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.

MODI PROPERTIES PVT. LTD. SEC'BAD
INWARD
No. 194
Date. 12/5/22
Sign.

Office of The Assistant Commissioners (ST) M.G.Road-S.D.Road Circle, Begumpet Division, Hyd.

TIN No. 36790571789/2013-18/VAT **Dated: 10-05-2022.**

SHOW CAUSE NOTICE

Sub: VAT Act 2005 – M/s Summit Builders. Secunderabad. - Assessment completed for the period 2013-18 - orders passed- Dealer preferred appeal before the ADC(CT) Punjagutta Division – Appeal Remanded – show cause notice issued – Objections called for - Regarding.

Ref: 1) CTO. M.G.Road Circle, Order No.48418, Dt: 17-12-2018.

2) Order passed by the Hon'ble ADC (CT) Punjagutta vide AO.No.2424, Dt. 28-12-2020.

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M/s. Summit Builders, Secunderabad, are registered dealers and assesses on the rolls of the Assistant Commissioner (ST), M.G. Road - S.D. Road Circle, Hyderabad with TIN. 36790571789 and the dealer is carrying on business in works contract. In the reference 1st cited their assessment under VAT Act, 2005 for the period 2013-18 was completed on the following under declared tax:

Particulars	2013-14	2014-15	2015-16
Contractal Receipts	11162500.00	6539336.00	582989.00
Standard Deductions @ 30%	3348750.00	1961801.00	174897.00
Net Taxable Turnover	7813750.00	4577535.00	408092.00
Tax levied @ 14.5%	1132994.00	663742.00	59173.00
Tax Paid	810960.00	363778.00	0.00
VAT payable	**322034.00**	**299964.00**	**59173.00**

Year	**Tax Payable**
2013-14	Rs. 3,22,034.00
2014-15	Rs. 2,99,964.00
2015-16	Rs. 59,173.00
Total	**Rs. 6,81,171.00**

Total Tax due to the Department - Rs. 6,81,171.00

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 order. The appellant is doing works contract. The Assessing Authority observed that the appellant has not opted for payment under composition and paying taxes on the total receipts at 14.5% after deducting the standard deduction at 30%. Accordingly, the Assessing Authority issued a show cause notice. The appellant filed a letter seeking (15) days time to file their objections. On an observation that the appellant had not filed any objections even after availing the time sought for, the Assessing Authority passed orders confirming the proposal of determining the turnovers of the appellant under Section 4(7)(a) of the TVAT Act read with Rule 17(1)(g) of the TVAT Rules by allowing a standard deduction at 30% towards labour and services.

Such determination of turnovers is assailed by the appellant mainly contending since they are maintaining books of account properly wherefrom the value of goods at the time of incorporation into the works and the value of labour and services are very much ascertainable, their taxable turnover is to be determined as per Rule 17(1)(e) of the TVAT Rules by allowing various deductions as prescribed thereat besides allowing input tax credit at 75%, but as per Section 17(1)(g) of the said Rules.

Here, it is necessary to take note of the provisions contained under Section 4(7)(a) of the TVAT Act governing the levy of tax on the works contracts, which reads as under:

"(a) Every dealer executing works contract shall pay tax on the value of goods at the time of incorporation of such goods in the works executed at the rates applicable to the goods under the Act.

Provided that where accounts are not maintained to determine the correct value of goods at the time of incorporation, such dealer shall pay tax at the rate of 14.5% on the total consideration received or receivable subject to such deductions as may be prescribed."

As per the above provisions, clause (a) of Section 4(7) prescribes that a dealer executing works contract has to pay tax on the value of goods at the time of incorporation into the works at the rates applicable to such goods under the Act and in such case the said dealer is eligible for deductions as prescribed under the relevant Rules, besides eligible for input tax credit at / 75%. However, the proviso appended to the above clause prescribes that where a dealer did not maintain the accounts so as to ascertain the value of goods at the time of incorporation into the works, such dealer has to pay tax at the rate of 14.5% on *the total consideration received or receivable subject to such deductions as may be prescribed. Such prescription is made under Rule 17(1)(g) of the TVAT Rules which provides for deduction at different percentages relatable to the nature of contracts executed.*

In the case on hand, the claim of the appellant is that since they are maintaining the accounts wherefrom the value of goods at the time of incorporation into the works and the labour & services are very much ascertainable, they are eligible to pay tax as per Rule 17(1)(e) of the TVAT Rules. The appellant also furnished certain documentary evidence like copies of monthly returns filed, copy of summary of VAT calculation for the disputed tax periods and appellant also expressed their readiness to produce the books of account along with other relevant documentary evidence as and when called for and pleaded for an opportunity to do so.

In the facts and circumstances of the case, I feel it just and proper to remit the matter back to the territorial Assessing Authority, who shall cause verification of the claim of the appellant with reference to the books of account and other relevant records / 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 Rs. 6,81,171/- 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 original orders as under:

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Total Tax due to the Department - **Rs. 6,81,171.00**

In the view of the above **M/s Summit 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 Hon'ble ADC will be passed, without any further notice under the provisions of the VAT Act 2005.

G. Vijaya Lakshmi 19/1/22

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,
Begumpet Division, Hyderabad.

To,
M/s. Summit Builders,
Address : 5/4/187/3 and 4,
M.G.Road, Soham Mansion,
Secunderabad – 500 003.