

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. 36547131584/2015-17/VAT.

Dated: 12-11-2022.

SHOW CAUSE NOTICE

Sub: VAT Act 2005– M/s. Paramount Builders. -assessment completed for the year 2015-16- orders passed- Dealer preferred appeal before the ADC(CT) Punjagutta Division – Appeal remanded– Notice issued for productions of books of accounts –Dealer sought extension of time-Time granted-Not filed- show cause notice issued – Objections called for - Regarding.

- Ref: 1) Order passed by the Deputy Commercial Tax Officer-2, M.G.Road- S.D. Road, Circle vide AO.No.47012, Dt: 05.12.2019.
2) Order passed by the Hon'ble ADC (CT) Punjagutta vide AO.No. 224, Appeal No.BV/103/2019-20 Dt. 21-02-2022.
3) Notice Dt:20.07.2022 issued by the undersigned for production of books and accounts
4) Letter filed by the dealer, Dt: 28.07.2022.
5) Letter filed by the dealer, Dt: 05.09.2022

M/s. Paramount Builders, M.G.Road, Secunderabad are registered dealers on the rolls of M.G.Road-S.D.Road circle, with TIN No. 36547131584. Vide Order reference 1st cited their assessment under VAT Act.2005 for the period April 2015 to June 2017 was completed on the following under declared taxes.

- | | |
|---|-------------------|
| 1. Short payment of Tax | : Rs. 71774-00 |
| 2. Tax on under declared turnover: | Rs. 57131-00 |
| 3. Tax on differential turnover arrived w.r.t Agreement of sale turnover: | Rs.81103 |
| Total | : Rs. 2,10,008-00 |

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 reference 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 arrived at the differential turnovers and levied tax thereon at 5%. The Audit Officer also levied tax on the consideration received by the appellant stated to be relatable to sale of villas / flats after obtaining the Occupation Certificate and as such the same amounts sale of immovable properties on the ground that the Occupation Certificate furnished by the appellant was not issued by the competent authority by treating the same as invalid. The Audit Officer also brought to tax certain of the tax amount towards short payment.

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 further stated that the Audit Officer is not justified in treating the Occupation Certificate produced by the appellant as invalid in as much as such certificate issued by the Gram Panchayat Secretary and the Gram Panchayat is a local body and as such the said certificate is valid one. It is further stated that even if the Audit Officer had any doubts about the said certificate, necessary enquiries would have been made necessary enquiries with the Gram Panchayat so as to ascertain the factual situation. It is also stated that had the Audit Officer provided reasonable opportunity, the appellant would have explained the same since no such proposal was made in the show cause notice issued. This claim also needs examination at the Assessing Authority's end.

It is also stated that the Audit Officer is not justified in observing that there is a short payment of tax disregarding the fact that the appellant had already discharged their tax liability in entirety and had the Audit Officer examined the same properly, there is no such short payment would arise.

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 ₹2,10,008/- 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 show cause notice by proposing the demand as raised in the assessment order which detailed as under.

1.

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	2015-16	9275000	12057500	2782500	34781
2	2016-17	12352500	16058250	3705750	46322
3	2017-18 (April'17 to June'17)	0	0	0	0
	Total	21627500	28115750	6488250	81103

2. Short payment of the period 2015-16 Rs. 1999.00

3. Short payment of the period 2016-17 Rs. 69775.00

4. **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

Total:

Rs. 2,10,008.00

In the view of the above M/s. Paramount Builders, 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 the Hon'ble ADC will be passed, without any further notice under the provisions of the CST Act 1956.

To,
M/s. s Paramount Builders,
5/4/187/344, 2nd Floor,
M.G. Road, Soham Mansion,
Secunderabad, Hyderabad-03
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Assistant Commissioner(ST)(FAC)
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Begumpet Division, Hyderabad
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