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.36894097186/Jan 2014- June 2017/VAT **Dated:21-11-2022.**

SHOW CAUSE NOTICE

Sub: VAT Act 2005 – M/s Modi & Modi Constructions, Secunderabad. - Assessment completed for the period Jan 2014- June 2017- orders passed- Dealer preferred appeal before the ADC(CT) Punjagutta Division – Appeal Remanded – show cause notice issued – Objections called for - Regarding.

Ref: 1) DCTO-1, M.G.Road-S.D.Road Circle, Order No.47202, Dt: 09-12-2019.
2) Order passed by the Hon'ble ADC (CT) Punjagutta vide AO.No.223, Dt.21-02-2022.
3) Notice Dt.08-07-2022 issued to the dealer for production of accounts.

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M/s Modi & Modi Constructions, Secunderabad, is a registered dealer under VAT and on the rolls of Commercial Tax Officer, M. G. Road Circle with TIN: 36894097186. The assessee are engaged in the business of Construction of Independent Houses/ Row Houses. In the reference 1st cited their assessment under VAT Act, 2005 for the period Jan 2014- June 2017 was completed on the following under declared tax:

1. Tax on differential turnover arrived w.r.t Agreement of sale turnover : **Rs.590846-00**

Sl.No.	Period	Sale deed value	Estimated Agreement of sale value (Adding 30% value on Sale deed value)	Difference turnover arrived	Proposed to tax @ 5% on 25% difference turnover
1	01/2014 to 03/2014	25811540	33555002	7743462	96793
2	2014-15	26007241	33809413	7802172	97527
1	2015-16	36823350	47870355	11047005	138088
2	2016-17	49492000	64339600	14847600	185595

3	2017-18 (April'17 to June'17)	19425000	25252500	5827500	72843
	Total	**157559131**	**204826870**	**47267739**	**590846**

2. Tax on turnover variation with P&L account : Rs. 827173-00

Total **: Rs. 14,18,019-00**

Aggrieved by the orders, the dealer has preferred an appeal before the ADC (CT) Punjagutta disputing the above levy of tax. The ADC (CT) Punjagutta has remanded the appeal vide orders passed in the 2nd cited which is extracted 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, at the pre-assessment stage, the Audit Officer observed that on verification of the records and documentary evidenced by the appellant, it was noticed that there is a difference in the turnovers on which the appellant had paid tax at 5% under composition when compared such turnovers with the construction account receipts as per Profit & Loss Account. The appellant filed their objections. However, on an observation that the appellant had filed the documentary evidence on sample basis instead of in entirety, the Audit Officer not only confirmed the proposed levy of tax on account of differential turnovers but also estimated the sale deed value by adding 30% value on such sale deed value and arrive at the differential turnovers and levied tax thereon at 5%.

Such levy is assailed by the appellant stating that the turnovers reflected in the Profit & Loss Account are different from the actual sale turnovers reported in the monthly returns in as much as the turnovers reflected in the Profit & Loss account are for the purpose of Income Tax whereas the turnovers declared in the VAT returns are actual sale turnovers which are liable to tax under the TVAT Act and though these facts were brought to the notice, the Audit Officer failed to consider the same properly. It is also stated that if the Audit Officer desires the documentary evidence in entirety, nothing prevented it to direct the appellant to produce the same which the Audit Officer failed to do so which resulted in the appellant preventing from the same. The appellant now furnished the documentary evidence like copies of sale deeds etc., and expressed their readiness to produce the same as and when called for. Thus, this issue warrants examination at the Assessing Authority's end.

It is also stated that while issuing the show cause notice, the Audit Officer proposed to bring a tax amount of ₹ 3,22,645/- towards short payment of tax at page-4 of the impugned order, but, however, while considering the objections filed by the appellant and the documentary evidence towards payments already made, at page-6 accepted the credit of ₹ 333,024/- duly dropping the proposed tax on account of short payment, but, however, while concluding the matter, the Audit Officer not reduced such tax amount *from the final demand raised which is not correct. This claim of the appellant is verified with reference to the impugned order and found reasonable.*

For the reasons discussed above, I feel it just and proper to remit the matter back to the territorial Assessing Authority, who shall cause examination of the issues involved herein with reference to the material already available on record with that of the 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 tax amounting to ₹ 14,18,019/- and the appeal thereon remanded.

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

In order to pass the consequential order, in the light of instructions issued by the Hon'ble ADC, the dealer has been issued a notice vide reference 3rd cited to submit documentary evidence to substantiate their claim. However, so far, they have not submitted any documentary evidence. Hence it is proposed to issue Show cause Notice by confirming the original orders as under:

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2. Tax on turnover variation with P&L account : Rs. 827173-00

Total **: Rs. 14,18,019-00**

Less: tax paid while filing appeal vide challan No. 2000020302 Dt.08.01.2020 : Rs. 1,77,253-00

Balance **: Rs. 12,40,766 -00**

In the view of the above M/s Modi & Modi Constructions, 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 Consequential orders to the orders of Hon'ble ADC will be passed, without any further notice under the provisions of the VAT Act 2005.

G. Vijaya Laxmi 2/11/17

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

Assistant Commissioner (ST). (FAC)
M.G. Road-S.D. Road Circle,
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