



MENU

Role

ADC : Tax Payer

36790571789

Appeal Submitted On 22 Aug, 2022

FORM OF APPEAL UNDER SECTION 31

[See Rule 38(2)(a)]

FORM APP 400**01. Office Address:**APPELLATE DEPUTY COMMISSIONER (LT)
PUNJAGUTTA

Date : 22 Aug, 2022

02 TIN/GRN 36790571789

Division Name : BEGUMPET

Circle Name : M.G.ROAD-S.D.ROAD

03. Name : SUMMIT BUILDERS

Email : jayaprakash@modiproperties.co

Address :

5/4/187/3 AND 4; M.G.ROAD; SOHAM MANSION;
SECUNDERABAD; HYD; TELANGANA; 500003

Mobile : 8885660203

I wish to appeal against the following decision / assessment received from the tax office on 23 Jul, 2022

04.	Date of filing of appeal	22 Aug, 2022
05.	Reasons for delay (if applicable enclose a separate sheet)	Enter Reasons for delay
06.	Tax Period / Tax Periods	From Period : 04 2013 To Period : 06 2017
07.	Tax Office decision / assessment Order No: Date/Authority who passed orders	Order No : 17543 Order Date : 13 Jul, 2022 Authority : AC Act : VAT Tax In Order : 681171 Admitted Tax : 0 Disputed Tax : 681171
08.	Grounds of the appeal (upload)	Statement of Facts and grounds of appeal is enclosed 1
09.	If Turnover is disputed : a) Disputed turnover b) Tax on the disputed turnover	Rs. 0 Rs. 681171
10.	If rate of tax is disputed : a) Turnover involved	Rs. 0

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	b) Interest relief claimed	Rs. 0
	c) Other relief claimed	Rs. 0
12.	12.5% of the above disputed tax paid	Rs. 85147

13.a. Payment Details of Admitted Tax :

S.No	Challan Number	Challan Date	Bank/Treasury	Branch Code	Amount	Instrument	Remarks
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Add Payments

13.b. Payment Details of 12.5% of Disputed Tax :

S.No	Challan Number	Challan Date	Bank/Treasury	Branch Code	Amount	Instrument	Remarks
1	1900032530	16 Jan, 2019	SBI	00	40255	CKI2875244	
2	1900032567	16 Jan, 2019	SBI	00	44892	CKI2877193	

Add Payments

Declaration:

I hereby declare that the information provided on this form to the best of my knowledge is true and accurate.

Name Soham Modi, Partner S/o, D/o, W/o Satish Modi Being (title) M/s.Summit Builders, SecundeDate of declaration 22 Aug, 2022

Please Note :- A false declaration is an offence.

Enclosure :

1) Original Notice of Decision / Assessment *

2) Proof of payment of disputed tax *

3) Reasons for delay (if applicable)

4) Reasons for not paying the disputed tax on Form APP 400A (if applicable)

DECLARATION

[See under Section 31(1)] [Rule38 (2)(d)]

FORM APP 400A

TIN/GRN 36790571789Date : 22 Aug, 2022

From Address :

5/4/187/3 AND 4; M.G.ROAD; SOHAM MANSION;
SECUNDERABAD; HYD; TELANGANA; 500003

To Address :

APPELLATE DEPUTY COMMISSIONER (LT)
PUNJAGUTTA

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Role: ADC : Tax Payer

36790571789

SUMMIT BUILDERS (Dealer/Firm Name) with TIN/GRN 36790571789 hereby declare that

☒ The tax admitted to be due, or of such instalments as have been granted and the payment of 12.5% of the difference of tax assessed by the authority have been paid, for the relevant tax period in respect of which the appeal is preferred, the details of which are given below.

S.No	Type of Tax	Challan Number	Challan Date	Challan Amount
1	12.5% of Disputed Tax ▼	1900032530	16 Jan, 2019	40255
2	12.5% of Disputed Tax ▼	1900032567	16 Jan, 2019	44892

Add Collections

☐ No arrears are due from me for the relevant tax period for which appeal is preferred due to the reasons:

Enter Reasons

APPLICATION FOR STAY OF COLLECTION OF DISPUTED TAX IS REQUIRED

☒ Yes ☐ No

Submit

APPLICATION FOR STAY OF COLLECTION
OF DISPUTED TAX

[Under Section 31(2) & 33(6)] [See Rule 39(1)]

FORM APP 406

01. Office Address:

APPELLATE DEPUTY COMMISSIONER (LT)
PUNJAGUTTA

Date : 22 Aug, 2022

02 TIN/GRN 36790571789

03. Name : SUMMIT BUILDERS

Address : 5/4/187/3 AND 4; M.G.ROAD; SOHAM MANSION; SECUNDERABAD; HYD;
TELANGANA; 500003

04. Tax Period	From Period 04 ▼ 2013 ▼ To Period 06 ▼ 2017 ▼
05. Authority passing the order or proceeding disputed.	AC ▼
06. Date on which the order or proceeding was communicated.	23 Jul, 2022
07. (1)(a) Tax assessed (b) Tax disputed (2) (a) Penalty disputed (b) Interest disputed	Rs. 681171 Rs. 0 Rs. 0 Rs. 0

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MENU

Role ADC : Tax Payer

36790571789

09. Address to which the communications may be sent to the applicant

M/s. Summit Builders,
D.No.5-4-187/3&4,
Soham Mansion, M.G. Road,
Secunderabad - 500 003.

VERIFICATION

I / We Soham Modi, Partner applicant (s) do hereby declare that what is stated above is true to the best of my / our knowledge and belief.

Upload Form 565 for Authorization

Submit

Cancel

M. RAMACHANDRA MURTHY
Advocate & Tax Consultant

Flat No.303, ASHOKA SCINTILLA
H.No.3-6-520, Opp. To Malabar,
Himayathnagar Main Road,
Hyderabad -500 029
Tel.:040-402478935 / 36

To,
The Appellate Dy. Commissioner (CT)
Punjagutta Division,
Hyderabad.

Sir,

Sub:- Filing the appeal in the case of M/s. Summit Builders., M.G.Road, Secunderabad.
For the Period 2013-14 to 2017-18(Upto June 2017/~~Entry Tax~~ reg. *WAT*)

Please find enclosed herewith the following appeal papers:

1. Form -APP 400 2 copies.
2. Grounds of Appeal 2 copies.
3. Challan No. 6201648139 for Rs.1000/- towards appeal fee.
4. A.O.No.17543 dt.13/7/2022 passed by Assistant Commissioner (ST) (FAC),
M.G.Road - S D Road Begumpet Division, Hyderabad Telangana.
5. Form APP 400A
6. Letter relating to the proof of payment 12.5% disputed tax challan enclosed.
7. Vakalatnama

Thanking you
Yours sincerely

M. Ramachandra Murthy
M. Ramachandra Murthy
Advocate & Tax Consultant



APPLICATION FOR STAY OF COLLECTION OF DISPUTED TAX
[Under Section 31(2) & 33(6)] [See Rule 39(1)]

01. Appeal Office Address:
To,
The Appellate Deputy Commissioner (CT)
Punjagutta Division,
Hyderabad

Date Month Year

10	08	2022
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02	TIN	36790571789
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03. Name M/s. Summit Builders,
Address: D.No.5-4-187/3&4, Soham Mansion,
 M.G. Road, Secunderabad.

04.	Tax period	2013-14 to 2017-18 (upto June'2017)/VAT
05.	Authority passing the order or proceeding disputed.	Consequential order no.17543 dt.13/07/2022 passed by Assistant Commissioner(ST)(FAC) M.G. Road-S.D. Road Circle, Begumpet Division, Hyderabad.
06	Date on which the order or proceeding was Communicated.	13/07/2022
07.	(1) (a) Tax assessed	Rs.6,81,171/-
	(b) Tax disputed	Rs.6,81,171/-
	(2) Penalty / Interest disputed	NIL
08	Amount for which stay is being sought	Rs.6,81,171/-
09.	Address to which the communications may be sent to the applicant.	M/s. Summit Builders, D.No.5-4-187/3&4, Soham Mansion, M.G. Road, Secunderabad.

Signature of the Dealer(s)

Signature of the Authorised Representatives if any

10. GROUNDS OF STAY

- 1.) Substantial question of facts and law that may arise in the appeal.
- 2.) The appellant will be hard hit if it is called upon to pay this heavy amount of tax pending disposal of the appeal.
- 3.) The grounds that are stated in the main appeal may kindly be read as grounds of this appeal.
- 4.) The appellant has already paid 12.5% of disputed tax for the purpose of admission of the appeal and hence it is requested grant stay on the balance disputed tax till the disposal of the appeal.
- 5.) In this regard the appellant relied on the latest decision of the Hon'ble Supreme Court in a case wherein the Hon'ble Court dismissed the SLP filed against the order of the Hon'ble High Court of Andhra Pradesh & Telangana in the case of Deputy Commercial Tax Officer-I, Bhavanipuram Circle, Vijayawada Vs. Sri Dedeepriya Paints in Diary No.11711 of 2019 dt.22/04/2019.

The Honourable High Court of Andhra Pradesh & Telangana in its decision in WP No.20922 of 2018 dated 22.06.2018 in the case of Sri Dedeepriya Paints Vs Deputy Commercial Tax Officer-I, Bhavanipuram Circle, Vijayawada held as follows:-

“When the petitioner concern already paid 12.5% of the disputed tax amount for the purpose of maintaining an appeal as required by law, it would be wholly unjust for the tax authorities to demand the balance of the disputed tax amount notwithstanding the pendency of the appeal”.

- 1.) The appellant relied on the latest decision of the Honourable High Court of Telangana in the case of M/s. Capart Industries, Hyderabad in WP Nos.3954,3976,4089,4115,4518,4556 and 4577 of 2020, wherein it is held as follows:-

“ 4. Counsel for the petitioner relies upon the order of the Division Bench of this court in Sri Dedeepriya Pains Vs. Deputy Commercial Tax Officer – I wherein a similar action on the part of the Department in proposing to collect the balance disputed tax through 12.5% of the disputed tax amount was already deposited with the Department pending appeal before the Appellate Deputy Commissioner fell for consideration. In that case, this court held that once the assessee had already paid 12.5% of the disputed tax amount for the purpose of maintaining an appeal as required by law, it would be wholly unjust for the tax authorities to demand the balance of the disputed tax amount notwithstanding the pendency of appeal.

5. This above order was later confirmed by the Supreme Court in SLP (CIVIL)Diary No.11711 of 2019 on 22.04.2019.

6. The special Government Pleader for Commercial Taxes appearing for respondents does not dispute **the principle laid down** in these cases.

7. Since the petitioner had already paid 12.5% or more of the disputed tax pending appeals before the Appellate Deputy Commissioner and the Telangana VAT Appellate Tribunal. we are of the considered opinion that the

respondents are not justified in refusing to grant the petitioner stay of collection of the balance disputed tax and issuing Garnishee orders to the Petitioner's banker for recover of the balance disputed tax".

Copy of the High Court order mentioned above is attached herewith

Hence it is just and necessary that the Appellate Dy. Commissioner (CT) may be pleased to grant stay of collection of the disputed tax of Rs.6,81,171/- pending disposal of the appeal.

VERIFICATION

I Sohan Modi, partner applicant (s) do hereby declare that what is stated above is true to the best of my / our knowledge and belief.

Verified today the 18th day of August'2022



Signature of the Dealer(s)



Signature of the Authorised Representatives if any

**SUMMIT BUILDERS,
MG ROAD, SECUNDERABAD.**

Tax Period 2013-14 to 2017-18 (upto June, 2017) /VAT

Statement of Fact:

1. Appellant is a dealer engaged in the business of execution of works contracts and is an assessee on the rolls of the CTO, MG Road Circle, Hyderabad (for short CTO), with TIN No 36790571789. Appellant is in the business of constructing and selling independent houses, apartments etc., paying tax under Section 4 (7) (a) of the APVAT Act, 2005 (hereinafter referred to as Act) under Non-composition scheme.
2. The Commercial Tax Officer, M.G.Road Circle, Begumpet Division (herein after called as CTO) has issued Notice in form VAT 305A dated 14-09-2018 proposing output tax of Rs. 6,81,171/- for the period 2013-14, 2014-15 and 2015-16.
3. The CTO has issued a personal hearing notice, dated 19.03.2012 to the appellant asking to appear before him or file written objections with documentary evidences on or before 22-03-2012. The above said personal hearing notice was received by the appellant on 22-03-2012.
4. Appellant has filed a letter dated 24-10-2018 to CTO requesting 15 days time to file written objections, as the person who is incharge of finance department has resigned from the organization. The CTO has also not provided any opportunity of personal hearing.
5. Without providing an opportunity of personal hearing to the appellant learned CTO has issued FORM VAT 305 (Assessment of Value Added Tax) dated 17-12-2018.

6. Aggrieved by such assessment order, appellant preferred appeal before this Honourable Authority. On a consideration of the grounds and the documents, this Honourable authority has set aside the said assessment order and remanded the matter with specific directions to the assessing authority vide order No.2424 dated 28/12/2020.

7. On such remand, the jurisdictional authority ie., the Assistant Commissioner(ST)(FAC), M.G.Road-S.D.Road Circle (for short AC) issued Show cause notice dated 10/05/2022 to produce books of account to pass consequential orders . Pursuant to that notice, the appellant has filed letter on 18/05/2022 requesting time for submission of objections and documentary evidence. However without giving sufficient time, the learned AC passed the consequential order No.17543 dated 13/07/2022 raising the very same demand of Rs.6,81,171/-.

8. Aggrieved by such consequential order, appellant prefers this appeal on the following grounds, amongst others:-

Grounds of appeal:-

- a. The impugned order is ex-facie illegal, arbitrary, improper and unjustifiable and is passed against the principles of natural justice and hence the same is liable to be set aside.
- b. It is submitted that the learned AC is not justified in passing the impugned order in haste without providing sufficient opportunity. It is submitted that the learned ADC has set aside the first assessment order and has remanded the issue back to the assessing authority to pass consequential orders.

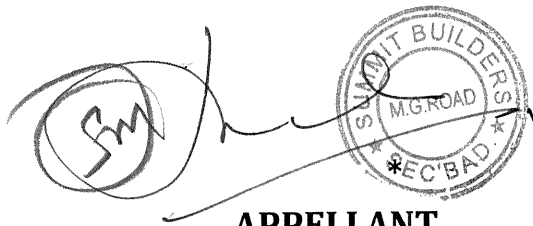
- c. It is submitted that as per Section 37 of the TVAT Act, the assessing authority is having time of 3 years to pass the consequential orders in order to give effect to the order passed by the learned Appellate Deputy Commissioner. It is submitted that the learned ADC has passed the appeal order on 28.12.2020 and the assessing authority is having time up to 27.12.2023 to pass the consequential orders. It is true that the learned AC has issued notice for production of documents, however, due to illness of the concerned accounts head who is looking about the VAT issues, the appellant is not able to provide the relevant data to the learned AC. However, the learned AC without giving sufficient further time to the appellant has passed the impugned order with the very same demand.
- d. It is submitted that the appellant is having all the information that is required to complete the assessment and this information is already produced before this Honourable ADC.
- e. The appellant submits that the learned AC ought to have issued one more notice to the appellant instead of passing the impugned order in haste. The appellant therefore submits that the impugned order is liable to be set aside on the principles of natural justice. In any case appellant submits that they are having strong case on merits.
- f. Without prejudice to the above submissions the appellant submits as under.
- g. It is submitted that the impugned order is highhanded and non-speaking beyond a point. It has been passed in clear violation of principles of natural justice, in as much as the learned authority has refused to look into the letter of objections as nothing has been discussed by him.
- h. It is sad that the learned authority has not at all considered single objection. The impugned order has been passed only for

the purpose of harassing a genuine dealer and nothing else, in the humble submission of the appellant.

- i. 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.
- j. 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 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 and as per books of accounts for each separately.
- k. 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 and 2015-16 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 (upto June, 2017).
- l. 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 tax on the value of goods at the time the goods

are incorporated in the work at the 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 the provisions of the Act and Rules and is therefore liable to be set aside.

- m. For these grounds and the other grounds that may be urged at the time of hearing, appellant prays to set aside the impugned order as illegal and to allow the appeal.



The signature is a stylized cursive 'SM' inside a circle, followed by a horizontal line. To the right is a circular stamp with the text 'SUMMIT BUILDERS' at the top, 'M.G. ROAD' in the center, and 'SEC' BAD' at the bottom, flanked by two stars.

APPELLANT

FORM APP 400
FORM OF APPEAL UNDER SECTION 31
[See Rule 38(2)(a)]

1. Appeal Office Address : The Appellate Dy. Commissioner (CT)
Punjagutta Division, Hyderabad
 2. TIN/GRN : 36790571789
 3. Name & Address : M/s.Summit Builders,
D.No.5-4-187/3&4, Soham Mansion,
M.G. Road, Secunderabad – 500 003.
 4. I wish to appeal the following decision /
assessment received from the tax office on : 13/07/2022
 5. Date of filing of appeal : /08/2022
 6. Reasons for delay (if applicable enclose a
separate sheet : Not Applicable
 7. Tax Period / Tax Periods : 2013-14 to 2017-18 (upto June'2017)/VAT
 8. Tax Office decision / assessment Order No. : Consequential order no.17543
dt.13/07/2022 passed
by Assistant Commissioner (ST) (FAC)
M.G. Road – S.D. Road Circle,
Begumpet Division, Hyderabad.
 9. Grounds of the appeal (use separate sheet
if space is insufficient : Separately Enclosed
 10. If turnover is disputed
 - a) Disputed turnover : NIL
 - b) Tax on the disputed turnover : Rs.6,81,171/-

If rate of tax is disputed

 - a) Turnover involved : NIL
 - b) Amount of tax disputed : NIL
 11. 12.5% of the above disputed tax paid : Rs.85,147/- Letter enclosed
- Note:** Any other relief claimed : Other grounds that may be urged at the
time of hearing.

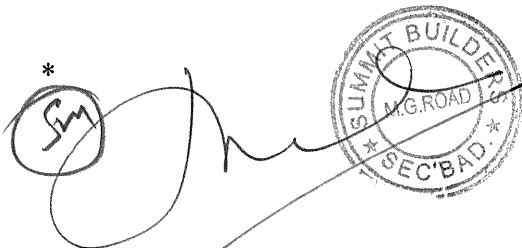
(The payment particulars are to be enclosed if ready paid along with the reasons on Form APP 400A)

12. Payment Details:

a)Challan / Instrument No.	:	
b)Date	:	
c)Bank / Treasury	:	-----
d)Branch Code	:	-----
e)Amount	:	-----
TOTAL	:	-----

Declaration:

I, _____ hereby declare that the information provided on this form to the best of my knowledge is true and accurate.

*


Signature of the Appellant & Stamp

Date of declaration

Name :
Designation :

Please Note: A false declaration is an offence.

Date:08-08-2022

To,
The Appellate Dy. Commissioner (CT),
Punjagutta Division,
Hyderabad.

Sir,

Sub: TVAT Act, 2005 - Appeal filed in the case of M/s. Summit Builders,
Secunderabad - For the year 2017-18 (upto June'2017) - Proof of
payment 12.5% disputed tax paid - Reg.

Ref: Consequential order no.17543 dt.13/07/2022 passed by
Assistant Commissioner (ST)(FAC), M.G. Road- S.D. Road Circle, Hyderabad.

We submit that aggrieved by the consequential order no.17543 dt.13/07/2022 passed by the Assistant Commissioner (ST)(FAC), M.G. Road- S.D. Road Circle, Hyderabad for the year 2017-18 (upto June'2017) under the TVAT Act, 2005 we are filing appeal before your Hon'ble Authority. For admission of appeal, we have to pay 12.5% of the disputed tax as under:-

Tax disputed in the appeal	Rs.6,81,171/-
12.5% disputed tax	Rs.85,146/-

We submit that aggrieved by the assessment order dt.17/12/2018 passed by the Assistant Commissioner(ST), M.G. Road- S.D. Road Circle, Hyderabad for the year 2017-18(upto June'2017) we have filed first round of appeal before this Hon'ble ADC (CT), Punjagutta Division, Hyderabad by paying Rs.85,146/- towards 12.5% of the disputed tax. (copy is enclosed). This Honourable ADC remanded the appeal vide order No.2424 dated 28/12/2020.

We submit that consequent on the remand the Assistant Commissioner(ST) (FAC) passed the present consequential order dated 13/07/2022 levying same tax of Rs.6,81,171/-. Against the said order we are filing the appeal. As such we have paid 12.5% of the disputed tax and we need not pay anything now.

In view of the above submissions we request to kindly admit the appeal.

Yours truly,

for Summit Builders

