

Date :18-05-2022

To,
The Assistant Commissioner (ST) (FAC),
M.G Road -S.D Road Circle,
Begumpet Division, 4Th Floor,
Pavani Prestige, Ameerpet
Hyderabad-500016.

Sub: VAT Act 2005 – M/s Nilgiri Estates, Secunderabad. - Show cause notice of Value Added Tax for the tax period From Jul-2015 to Jun-2017 (Penalty Order)- Objections called for - Time Requested-Reg.

Dear Sir,

With reference to the Show Cause Notice sent by your department dated 11-05-2022 received by us on 13-05-2022 requesting us to file written objection. We submit that we have referred the matter with our consultant who is presently out of station and also our Accounts & Finance Manager Mr. Jaya Prakash is under the treatment (eye operation). Further, we would like to bring to your notice that the period involved is Jul-2015 to Jun-2017 (Penalty Order) and it is taking more time than expected to retrieve the documents for preparing the reply. Considering the above, we request you to kindly grant us 30 days' time for verification of our records and submission of reply to the notice.

Kindly acknowledge for the same

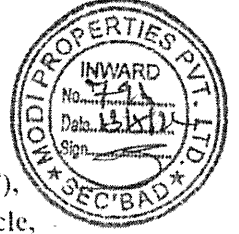
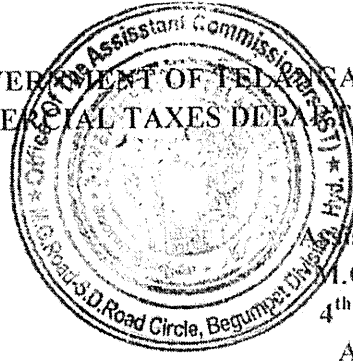
Thanking You,

Yours faithfully
For Nilgiri Estates

Authorised Signatory



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. 36607622962/2015-17/VAT

Dated: 11-05-2022.

SHOW CAUSE NOTICE

Sub: VAT Act 2005 – M/s Nilgiri Estates, Hyderabad. - Assessment completed for the period July-2015 to June-2017 – penalty orders passed subsequently - Dealer preferred appeal before the ADC(CT) Punjagutta Division – Appeal Remanded – Penalty show cause notice issued – Objections called for - Regarding.

Ref: 1) Asst. order passed for the period July-2015 to June-2017 Order No. 25460, Dt:23-04-2018

2) Penalty order passed by CTO, M.G.Road Circle, Order No.37780 . Dt: 24-07-2018.

3) Order passed by the Hon'ble ADC (CT) Punjagutta vide AO.No.494, Dt. 05-03-2019.

M/s. Nilgiri Estates, Hyderabad, are registered dealers and assesses on the rolls of the Assistant Commissioner (ST), M.G. Road - S.D. Road Circle, Hyderabad with TIN. 36607622962 and the dealer is carrying on business in works contract. In the reference 1st cited their assessment under VAT Act, 2005 for the period July-2015 to June-2017 was completed on the following under declared tax:

Therefore the assessment for the period July' 2015 to June' 2017 is completed as under:

Total Turnover (July' 2015 to June' 2017)	Rs. 27,33,22,717-00
Delete Turnover will be assessed under GST	Rs. 11,30,00,555-00
Turnover assessed under T VAT	Rs. 16,03,22,162-00
Standard Deduction @ 30% as per Rule 17(1)(g)	Rs. 4,80,96,649-00
Taxable Turnover	Rs. 11,22,25,513-00
Tax @ 14.5%	Rs. 1,62,72,699-00
Tax paid	Rs. 5,31,564-00
Balance payable	Rs. 1,57,41,135-00

Subsequently to the orders passed above, a penalty orders also have been passed vide ref. 2nd cited by conforming a penalty of Rs. 39,35,284/- @ 25% on under declared tax arrived. under section 53(1)(ii) of TVAT Act 2005.

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 3rd 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. The appellant, in the grounds of appeal, and his Authorised Representative, raised certain contentions with regard to the merits of the case placing reliance in certain case law. Without going into the admissibility or otherwise of the same, I have to observe that since the appeal filed by the appellant against the assessment to tax based on which the impugned penalty is levied, was disposed off by me as 'remanded' in Appeal No.BV/26/2018-19 (ADC Order No.432), dated 27-02-2019, the levy of penalty made by the Audit Officer also needs re-consideration. In 11-SCC-101 in the case of Pratiibha Processors Vs Union of India (SC), their Lordships of the Apex Court observed that "in a fiscal statute, penalty is ordinarily levied on an assessee for some contumacious conduct or for a deliberate violation of the provisions of a particular statute". Moreover, the penalty is an appendage of the original orders and its survival depends on the main order that acts as a prop. If the prop is set-aside, the appendage's survival is in question and falls flat. Hence, in fitness of matters, I feel it just and proper to remit the matter back to the Territorial Assessing Authority, who shall pass such orders of penalty as deemed fit and warranted consequent on making of assessment to tax in pursuance of the appeal order as discussed above. With this direction, the impugned orders of penalty are set-aside on a penalty amount of Rs. 39,35,284/- 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 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 penalty orders passed in the ref. 2nd cited as under.

Penalty @ 25% on undeclared tax of

Rs. 1,57,41,135

: Rs. 39,35,284-00

In the view of the above **M/s Nilgiri Estates, Hyderabad** 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 Lakshmi
Assistant Commissioner(ST)(FAC)
M.G.Road-S.D. Road Circle, (FAC)
Begumpet Division, Hyderabad,
M.G. Road-S.D. Road Circle,
Begumpet Division, Hyderabad

To,
M/s Nilgiri Estates,
Address : 5-4-187, 3&4, 2nd Floor, Soham Mansion, M.G.Road, Sec 5, Hyderabad

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