

APPLICATION FOR STAY OF COLLECTION OF DISPUTED TAX

[Under Section 31(2) & 33(6)] [See Rule 39(1)]

Date Month Year

01. Appeal Office Address:
To,
The Addl. Commissioner (CT) Legal
O/o the Commissioner of Commercial Taxes,
Nampally, Hyderabad

27	02	2020
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02	TIN	36894097186
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03. Name : M/s.Modi & Modi Constructions
Address: D.No.5-4-187/3&4, 2nd Floor,
Soham Mansion, M.G. Road,
Secunderabad – 500 003

04.	Tax period	January'2014 to June'2017/VAT
05.	Authority passing the order or proceeding disputed.	Stay rejection order no.324 dt.20/02/2020 passed by Appellate Deputy Commissioner (CT) Punjagutta Division, Hyderabad.
06	Date on which the order or proceeding was Communicated.	24/02/2020
07.	(1) (a) Tax assessed	Rs.14,18,019/-
	(b) Tax disputed	Rs.14,18,019/-
	(2) Penalty / Interest disputed	NIL
08	Amount for which stay is being sought	Rs.14,18,019/-
09.	Address to which the communications may be sent to the applicant.	M/s. Modi & Modi Constructions D.No.5-4-187/3&4, 2 nd Floor, Soham Mansion, M.G. Road, Secunderabad – 500 003.

Signature of the Dealer(s)

Signature of the Authorised Representatives if any

10. GROUNDS OF REVISION

- 1.) The appellant submits that substantial question of facts and law arise in the appeal.
- 2.) The appellant will be hard hit if it is called upon to pay this heavy amount of tax pending disposal of the appeal.
- 3.) The Appellate Dy. Commissioner (CT), has not properly considered all the grounds of appeal and arbitrarily dismissed the stay petition filed before him. The main appeal is pending for disposal.
- 4.) The grounds that are stated in the main appeal may kindly be read as grounds of this application.
- 5.) The appellant has already paid 12.5% of disputed tax for the purpose of admission of the appeal and hence it is requested grant stay on the balance disputed tax till the disposal of the appeal.
- 6.) In this regard the appellant relied on the latest decision of the Hon'ble Supreme Court in a case wherein the Hon'ble Court dismissed the SLP filed against the order of the Hon'ble High Court of Andhra Pradesh & Telangana in the case of Deputy Commercial Tax Officer-I, Bhavanipuram Circle, Vijayawada Vs. Sri Dedeepriya Paints in Diary No.11711 of 2019 dt.22/04/2019.

The Honourable High Court of Andhra Pradesh & Telangana in its decision in WP No.20922 of 2018 dated 22.06.2018 in the case of Sri Dedeepriya Paints Vs Deputy Commercial Tax Officer-I, Bhavanipuram Circle, Vijayawada held as follows:-

“When the petitioner concern already paid 12.5% of the disputed tax amount for the purpose of maintaining an appeal as required by law, it would be wholly unjust for the tax authorities to demand the balance of the disputed tax amount notwithstanding the pendency of the appeal”.

Hence it is just and necessary that the Addl. Commissioner (CT) Legal may be pleased to grant stay of collection of the disputed tax of Rs.14,18,019/- pending disposal of the appeal.

VERIFICATION

I SOHAIL MODI - DIRECTOR applicant (s) do hereby declare that what is stated above is true to the best of my / our knowledge and belief.

Verified today the 27TH day of February'2020


Signature of the Dealer(s)

Signature of the Authorised Representatives if any

PROCEEDINGS OF THE APPELLATE DEPUTY COMMISSIONER(CT),
PUNJAGUTTA DIVISION, HYDERABAD

PRESENT: SMT. Y. SUNITHA,

ADC Order No.324

Date of hearing:17-02-2020

Stay Application R.No.64/2019-20

Date of order :20-02-2020

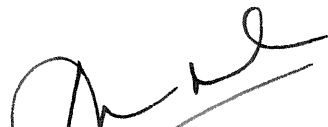
in Appeal No.BV/102/2019-20

Sub:- APPEALS – TVAT Act – M/s Modi & Modi
Constructions, Hyderabad – Appeal filed
against the orders of the Deputy Commercial
Tax Officer-I, M.G.Road-S.D.Road Circle,
Hyderabad – Assessment for the tax periods
December, 2014 to June, 2017 – Stay petition
heard - Stay rejected – Orders issued –
Regarding.

* * *

M/s Modi & Modi Constructions, Hyderabad (TIN: 36894097186),
the appellant herein, filed an appeal against the assessment orders dated
09-12-2019 (AO No.47202) passed by the Deputy Commercial Tax
Officer-I, M.G.Road-S.D.Road Circle, Hyderabad (hereinafter referred to
as the Audit Officer) for the tax periods from January, 2014 to June, 2017
under the TVAT Act. The appellant also filed a petition in Form APP
406 seeking stay of collection of the disputed tax of ₹14,18,019/-.

Sri M. Ramachandra Murthy, Chartered Accountant and
Authorised Representative of the appellant appeared and argued the case
reiterating the contentions as set-forth in the grounds of appeal and
pleaded for granting of stay of collection of the disputed tax.



I have heard the arguments of the Authorised Representative and gone through his contentions as well as the contents of the impugned orders. The dispute involved in the present appeal is as to the determination of turnovers scored by the appellant towards receipts on account of execution of works contract. Though the appellant raised contentions in the grounds of appeal, but failed to substantiate the same with supporting authoritative pronouncements, if any. Thus, I do not find any case to grant stay of collection of the disputed tax of ₹14,18,019/- and accordingly the stay petition is rejected.

APPELLATE DY.COMMISSIONER(CT),
PUNJAGUTTA DIVISION, HYDERABAD.

To

The Appellants.

Copy to the Commercial Tax Officer, M.G.Road-S.D.Road Circle, Hyd.

Copy to the Dy.Commissioner(CT), Begumpet Division, Hyderabad.

Copy submitted to the Additional Commissioner(CT) Legal, and Joint Commissioner(CT), Legal, Hyderabad.

NOTE: A Revision Petition against this order lies to the Joint Commissioner(CT) Legal, Telangana, Hyderabad within (30 Thirty days) from the date of receipt of this order.

