to the Department accordingly.

Further it is noticed that as per the agreement of sale, they have entered into contract with the prospective buyers, initially executing sale deed for sale of land later the contractor is entering into two separate contracts for development of plot and for construction of bungalow (building).

The question arose in this case is whether the dealer is liable to tax @ 4% on 25% on receipts under Section 4(7)(d) or liable to tax @ 4% on all receipts under Section 4(7)(c) of AP VAT Act, 2005.

In this connection, the Advance Ruling issued by Authority for clarification and Advance Ruling of the Commercial Taxes Department in the case of M/s.Maytas Hill Country Pvt Ltd., Begumpet, Hyderabad Dt.30-07-2006 has been perused. As per this Advance Ruling in the event 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. 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, 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. This clarification matches with the transactions of the Company, as the Company sold plots and executed sale deed and later entered into two contracts, one for development of the plot and the other for construction of bungalow (building). Of these transactions, transaction of sale of plot being immovable property, not liable to VAT but the transactions of development and construction of bungalow fall under category of execution of civil works contract and are liable to VAT @ 4% on receipts under Section 4(7)(c) of AP VAT Act, 2005.

Whereas, the Commercial Tax Officer (Audit), Begumpet Division assessed the dealer under Rule 25(5) of AP VAT Act, 2005 Dt.29-04-2008 for the period from 01-09-2006 to 28-02-2007 treating the transactions of the dealer attract tax @ 4% on 25% receipts under Section 4(7)(d) of AP VAT Act, 2005, keeping in view the case of M/s.Maytas Hill Country (P) Ltd. (CCT's PMT P&L/AR/Com/80/2006, Dt.30-07-2006) without his findings as to how he came to conclusion that the transactions of the Company attracts tax under Section 4(7)(d) of AP VAT Act, 2005. The issue is discussed in length as under.

As per the documents furnished by the contractor, the contractor has entered into an agreement of sale with the customers for sale of plot, execution of works contract for developing the plot by laying roads, drainage lines, park etc., and for construction of bungalow. The contractor has collected separate amounts for sale of land, for development of plot and for construction of building. Though a single document is executed as agreement of sale, the actual transactions cannot be combined and are separate.

For the purpose of VAT, the sale of plot being immovable is not liable to tax and the transactions of development of plot and construction of building fall under works contract and liable to VAT under Section 4(7) of AP VAT Act, 2005. The transactions of the contractor are similar to second category of situations mentioned in the Advance Ruling in the case of M/s.Maytas Hill Country (P) Ltd.

Second category reads as under:

“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.

The applicant shall not be eligible for composition under Section 4(7)(d) to pay tax @ 4% on 25% on the total consideration”.

Similarly in this case of the contractor also sold plots to the customers and entered into two separate covenants, one for development of plot and the other for construction of building, the contractor is not eligible to opt to pay tax @ 4% of 25% receipts.

In view of the above, the turnover of the contractor is liable to tax @ 4% on all the receipts under Section 4(7)(c) of AP VAT Act, 2005. As per the information available, the contractor has received consideration from customers from September, 2005 to September, 2008 amounting to Rs.33,39,68,836-00 (inclusive of plots sale).

Further it is revealed that the contractor has purchased Sand, Metal, Granites and Bricks from unregistered dealers and they have not paid tax under Section 4(7)(e) of AP VAT Act, 2005.

In view of the above the Assessment Order under AP VAT Act for the period 01-09-2006 to 28-02-2007 passed by the Commercial Tax Officer (Audit) is set a side and it is proposed to revise the Assessment of the contractor.

For the above facts and reasons, in exercise of the powers conferred under Section 32(2) of the AP VAT Act, 2005 the Assessment of the dealers for the tax period 01-09-2006 to 28-02-2007 under AP VAT Act is proposed to be revised as detailed hereunder.

Year wise breakup of turnovers:

<u>Year</u>	<u>Amount</u>
2005-06	Rs. 5,43,50,247-00
2006-07	Rs. 4,26,93,214-00

Computation of taxable turnovers and taxes:

2005-06:

Receipts	Rs.5,42,50,247-00
VAT @ 4%	Rs. 21,74,009-00
Less VAT Paid	NIL
Diff VAT	Rs. 21,74,009-00

2006-07:

Receipts	Rs.4,26,93,219-00
VAT @ 4%	Rs. 17,07,728-00
Less VAT Paid	Rs. 11,34,932-00
Diff VAT	Rs. 5,72,796-00

Total Tax Payable Rs. 27,46,805-00

Accordingly a Show Cause Notice to revise the Assessment was issued on 24-01-2012 and the dealer filed his reply on 02-03-2012

Therefore, M/s.Mehta & Modi Homes, Secunderabad are hereby informed that they should attend for personal hearing to represent their case either in person or through their authorized representative at 11.30 A.M. on 09-03-2012 along with the relevant record and documentary evidence if any.

Deputy Commissioner(CT),
Begumpet Division, Hyderabad.

To

M/s.Mehta & Modi Homes, H.No.5-4-187, M.G.Road, Secunderabad (Through the Commercial Tax Officer, M.G.Road Circle for service).

3/3/2012

Handwritten signature

From,
M/s. Mehta & Modi Homes,
5-4-187/3 & 4, IInd Floor,
Soham Mansion, M.G. Road,
Secunderabad.

To,
The Dy. Commissioner (CT),
Begumpet Division,
Hyderabad.

Dear Sir,

Sub: APVAT Act'2005 - M/s. Mehta & Modi Homes, Secunderabad – Assessment for the tax period 01/09/2006 to 28/02/2007 – under APVAT Act – Completed by the Commercial Tax Officer (Audit), Begumpet Division – Certain discrepancies noticed – Revision of Assessment under Section 32(2) of APVAT Act'2005 – proposed – Show Cause notice issued - objections called for – Filed – Personal hearing notice issued – Reg.

Ref: 1) DC(CT), Begumpet Division notice for personal hearing in R.C.No.E3/R/219/2011 dated 03/03/2012.

2) Our letter dated 05/03/2012 requested for time.

We submit that we are in receipt of the notice for personal hearing for the revision of assessment for the period from 01/09/2006 to 28/02/2007 on 09/03/2012 at 11.30 A.M.

We submit that in our letter dated 05/03/2012 we have informed that Sri Shankar Reddy, GM-HR & Admin., who is in charge of the account's and finance has recently resigned our organization and a new person has recently joined to look after the accounts and finance. We have engaged Sri. M.Ramachandra Murthy, CA, as our legal representative to prepare the reply and appear for personal hearing. We enclose herewith Form-565 (Authorization).

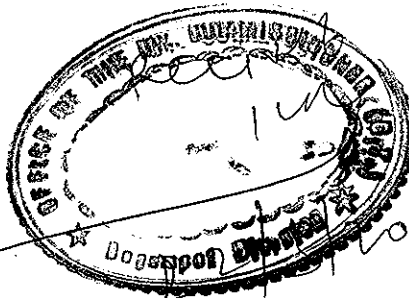
We therefore request you to kindly grant time upto 28/03/2012 for filling the objections and also to appear for personal hearing.

Kindly do the needful and oblige.

for Mehta & Modi Homes,

Handwritten signature
Authorised Signatory

Encl.: As Above



MEHTA & MODI HOMES					
DETAILS OF VAT FOR PHASE II					
S.No.	Plot No	Buyer Name	Sale Amt	VAT 1%	VAT PAYABLE
1	200C	Mr Bidesh Mukherjee	4,200,000	42,000	0
2	200D	Mrs .V SailaSutha & Mr.V Bhas	4,600,000	46,000	0
3	201	Mr. Samir Kalia	1,668,000	16,680	16,680
4	202	Vacant	0	0	0
5	203	Vacant	0	0	0
6	204	K. Poornima	2,280,000	22,800	0
7	205	Mr. Sameer kalia	1,708,000	17,080	17,080
8	206	Mr.L.V.Ramana	2,029,000	20,290	0
9	207	Mrs. A.R. Rajalakshmi	3,368,000	33,680	0
10	208	Polkam Sanjay	3,162,000	31,620	0
11	209	Mr. Anand Subramani	3,437,000	34,370	0
12	210	Mr. Ibrahim Abdul Hameed Mur	3,700,000	37,000	0
13	211	Dr. Tejal Modi	2,853,000	28,530	0
14	212	Mrs. Radhika Aasoori	3,114,000	31,140	0
15	213	Mr. Satyavolu Ravi Krishna	3,114,000	31,140	0
16	214	Sanjeev Datta Gupta	3,213,000	32,130	0
17	215	Mr.Kamalakar Kartapalem	3,438,000	34,380	34,380
18	216	Mr. K Aditya, Mr. K. Aditya	3,853,000	38,530	0
19	217	Mr. Srinivas Veeramachaneni	2,089,000	20,890	20,890
20	218	C. Shiva Kumar	3,429,000	34,290	34,290
21	219	Mr. Kanuri. Ramu	2,036,000	20,360	0
22	220	Mr. Ahmed Subhan	3,928,000	39,280	39,280
23	221	Dr. Dhiraj Abhyankar	3,550,000	35,500	35,500
24	222	V.S. Radha Krishna Murthy	3,584,000	35,840	0
25	223	Mr. G. Poorna Kalyana Chakra	3,550,000	35,500	0
26	224	Mr.Madan Konakandla	5,270,000	52,700	0
27	225	Mr.Rahul Gupta & Neelima Ra	4,275,000	42,750	0
28	226	Mrs S.G. Sonia Raj	4,175,000	41,750	0
29	227	A. Ravi Shankar	3,634,000	36,340	0
30	228	Smt. A.Suseela	4,600,000	46,000	0
31	229	Wg. Cdr. Vempati Mallikarjun	4,800,000	48,000	0
32	230	Mr. P Vijay Kumar	4,580,000	45,800	0
33	231	Mr. Khantamaneni Venkat Rao	4,272,000	42,720	720
34	232	Kiran Reddy	1,000,000	10,000	10,000
35	233	Mr. Prakash Jhaveri	4,400,000	44,000	0
36	234	P.S. Narsing Rao	4,200,000	42,000	0
37	235	Mr. Kompella Srinivas & Mrs K	4,750,000	47,500	0
38	236	Mr. Rajesh Racha Battuni	5,275,000	52,750	0
39	237	Mrs. S. Vijayalakshmi & Mr. Ra	3,457,500	34,575	0
40	238	Mr.G Jaganath	5,200,000	52,000	0
41	239	Mr.Girish Lodd	5,840,000	58,400	0
42	240	Suresh Kumar	5,036,000	50,360	0
43	241	Mr. Ashfaq Ahmed	3,898,000	38,980	0
44	242	Mr.Lokesh Bharathan & Mrs.Ja	5,850,000	58,500	0
45	243	Mr. Prakash	3,820,000	38,200	0
46	244	Mrs. M. Renuka & Mr. M.V. Ra	2,700,000	27,000	0
47	245	Mr. A. Avinash	3,650,000	36,500	0
48	246	K.J.R Padmavati & Mr. K. Venk	3,761,000	37,610	0
49	247	Mr. Jandhyala Venkata Dakshir	3,672,000	36,720	0
50	248	Mr.Murali Mohan Rao Bandaru	3,750,000	37,500	0
51	249	A.K. Mohan & Mrs. A. Usha	3,775,000	37,750	0
52	250	MR. Garimella Sriramakrishna	4,600,000	46,000	0
53	251	Mr. Praveen Kumar Krovidi &	6,450,000	64,500	0
54	252	Mr.Pavan Kumar Mutnuri & Mrs	7,350,000	73,500	0
55	253	Mr.Imran Mohammed Khan	6,820,000	68,200	0
56	254	Vacant	0	0	0
57	255	J.V. Jayakrishna Prasad	5,385,000	53,850	0
58	256	Mrs P. Uma Kumari	5,650,000	56,500	0
60	258	Mrs. V. Rajeshwari	5,650,000	56,500	0
61	259	Mrs. V. Rajeshwari	5,650,000	56,500	0

62	260	Mr. A.Deepak	5,820,000	58,200	0
63	261	Mr. Durgadas Maive & Mr. Shy	3,365,000	33,650	0
64	262	Mr. J.V. Chandra Mohan & Mrs	3,365,000	33,650	0
65	263	M/s.Balaji Crop Care Pvt. Ltd.	2,000,000	20,000	0
66	264	Mrs.Lalitha Setty	3,590,000	35,900	0
67	265	Mr. Prema Mitchell	3,250,000	32,500	0
68	266	Mr. K. Kamalesh N.V. & Mrs. S	3,250,000	32,500	0
69	267	Mrs. Meera Srikant	3,365,000	33,650	0
70	268	Dr. S. Ramakrishna & Dr. P. Sa	3,300,000	33,000	0
TOTAL			260,403,500	2,604,035	208,820
	Sl.No.	Cheque No. & Date	Amount		
	1	181772 / 23.07.08	155,700		
	2	300087 / 01.11.08	162,900		
	3	320521 / 15.12.08	111,140		
	4	320549 / 20.12.08	100,810		
	5	826204 / 17.04.10	47,500		
	6	862935 / 19.05.10	303,415		
	7	919361 / 17.07.10	38,980		
	8	042125 / 16.10.10	101,700		
	9	042249 / 23.10.10	95,120		
	10	138361 / 11.01.11	32,700		
	11	179023 / 12.02.11	101,300		
	12	211585 / 14.03.11	55,300		
	13	253158 / 25.04.11	204,870		
	14	253435 / 28.05.11	413,100		
	15	297064 / 11.06.11	198,200		
	16	336462 / 23.07.11	169,380		
				2,292,115	
		Less Phase I excess amount paid		(61,678)	
		Balance VAT Payable		250,242	

CTO-MG ROAD(BEGUMPET)

From: JC-COMPUTERS **Sent:** Tue 2/8/2011 1:40 PM
To: all_divisions; all_acs_itu; 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

To,
The Dy. Commissioner Tax Office,
O/o. Regional Vigilance & Enforcement office,
Hyderabad City unit -1,
BRKR Bhavan, 2nd Floor,
Hyderabad.

Date: 10.4.2010.

From,
Mehta & Modi Homes,
5-4-189/3&4, Soham Mansion,
II floor, M.G. Road,
Secunderabad.

Dear Sir,

Sub.: Compliance of your letter & submission of documents – reg.

Ref.: 1. Your letter dated 15.2.10.

2. Our letter dated 22.02.10.

With references to the above, please find enclosed the following documents as asked by you and for your ready reference.

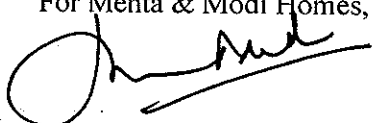
1. Copies of the balance sheets for the year 2007-08 & 2008 – 09.
2. VAT returns for the year 2007-08 & 2008 – 09.
3. Few copies of sale agreement.

All our purchases are from registered dealers only and we are paying the tax under composition.

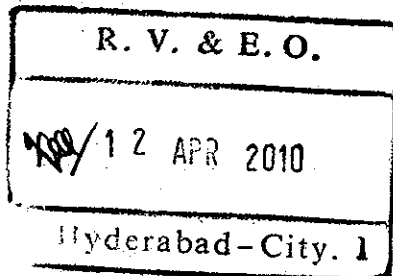
Please acknowledge the receipt of the same.

Thank You.

Yours sincerely,
For Mehta & Modi Homes,



Soham Modi
Managing Partner.



MEHTA & MODI HOMES

5-4-187/3 & 4, II Floor, Soham Mansion, M.G. Road, Secunderabad - 500 003.
Phone : +91-40-66335551, Fax :

Date: 23.12.2011

To,
The Commissioner, Service Tax
Office of the Commissioner of Custom,
Central Excise & Service Tax,
Hyderabad -II, Commissionerate,
Shakar Bhavan, Basheerbagh,
Hyderabad - 500 004

Dear Sir,

Sub: Request to extend the time to reply show cause notice - reg.

Ref.: 1. **Our STC No. AAJFH0647CST001**

2. Show cause notice no. **O.R.No.128/2011-ST (Adjn) (Commr.)**

3. **C.No. IV/16/179/2011/Adjn. (ST) (Commr.) Dated 24.10.11**

With reference to the above, we request you to extend time for another (30) thirty days time to reply show cause notice mentioned above.

Thank You.

Yours sincerely,
For **Mehta & Modi Homes,**


Soham Modi,
Managing Partner



GOVERNMENT OF ANDHRA PRADESH
COMMERCIAL TAXES DEPARTMENT

Q. No. 10
22/2
28/01/12

Office of the
Deputy Commissioner(CT),
Begumpet Division, Hyderabad.

Rc.No.E3/R/219/2011 Dt.24-01-2012.

REVISION SHOW CAUSE NOTICE UNDER AP VAT ACT FOR THE TAX
PERIOD 01-09-2006 to 28-02-2007.

Sub:- AP VAT Act, 2005 - M/s.Mehta & Modi Homes, Sec'bad
- Assessment for the tax period 01-09-2006 to 28-02-2007
under AP VAT Act - Completed by the Commercial Tax
Officer(Audit), Begumpet Division - Certain discrepancies
noticed - Revision of Assessment under Section 32(2) of
AP VAT Act, 2005 proposed - Show Cause Notice issued
- Objections called for - Regarding.

Ref:- 1).CTO (Audit), Begumpet Division Form VAT 305
Dt.29-04-2008 for the tax period 01-09-06 to 28-02-07.

M/s.Mehta & Modi Homes, H.No.5-4-187, M.G.Road,
Secunderabad are registered dealers under the AP VAT Act with TIN
28840298894 and assesseees on the rolls of Commercial Tax Officer, M.G.Road
Circle and engaged in execution of works contract under APVAT Act 2005.

The Firm was audited and assessed by the Commercial Tax
Officer (Audit), Begumpet Division for the period 01-09-2006 to 28-02-2007
in Form VAT 305 Dt.29-04-2008 in the reference 1st cited accepting the tax
paid by the dealer @ 1% on the contractual receipts as per Section 4(7)(d) of
AP VAT Act, 2005.

On perusal of the Assessment Record with reference to
Assessment Order revealed the following which is found to be prejudicial to
the interest of State Revenue.

M/s.Mehta & Modi Homes, Secunderabad are constructing
Independent Bungalows at Charlapalli, Ghatkesar Mandal, Ranga Reddy
District. The Vigilance & Enforcement Officials visited the said work site on
10-12-2008 and obtained details of the entire construction work of the dealer
and sent the record to the Commercial Tax Officer, M.G.Road.

On examination of the record it is noticed that the Company is registered under AP VAT Act Bearing TIN No.28840298894 and have opted to pay tax under Composition Scheme @ 4% on 25% of receipts under Section 4(7)(d) of AP VAT Act, 2005.

It is noticed that they have purchased Sand, Metal, Bricks and hardware material from unregistered dealers which are liable to tax under Section 4(7)(e) of AP VAT Act 2005 but, they have not declared and paid tax to the Department accordingly.

Further it is noticed that as per the agreement of sale, they have entered into contract with the prospective buyers, initially executing sale deed for sale of land later the contractor is entering into two separate contracts for development of plot and for construction of bungalow (building).

The question arose in this case is whether the dealer is liable to tax @ 4% on 25% on receipts under Section 4(7)(d) or liable to tax @ 4% on all receipts under Section 4(7)(c) of AP VAT Act, 2005.

In this connection, the Advance Ruling issued by Authority for clarification and Advance Ruling of the Commercial Taxes Department in the case of M/s.Maytas Hill Country Pvt Ltd., Begumpet, Hyderabad Dt.30-07-2006 has been perused. As per this Advance Ruling in the event 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, 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, 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. This clarification matches with the transactions of the Company, as the Company sold plots and executed sale deed and later entered into two contracts, one for development of the plot and the other for construction of bungalow (building). Of these transactions, transaction of sale of plot being immovable property, not liable to VAT but the transactions of development and construction of bungalow fall under category of execution of civil works contract and are liable to VAT @ 4% on receipts under Section 4(7)(c) of AP VAT Act, 2005.

Whereas, the Commercial Tax Officer (Audit), Begumpet Division assessed the dealer under Rule 25(5) of AP VAT Act, 2005 Dt.29-04-2008 for the period from 01-09-2006 to 28-02-2007 treating the transactions of the dealer attract tax @ 4% on 25% receipts under Section 4(7)(d) of AP VAT Act, 2005, keeping in view the case of M/s.Maytas Hill Country (P) Ltd. (CCT's PMT P&L/AR/Com/80/2006, Dt.30-07-2006) without his findings as to how he came to conclusion that the transactions of the Company attracts tax under Section 4(7)(d) of AP VAT Act, 2005. The issue is discussed in length as under.

As per the documents furnished by the contractor, the contractor has entered into an agreement of sale with the customers for sale of plot, execution of works contract for developing the plot by laying roads, drainage lines, park etc., and for construction of bungalow. The contractor has collected separate amounts for sale of land, for development of plot and for construction of building. Though a single document is executed as agreement of sale, the actual transactions cannot be combined and are separate.

For the purpose of VAT, the sale of plot being immovable is not liable to tax and the transactions of development of plot and construction of building fall under works contract and liable to VAT under Section 4(7) of AP VAT Act, 2005. The transactions of the contractor are similar to second category of situations mentioned in the Advance Ruling in the case of M/s. Maytas Hill Country (P) Ltd.

Second category reads as under:

"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.

The applicant shall not be eligible for composition under Section 4(7)(d) to pay tax @ 4% on 25% on the total consideration".

Similarly in this case of the contractor also sold plots to the customers and entered into two separate covenants, one for development of plot and the other for construction of building, the contractor is not eligible to opt to pay tax @ 4% of 25% receipts.

In view of the above, the turnover of the contractor is liable to tax @ 4% on all the receipts under Section 4(7)(c) of AP VAT Act, 2005. As per the information available, the contractor has received consideration from customers from September, 2005 to September, 2008 amounting to Rs.33,39,68,836-00 (inclusive of plots sale).

Further it is revealed that the contractor has purchased Sand, Metal, Granites and Bricks from unregistered dealers and they have not paid tax under Section 4(7)(e) of AP VAT Act, 2005.

In view of the above the Assessment Order under AP VAT Act for the period 01-09-2006 to 28-02-2007 passed by the Commercial Tax Officer (Audit) is set a side and it is proposed to revise the Assessment of the contractor.

For the above facts and reasons, in exercise of the powers conferred under Section 32(2) of the AP VAT Act, 2005 the Assessment of the dealers for the tax period 01-09-2006 to 28-02-2007 under AP VAT Act is proposed to be revised as detailed hereunder.

Year wise breakup of turnovers:

<u>Year</u>	<u>Amount</u>
2005-06	Rs. 5,43,50,247-00
2006-07	Rs. 4,26,93,214-00

Computation of taxable turnovers and taxes:

2005-06:

Receipts	Rs.5,42,50,247-00
VAT @ 4%	Rs. 21,74,009-00
Less VAT Paid	NIL
Diff VAT	Rs. 21,74,009-00

2006-07:

Receipts	Rs.4,26,93,219-00
VAT @ 4%	Rs. 17,07,728-00
Less VAT Paid	Rs. 11,34,932-00
Diff VAT	Rs. 5,72,796-00

Total Tax Payable Rs. 27,46,805-00

Hence, M/s.Mehta & Modi Homes, Secunderabad are hereby requested to file their written objections if any along with the documentary evidence within (15) days from the date of receipt of this Revision Show Cause Notice failing which the revision proposed will be confirmed without any further notice. Further they are informed that they may avail the opportunity of personal hearing to represent their case either in person or through their authorized representative within the stipulated time on any working day in this Office.

[Handwritten Signature]
 Deputy Commissioner(CF), 112
 Begumpet Division, Hyderabad.
[Handwritten Date]
 24/11/2012

To

M/s.Mehta & Modi Homes, H.No.5-4-187, M.G.Road, Secunderabad (Through the Commercial Tax Officer, M.G.Road Circle for service).

MEHTA & MODI HOMES

5-4-187/3 & 4, IInd Floor, Soham Mansion, M.G. Road, Secunderabad – 500003
Phone: +91-40-66335551, Fax: 040-27544058

To,
The Deputy Commissioner (CT),
Begumpet Division,
Hyderabad

Date: 10.02.2012

Sir,

Sub: Request to extend time to reply the show cause notice vide
No.Rc.No.E3/R/219/2011 dated 24.01.2012 – Reg.
Ref: 1. your show cause notice dated 24.01.2012
2. Our Tin No. 28840298894.

With reference to the above, we request your good selves to grant
another 15 days more time to reply above mentioned notice.

Further we request you to give appointment on 14.02.2012 i.e.,
Tuesday for personal hearing

Thanking you,

Yours truly,

For **MEHTA & MODI HOMES**


Authorised Signatory



Draft

To,
The Dy. Commissioner Tax Office,
O/o. Regional Vigilance & Enforcement office,
Hyderabad City unit -1,
BRKR Bhavan, 2nd Floor,
Hyderabad.

Date: 10.4.2010.

From,
Summit Builder / Mehta & Modi Homes,
5-4-189/3&4, Soham Mansion,
II floor, M.G. Road,
Secunderabad.

Dear Sir,

Sub.: Compliance of your letter & submission of documents – reg.
Ref.: 1. Your letter dated 15.2.10.
2. Our letter dated 22.02.10.

With references to the above, please find enclosed the following documents as asked by you and for your ready reference.

1. Copies of the balance sheets for the year 2007-08 & 2008 – 09.
2. VAT returns for the year 2007-08 & 2008 – 09.
3. Few copies of sale agreement.

All our purchases are from registered dealers only and we are paying the tax under composition.

Please acknowledge the receipt of the same.

Thank You.

Yours sincerely,
For Summit Builders



GOVERNMENT OF ANDHRA PRADESH
COMMERCIAL TAXES DEPARTMENT

NOTICE FOR PRODUCTION OF DOCUMENTS
AND INFORMATION

[See Rule 61(1)(a)]

Tax Office Address:
Dy. Commercial Tax Officer,
O/o Regional Vigilance & Enforcement Officer,
Hyderabad City Unit-I,
2nd Floor, B.R.K.R. Bhavan,
Hyderabad - 500 004.
Ph. 51-40-23226359 Extn.45.

Date	Month	Year
15	02	2010

To

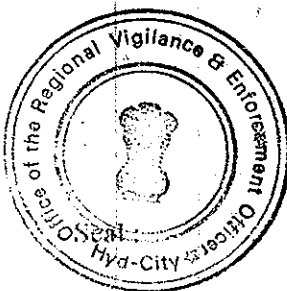
M/s. Summit Builders,
No.5-4-187/3 & 4,
Soham Mansion, M.G.Road,
Secunderabad.
TIN No.28790571789

Whereas your attendance is necessary to give evidence / whereas the following documents

1. Audit reports for the year 2006-07 to 2008-09 along with its connected records.
2. VAT 200 Returns / CST in form-VI returns for the year 2006-07 to 2008-09.
3. Details of outside purchases for the above period.
4. Copies of agreements entered with customers as well as owners of land, venture wise.

are required with reference to an enquiry under the Andhra Pradesh Value Added Tax Act, 2005, now pending before me, you are hereby summoned to appear in person or through an authorised representative to produce, or cause to produce, the said documents before me on or before the 2nd day of March, 2010 at 10.30 a.m. at O/o Regional Vigilance & Enforcement Officer, Hyderabad City-I Unit, 2nd floor, B.R.K.R. Bhavan, Hyderabad. Without prejudice to the provisions of any other law for the time being in force, if you intentionally omit or fail to attend and give evidence or to produce the books of accounts registers, records / or other documents, as required as per the provisions of the AP VAT Act, 2005.

Given under my hand and seal this 15th day of February, 2010.



P. Siva Ram Reddy
(P. SIVA RAMI REDDY)
Dy. Commercial Tax Officer-I
O/o Regional Vigilance & Enforcement Officer,
Hyderabad City-I, Hyderabad.

GOVERNMENT OF ANDHRA PRADESH
COMMERCIAL TAXES DEPARTMENT

FORM 555

NOTICE FOR PRODUCTION OF DOCUMENTS
AND INFORMATION

(See Rule 61 (1) (a))

Tax Office Address:

Dy. Commercial Tax Officer,
O/o. the Regional Vigilance & Enforcement
Officer, Hyderabad Rural,
2nd Floor BRKR Bhavan,
Hyderabad. Ph.No.23221476

Date Month Year

29	03	2010
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To

M/s Mehta & Modi Homes.,
TIN No. 28840298894
H. No. 5-4-187,
MG Road, Secunderabad.

After visiting the construction sites at Ghatkesar Mandal, visited the office premises on 10.12.2008 and obtained copies of Annual Audit Reports, Service Tax collected and paid for 2007-08 and sample copy of agreement of sale, sale deed and construction agreement of Emerald Park, H. No. 147. But they did not furnish the particulars of Sale of land, constructed amount, total cost of the house, Service tax collected with the particulars of amenities Car Parking, Land Scapping, Club etc. They have also deposed a statement in the case of Grandeur Homes Pvt. Ltd. informing that the further details will be filed within a week. They are requested to furnish the following information.


1. Copy of Trial Balance as on 28.2.2010 with the particulars of turnovers disclosed in VAT 200 return of February 2010.
2. Particulars of miscellaneous income for the financial years 2006-07.
3. Service Tax collection & payment account for the year 2008-09.
4. Sale details of land, cost of construction, land scapping, compound wall. Driveway, amenities, and land development, club house, transport, electricity including generator backup etc. for the ventures of emerald park Phase-I & II and Emerald Annexue
5. Samples copies of agreement of sale, sale deed and construction agreement in respect of venture i.e. Phase I & II of Emerald Park and Emerald Annexue not less than 5 cases each venture.
6. Furnish the contents of VAT Audit conducted if any along with copy of report.

7. Particulars of Advance amounts mobilized against the sale agreement / sale of land / construction agreement along with particulars of plot No. , No. of Sq. mts / sft, Customer name, Venture etc.
8. They incurred certain expenditure towards BT road work, road work and also stated to have been made certain expenditure. The relevant particulars of materials incorporated shall also be furnished.
9. Details of schedule H, L, M of Annual Audit Reports for the years 2006-07 & 2007-08.
10. Purchase details of materials incorporated in the construction work, development of land and road etc. for the years 2005-06 to 2008-09 up to November 2008.
11. Sample Copy of invoice in respect of each selling dealer.

are required with reference to an enquiry under the Andhra Pradesh Value Added Tax Act, 2005 now pending before me, you are hereby summoned to appear in person or through an authorized representative to produce, or cause to produce, the said documents before me within **(7) days** from the date of receipt of this Notice at (place) **2nd Floor, BRKR Bhavan, Hyderabad.** Without prejudice to the provisions of any other law for the time being in force, if you intentionally omit or fail to attend and give evidence or to produce the books of accounts registers, records / or other documents, as required, a penalty as per the provisions of the APVAT Act 2005 as applicable under APVAT Act 2005 may be imposed upon you under Section 64 of the APVAT Act, 2005. It is also informed that the in case they failed to furnish the information within stipulated time, the turnovers will be estimated for assessment to tax based on the information available on record and action as deemed fit will be initiated without issuing any further notice.

Given under my hand and seal this 29th day of March 2010.




Signature
Officials Designation
Dy. Commercial Tax Officer,
O/o Regional Vigilance and
Enforcement Officer,
Hyderabad Rural

MEHTA & MODI HOMES

5-4-187/3 & 4, II Floor, Soham Mansion, M.G. Road, Secunderabad - 500 003.
Phone : +91-40-66335551, Fax :

Dt. 02.03.2010

To
The Deputy Commercial Tax Officer,
City Circle, -1,
Vigilance & Enforcement Wing,
2nd Floor, B. R. K. Bhavan,
Tank Bund Road,
Hyderabad.

Dear Sir,

Sub: Requesting you four weeks time for submission documents.
Ref: Your Notice dated 15.02.2010

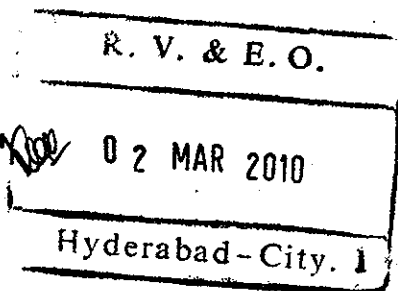
In response to your above referred notice that we are requesting you to give four (4) weeks time to submit the required information/documents.

Please do the needful.

Thanking you,

Yours sincerely,
For Mehta & Modi Homes,


(Soham Modi)
Partner.



MEHTA & MODI HOMES

5-4-187/3 & 4, II Floor, Soham Mansion, M.G. Road, Secunderabad - 500 003.
Phone : +91-40-66335551, Fax :

Dt. 22.02.2010

To
The Deputy Commercial Tax Officer,
City Circle,-1,
Vigilance & Enforcement Wing,
2nd Floor, B. R. K. Bhavan,
Tank Bund Road,
Hyderabad.

Dear Sir,

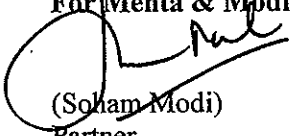
Sub: Requesting you four weeks time for submission documents.
Ref: Your Notice dated 15.02.2010

In response to your above referred notice that we are requesting you to give four (4) weeks time to submit the required information/documents.

Please do the needful.

Thanking you,

Yours sincerely,
For Mehta & Modi Homes,


(Soham Modi)
Partner.

Mehta & Modi Homes

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

Ph : 66335551

10/10/08

Statement of Sri A. Shanker Reddy S/o. A. Sathi Reddy aged about 45 years R/o. Mallapur, Admin. Manager recorded before the DCTO, Vigilance & enforcement, Hyderabad renewal as under.

1. Today you have visited our firm pursuant your visit for construction sites Shamirpet with regard to VAT, you have asked to produce books of Accounts. I have made available to you the following documents of our firm.
 1. VAT Returns
 2. Purchase Bills
 3. Balance Sheets
 4. Statement of Service Tax
 5. Receipts of Flats
 6. Sale deed and construction agreements
2. You have verified the above documents and noticed that our firm is audited by CTO, Begumpet and determine VAT @1% on receipts of service Tax for the period 01.09.2006 to Feb 2007. The firm is opted to pay tax under composite scheme and paying taxes @ 4% on 25% of receipts. As per sale deeds and construction agreements you have noticed that we are entering into agreement of sale of flat initially, later executing 2 separate documents, i.e., sale deed for sale of land and for construction of House. Copies of sample documents has been filed to you.
3. Fur further verification of documents we assure you that Accounts Incharge will appear in your office on or before 17th Dec 2008.

[Signature]

Before

[Signature]
10/10/08
DCTO

[Signature]

Mehta & Modi Homes

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

Ph : 66335551

To
The DCP
VOP & Enquiry
Hos & Resd.

Sir,
in continuation to your visit to our
premises on 10.12.07, on calling
I appear before you for verification
of our receipts with reference to the
filed to you. The details are under:

1- Statement of receipts period from
1-4-2005 to 31.03.06, received Rs
5,43,50,242=00. Clarification required
about the addition of services tax and
and other value and also P.T. - P.D.

Please - 2. Service tax return details
from 2006, the AIT considered
is Rs 26,25,76,500=00, value
Rs 4,60,572=00, receipts 2,16,59,20=00



①

Mehta & Modi Homes

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

Ph: 66335551

Classification required for VOP.

3. P-13 return for Qtr end 2017-18
 P-13 Sale consideration 9, 85, 49, 00, 00
 And other amounts 6, 95, 00, 00,
 receipts 2, 15, 25, 28, 29 and Section
 7, 11, 08 in classification
 as mentioned in para 2.

4. Summarized return on Valuation for
 P-13 the Pro-empti. Sep. 2017
 the differential sale consideration are
 as under

(A) Phase I :- Sale Consideration 2, 62, 00, 00

(B) Return under 2, 06, 10, 00 receipts

3, 36, 24, 10, 00

(C) Phase-II :- Sale Consideration 1, 28, 00, 00

2, 45, 63, 04 = 5, 06, 13, 00

Mehta & Modi Homes

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

Ph : 66335551

In the light of the above, you have
sought for receipts of Sale & Buydown
on the following from 2005-06 to
Oct-07. Separately please note.

1. Receipts including Sale & Buydown

2. Service Tax

3. Water connection Receipts

4. Vat Paid

5. Purchase of Sand Meter, Knobs,
and Granite with 'Tia' & 'Duster'

All above items with document
will be furnished as a before

17th Dec 07

Alamy
10/12/07