

**GOVERNMENT OF TELANGANA
COMMERCIAL TAXES DEPARTMENT**

PROCEEDINGS OF THE ADDITIONAL COMMISSIONER (ST)
OFFICE OF THE COMMISSIONER OF STATE TAX,
TELANGANA STATE, HYDERABAD

PRESENT: SRI U. SREENIVASULU, M.SC (Ag)

ACO No. 01/2020

CCT's Ref No. LIII(1)/385/2019

Date: 31-12-2019

Sub: Stay Petition – TVAT Act, 2005 – Stay Petition filed by M/s. Summit Builders, Secunderabad – For the tax period 2013-14 to 2017-18 (Upto June 2017) – Stay petition filed for stay of collection of disputed tax– Personal Hearing allowed – Dealer availed personal hearing – Orders issued – Regarding.

- Ref:- 1. AC(CT), M.G. Road-S.D. Road Circle VAT assessment order in AO. No 48418, dt: 17.12.2019.
2. AJC (ST), Punjagutta Division in Order No.1541 in Appeal No. BV/69/2019-20, dated 22.10.2019.
3. Stay Application in Form APP 406, dated 08.11.2019 filed by the dealer
4. Hearing Notice in CCT's Ref T.S L.III(1)/385/2019, dt. 04.12.2019

ORDER:

M/s. Summit Builders, Secunderabad are registered dealers and assesseees on the rolls of Assistant Commissioner (CT), M.G. Road-S.D. Road Circle. Vide reference 1st cited, the Assistance Commissioner (CT), M.G. Road-S.D. Road Circle ('AC' for short) has passed order for the tax period 2013-14 to 2017-18 (Upto June 2017) and confirmed disputed tax of Rs.6,81,171/-.

Aggrieved by the orders passed by the AC the dealer preferred an appeal before the Appellate Joint Commissioner (ST), Punjagutta Division ('AJC' for short) contesting the order. Vide the reference 2nd cited, the AJC has rejected the stay petition in Order No.1541 in Appeal No. BV/69/2019-20, dated 22.10.2019. Aggrieved by the order passed by the AJC the dealer now filed stay petition before undersigned seeking stay of collection of disputed tax.

Accordingly, personal hearing was allowed to represent the case. Sri M. Ramachandra Murthy, Chartered Accountant and Authorized Representative ('AR' for short) of the dealer availed personal hearing on 04.12.2019 and argued the case on the following grounds which reproduced below:

The impugned assessment order is highly illegal, arbitrary, unjustifiable and contrary to facts and law.

Appellant submits that it is engaged in the business of constructing and selling independent houses, apartments etc., paying tax under section 4(7) (a) of the APVAT Act, 2005.

Claiming authorization from the DC(CT), Begumpet Division the CTO verified the books of accounts produced by the appellant for the years 2013-14, 2014-15, 2015-16, 2016-17 and 2017-18 (upto to June 2017) and recorded the yearwise exempt purchases 1% purchases, 5% and 14.5% purchases for each year separately as construction expenses as per the returns and as per books of accounts. The CTO has also recorded the contractual receipts as per the returns as per books of accounts for each separately.

The CTO has also stated that the appellant is paying taxes @14.5% on the total receipts after deducting the standard deductions @30%. The CTO has thus levied a tax of Rs. 11,32,994/-, 6,63,742/- and Rs. 59,173/- for the years 2013-14, 2014-15, 2015-16 and 2016-17 respectively. After deducting the tax payments made in these years by the appellant the learned CTO has arrived at VAT payable of Rs. 3,22,034/-, 2,99,964/- and Rs. 59,173/- totaling to Rs. 6,81,171/-. There are no purchases or sales during the years 2016-17 and 2017-18 (upon June, 2017).

Appellant submits that when the learned CTO has recorded in the notice that he has verified the books of accounts and when the purchases are also mentioned in the notice the CTO ought not have proposed to levy tax under Rule 17 (1) (g) under standard deduction method. When the appellant has maintained all books and produced the same to the CTO ought to have levied on the value of goods at the time the goods are incorporated in the work at rates applicable to the goods as per Rule 17 (1)(a) and ought to have allowed input tax credit on 75% of the tax paid on the goods purchased other than those specified in sub-rule (2) of rule 20. The learned CTO passed the order in haste without obtaining the purchase details from the appellant and without allowing the input tax credit. The order passed by the learned CTO is illegal and is not according to provisions of the Act and rules and is therefore liable to be set aside.

Thus, the appellant has requested to grant stay of collection of disputed tax.

I have examined the impugned orders and the contentions of the appellant put forth in the grounds of appeal. Without expressing any opinion on the merits of the case, I feel it just and proper to grant stay of collection of **50%** of the disputed tax out of the total disputed tax of **Rs. 6,81,171/-** on a condition that the appellant petitioner shall pay **50%** of the disputed tax i.e. **Rs.3,40,586/-** within four weeks from the date of receipt of this order with a direction that the assessee will be given credit of amounts, if any, already paid by them at the time of filing of appeal. The stay will be in force till disposal of the appeal by the AJC Punjagutta Division, Hyderabad.

ADDITIONAL COMMISSIONER (ST)

To

M/s. Summit Builders, Secunderabad,
through the Assistant Commissioner (ST) M.G. Road-S.D. Road Circle,
(induplicate) for service and return of served copy immediately.

Copy to the Assistant Commissioner (ST) M.G. Road-S.D. Road Circle.
Copy to the Joint Commissioner (ST), Begumpet Division.