MODI PROPERTIES PVT. LTD. SEC'BAD
INWARD
No. 381
Date 24/10/19
Sign.

B

FORM VAT 305A

GOVERNMENT OF TELANGANA
COMMERCIALTAXES DEPARTMENT

NOTICE FOR ASSESSMENT OF VALUE ADDED TAX
See Rule 25 (5)

TIN No: 36547131584/VAT/Audit   Dated 03-10-2019

Sub : T VAT Act '05 – M/s Paramount Builders, M.G.Road, Secunderabad - Audit conducted for the period April 2015 to June 2017 - Show Cause Notice issued – Regarding.

Ref : 1. Notification for Scrutiny of Accounts of VAT in Form VAT 304, dated 14-12-2018
2. Authorization for assessment issued in Admn 1C, dated 03-10-2019 by Deputy Commissioner (CT), Hyderabad.

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M/s Paramount Builders, M.G. Road, Secunderabad are the registered dealer on the rolls of CTO M.G.Road-S.D.Road Circle with TIN No 36547131584 and are engaged in the business of Construction and Selling of Apartments in the name & style of Paramount Residency at Nagaram Village, Keesara Mandal, R.R. Dist. They have opted for composition scheme under section 4(7)(d) of T VAT Act by filing Form VAT 250, dated 20-03-2013 and paying taxes at the rate of 5% on 25% of the total consideration received.

On authorization of Deputy Commissioner (CT) Begumpet Division they were served Form-VAT-304 to produce the books of accounts. Accordingly the assessee has filed the books of accounts and connected records for the period April 2015 to June 2017 for audit verification as under.

1) Reported Statement as per VAT-200
2) Sales Accounts and Statement
3) Sample Sale deed copies
4) P&L Accounts.

On verification of books of account submitted by the dealer with reference to the monthly VAT-200 Returns filed during the period from 01-04-2016 to 30-06-2017 the following turnovers arrived which have been assessed as per the authorization issued in Admn 1C dated 03-10-2019 in the reference 2nd cited.

Turnovers as per VAT 200 returns.

S.No.	Description	2015-16	2016-17	2017-18 (up to June 2017)
	Purchase Account:			
1.	Exempted Purchases	--	--	--
	Sales Account:			
1.	Exempt Sales	11550780	5836500	2814750
2.	5% Sales	3850260	1945500	938250
3.	Tax @ 5%	192513	97275	46913
4.	**Total Sales**	15401040	7782000	3753000
5.	**Output tax**	**192513**	**97275**	**46913**
6.	VAT Due	192513	97275	46913
7.	VAT Paid	190514	27500	46913
8.	**Balance**	**1999**	**69775**	**0**

- **Short payment of Rs. 71774/- is noticed.**

Turnover variation as per P&L Account (SALE OF FLATS)

Sl.No.	Period	Construction account receipts as per P&L	turnover liable to tax @ 5% as per P&L	Turnover liable to tax @ 5% as per VAT returns	Differential turnover arrived	Tax @ 5%
1.	2016-17	12352500	3088125	1945500	1142625	57131
Total differential tax		12352500	3088125	1945500	1142625	**57131**

During the course of audit, the correctness and completeness of the returns filed along with payments paid by the dealer is verified with reference to the turnovers recorded in the books of account maintained by the dealer.

On verification of records such as agreement of Sales, Sale deed and Construction agreement it is noticed that they followed a modus operandi that they first entering into agreement of sale with customers for construction and selling of flats. After entering the agreement of sale, they have executed the sale deed of semi finished flat in favour of customer for certain amount and for completion of remaining works they have entered agreement for construction and received remaining amount as per the initial or mother agreement. They have paid tax @ 5% on the 25% of total consideration received under Section 4(7)(d) of VAT Act.

In the light of the judgment in the case of M/s Omega Shelters Limited, Secunderabad in WP No 11528 dt 24-04-2015 rendered by Hon'ble High Court of AP, the method of tax payment under section 4(7)(d) of the Act is agreed for the post construction after executing sale deed also. The gist of the judgment is as under :

> "If dealers engaged in the construction and sale of residential apartments, houses, buildings or commercial complexes exercise the option, and comply

with the conditions stipulated in Section 4(7)(d) and Rule 17(4), they cannot be denied the benefit of composition there under for the construction made by them for the very same person, after execution of a registered deed for the sale of a semi finished structure. Denial of the benefits of the composition scheme under Section 4(7)(d) to such dealers, for the post-sale construction made in terms of the initial agreement is illegal and is contrary to the provisions of the Vat Act and the rules made there under.

However the dealer is requested to produce all Original agreements of sale, Original Sale deeds and Original construction agreements for further verification which were produced on sample basis at the time of audit.

In view of the above it is proposed to assess on the following under declared tax for the period April 2015 to June 2017 as under :

1. Short payment of Tax : Rs. 71774-00
2. Tax on under declared turnover: Rs. 57131-00

   Total : **Rs. 128905-00**

The dealer is requested to file written objections if any against the proposed turnovers within (7) days of receipt of this notice failing which this notice will be confirmed without any further intimation in this matter.

State Tax Officer -1 (I/c)
M.G.Road – S.D.Road Circle

State Tax Officer-I
M.G.Road-S.D.Road Circle,
Hyderabad

To,
M/s Paramount Builders,
5-4-187/3 and 4, 2nd Floor, Soham Mansion,
M.G.Road, Secunderabad.