

GOVERNMENT OF TELANGANA
COMMERCIAL TAXES DEPARTMENT



Office Of The
Assistant Commissioner(ST),
M.G Road - S.D.Road Circle,
4th Floor, Pavani Prestige,
Ameerpet, Hyderabad.

TIN No. 36292192903/2015-16.

Dated: 17-11-2022.

SHOW CAUSE NOTICE

Sub: CST Act 1956 – M/s. Vista Homes - Assesment completed for the year 2015-16 orders passed- Appeal preferred before ADC(CT) Panjagutta Division – Appeal remanded by the ADC – Notice issued for productions of books of account – sought extention of time - Show cause notice issued – Objections called for - Regarding.

- Ref: 1) Commercial Tax Officer, M.G.Raod-S.D.Road Circle A.O.No.52807,Dt:31.03.2020.
2) ADC (CT) Punjagutta Division Orders No.49, in Appeal No. BVC/38/2021-22, Dt: 21.01.2022.
3) Notice Issued to dealer, Dt: 19.07.2022.
4) Letter filed by the dealer, Dt: 28.07.2022.
5) Letter filed by the dealer, Dt: 05.09.2022

M/s. Vista Homes, Secunderabad are registered dealers on the rolls of Commercial Tax Officer, M.G.Raod-S.D. Road circle, the assessment under CST Act.1956 for the year 2015-16 was completed vide orders 1st cited on the following turnover

Gross turnover	Rs. 877690
Exempt turnover	Rs. 0
Net turnover	Rs. 877690
Tax on net turnover @ 14.5%	Rs. 127265
Tax paid by adjustment against VAT ITC	Rs. 0
Tax paid	Rs. 0
Balance	Rs. 127265.05

Aggrieved by the orders the dealer preferred an appeal before the ADC (CT)Panjagutta. Disputing the above levy of tax. The ADC (CT)Panjagutta has remanded the appeal vide orders passed 2nd cited as under.

"I have heard the Authorised Representative and gone through his contentions as well as the contents of the impugned orders. In the impugned orders, the Audit Officer determined the gross and net turnovers of the appellant at Rs.8,77,690/- and subjected the same to tax the same at

14.5% towards inter-State sales on the ground that the appellant had not responded to the notices issued.

The claim of the appellant is that the Audit Officer is not justified in bringing the disputed turnover herein for the purpose of assessment and to levy tax thereon as the same do not relate to any inter-State sales or stock transfers or any other sales which falls under the CST Act for the purpose of assessment and to levy tax thereon. It is explained that they have issued CST way bills for the purpose of procuring the goods from other States and used such goods in the execution of works contract i.e., construction and selling apartments / villas and they have neither effected any inter-State sales nor transferred any goods to outside the State by issuing invoices against the CST way bills generated basing on which the impugned levy was made on the disputed turnover and as such construing the same as inter-State sale or stock transfers is incorrect. It is further stated that since the appellant is doing business in works contract i.e., construction and selling apartments / villas, the question of there being any inter-State sales of the same does not arise. It is also stated that it is not only a settled law that no estimation can be made basing on the utilization of way bills, but also it is a settled law that a sale cannot be assumed but is to be established. It is stated that in the appellant's case, the Audit Officer failed to establish that there is a sale, be it in the course of inter-State or commerce from one State to another. It is further stated that due to COVID-19 pandemic situation and the consequential lock down imposed not only in the State of Telangana as well as in the entire country when the impugned order was passed and also as no notice was properly served on the appellant and as such the appellant prevented from bringing the above facts before the Audit Officer.

Here, it is to be observed that if the appellant had utilized the way bills basing on which the disputed turnover herein was brought to tax under the CST Act for the purpose of assessment and to levy tax thereon, for the purpose of importing or purchasing goods from other States or procuring goods from outside the State branches on stock transfer basis, but not utilized the same for any transfer of goods to other States, then bringing the disputed turnover herein either for the purpose of assessment under the CST Act or to levy tax thereon towards inter-State sales cannot be sustained. However, since the Audit Officer has no occasion to consider this issue as the appellant appears to have not raised any such objections, which the appellant explained the reasons which prevented from filing the objections, I feel the issue involved herein warrants examination at the Assessing Authority's end.

For the reasons discussed above, I feel it just and proper to remit the matter back to the territorial Assessing Authority, who shall verify the claims of the appellant with reference to the books of account and other relevant documentary evidence that would be produced by the appellant and pass orders afresh in accordance with the provisions of law, after giving the appellant a reasonable opportunity to present their case. With this direction, the impugned order is set-aside on the disputed turnover of Rs. 8,77,690/- and the appeal thereon remanded.

In the end, the appeal is **REMANDED.**"

In view of the ADC orders, vide 3rd cited a notice was issued to dealer requiring him to production of books of accounts so as to pass the consequential orders. However vide reference 4th and 5th cited, the dealer has sought extension of time upto 20-09-2022 for production of books of accounts. The extension of time was granted as requested by the dealer. However, till date the dealer has not provided any documentary evidence. Hence the undersigned has no other option except to issue showcase notice by proposing the demand as raised in the assessment order which detailed as under

Gross turnover	Rs. 877690
Exempt turnover	Rs. 0
Net turnover	Rs. 877690
Tax on net turnover @ 14.5%	Rs. 127265
Tax paid by adjustment against VAT ITC	Rs. 0
Tax paid	Rs. 0
Less: Tax paid at the time of appeal	Rs. 15909.00
(Vide Challan No. 36210402529842, Dt: 02.04.2021)	
 Balance	 Rs. 1,11,356.05

In the view of the above **M/s. Vista Homes**, Secunderabad are requested to file their objections if any within (7) days from the date of receipt of this notice, failing which the turnovers proposed in the Show Cause Notice will be confirmed and Final Assessment Order will be passed, without any further notice under the provisions of the CST Act 1956.

G. Vijaya Lakshmi
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M.G. Road-S.D. Road Circle,
Begumpet Division, Hyderabad
Assistant Commissioner (ST). (FAC)
M.G. Road-S.D. Road Circle,
Begumpet Division, Hyderabad

To,
M/s. Vista Homes,
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SECUNDERABAD- 500003
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