

Date: 3rd March 2018

O/C

To,
The Deputy Commerical Tax Officer,
Bowenpally Circle,
Begumpet Division
Hyderabad.

Dear Sir,

Sub: Reply to Notice of assessment of VAT – TVAT Act, 2005 – Tax periods from 2013-14 to 2017-18 (up to 06/2017) – Reg.

Ref: Form VAT 305 A dated 16.2.2018
Our letter dated 22nd February 2018

With refence to the above referred show cause notice we submit our objections as under.

Tax periods 2013-14, 2015-16, 2016-17 and 2017-18:

In the notice it is stated that we have not filed Form VAT 250 and it is proposed to assess VAT under Section 4 (7) (a) of the VAT Act by following the procedure prescribed under Rule 17 (1) (g) i.e. allowing 30% standard deduction from out of the total receipts as per Profit & Loss Account. Accordingly for the year 2013-14 VAT of Rs.73,22,419/- is proposed to be levied. The tax paid of Rs.12,54,813/- has been given as credit and the balance amount liable to be paid has been shown as Rs.60,67,606/-. For the tax period 2015-16 VAT of Rs.73,43,023/- is proposed to be levied and the tax paid of Rs.2,25,012/- has been given as credit and the balance amount liable to be paid has been shown as Rs.71,21,051/-. For the tax period 2016-17 VAT of Rs.87,19,155/- is proposed to be levied and the tax paid of Rs.58,750/- has been given as credit and the balance amount liable to be paid has been shown as Rs.86,60,405/-. For the tax period 2017-18 VAT of Rs.5,70,663/- is proposed to be levied.

In this connection we request your good selves to kindly consider the following objections to the proposed levy of tax.

We submit that we are engaged in the business of constructing and selling of bungalows in a gated community. In the year 2005 we have started a new project viz., Silver Oak Bungalows and at that time we are registered as VAT dealer on the rolls of the CTO, MG Road Circle. We submit that during that period we have operated our business in the name and style of M/s. Mehta & Modi Homes, which is subsequently changed to M/s. Silver Oak Realty. We submit that the Silver Oak Bungalows

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project which we have started in the year 2005 is a gated community consisting individual bungalows and this project is continued till 2017-18.

We submit that for the purpose of discharging the VAT liability on the above project we have opted for composition scheme and we have filed Form VAT 250 in the office of the CTO, MG Road Circle on 23.9.2005. Copy of the Form VAT 250 filed is enclosed herewith for your kind consideration and record. We submit that we are intended to discharge the VAT liability under the composition scheme i.e. at the rate of 4% on 25% of the consideration received or receivable or the market value fixed for the purpose of stamp duty whichever is higher for the contract of constructing and selling bungalows in the above referred project. We also submit that again in the year 2012-13 on 19.6.2012 we have filed one more Form VAT 250 online for the very same project for other Phases. Copy of the Form VAT 250 is attached herewith. We also submit that during the year 2012-13 on 20.3.2013 we have filed one more Form VAT 250 for another new project i.e. 'Villas at Silver Creek'. Copy of the Form VAT 250 filed online is attached herewith. Hence, we submit that your observation in the show cause notice that we have not filed Form VAT 250 for the bungalows constructed in the year is not correct.

We submit that the very same project i.e. Silver Oaks Bungalows for which we have filed Form VAT 250 on 23.9.2005 and on 19.6.2012 is continued even in the year 2013-14 and the revenues recognised in the profit and loss account are from the very same project. In this regard we also submit that as per Rule 17 (4) (b) of TVAT Rules the VAT dealer shall notify the prescribed authority on Form VAT 250 of his intention to avail composition for all works specified in clause (a) above undertaken by him. We submit that as per this sub-rule we have already informed to the assessing authority of our intention to avail the composition scheme by filing Form VAT 250 for the project which we are going to construct from 2005 onwards.

We submit that as per clause (i) of sub-rule (4) of Rule 17, the VAT dealer who opted for composition scheme of payment under Section 4 (7) (d) of the VAT Act shall pay an amount equivalent to 1% of the total consideration received or receivable (during the year it is increased to 1.25%) or the market value fixed for the purpose of stamp duty, which ever is higher and this payment shall be made by of demand draft and the instrument is to be presented at the time of registration of the property. We submit that with every customer who intends to purchase bungalow in the above referred project we

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entered into an agreement of sale for full value of the bungalow and subsequently we register the same as per the customer requirement. At the time of registration, we paid entire tax liability of 1.25% irrespective of the fact whether the customer is paid the same or not on the full value of agreement of sale. We have disclosed the tax paid at the time of registration in the corresponding monthly return by declaring the full value of the bungalow as taxable turnover. However, we submit that in the profit & Loss Account we recognized the revenue relating to the bungalows sold as and when the possession is given to the owner of the bungalow after completion of the construction. We therefore submit that there is always difference between the turnover reported in the monthly returns and the amount of income recognised in the profit and loss account. In any case we submit that we have discharged the legitimate tax liability on the bungalows registered during the year as per Section 4 (7) (d) of the VAT Act read with Rule 17 (4) (i). We are herewith enclosing a statement showing the details of the bungalows registered during the year and the amount of tax paid on the same. We therefore submit that the proposed levy of tax based on the income declared in the profit & loss account is not correct and is against the provisions of the VAT Act. We therefore request your good selves to kindly drop the proposed levy of tax.

Tax period 2014-15:

In the above referred show cause notice your good selves proposed to levy tax by following Section 4 (7) (d) of the Act however, for this purpose the income as per the profit and loss account is taken. In this regard we submit our objections as under.

We submit that as per clause (i) of sub-rule (4) of Rule 17, the VAT dealer who opted for composition scheme of payment under Section 4 (7) (d) of the VAT Act shall pay an amount equivalent to 1% of the total consideration received or receivable (during the year it is increased to 1.25%) or the market value fixed for the purpose of stamp duty, which ever is higher and this payment shall be made by of demand draft and the instrument is to be presented at the time of registration of the property. We submit that with every customer who intends to purchase bungalow in the above referred project we entered into an agreement of sale for full value of the bungalow and subsequently we register the same as per the customer requirement. At the time of registration, we paid entire tax liability of 1.25% irrespective of the fact whether the customer is paid the same or not on the full value of agreement of

sale. We have disclosed the tax paid at the time of registration in the corresponding monthly return by declaring the full value of the bungalow as taxable turnover. However, we submit that in the profit & Loss Account we recognized the revenue relating to the bungalows sold as and when the possession is given to the owner of the bungalow after completion of the construction. We therefore submit that there is always difference between the turnover reported in the monthly returns and the amount of income recognised in the profit and loss account. In any case we submit that we have discharged the legitimate tax liability on the bungalows registered during the years as per Section 4 (7) (d) of the VAT Act read with Rule 17 (4) (i). We are herewith enclosing a statement showing the details of the bungalows registered during the year and the amount of tax paid on the same. We therefore submit that the proposed levy of tax based on the income declared in the profit & loss account and with an assumption that we have not opted for composition scheme of payment of VAT by filing Form VAT 250 is not correct and is against the provisions of the VAT Act. We also submit that we have not claimed any input tax credit in all these years which clearly establishes our intention of paying tax under composition scheme under Section 4 (7) (d) of the Act. It is needless to mention here that the VAT dealer who opted for composition scheme of payment of VAT under Section 4 (7) (d) of the Act is not eligible to claim input tax credit in view of Section 13 (5) (a) of the VAT Act. We therefore submit that the proposed levy of tax under Section 4 (7) (a) of the VAT Act is not correct and we request your good selves to kindly drop the proposed levy of tax and complete our assessment of VAT under Section 4 (7) (d) of the VAT Act.

Tax period 2015-16:

We submit that Silver Oak Bungalows project and Villas at Silver Creek are continued even during the year for which composition scheme is already opted as above mentioned herein the reply.

We submit that for the purpose of discharging the VAT liability on the above projects we have opted for composition scheme and we have filed Form VAT 250 in the office of the CTO, MG Road Circle on 23.9.2005. Copy of the Form VAT 250 filed is enclosed herewith for your kind consideration and record. We submit that we are intended to discharge the VAT liability under the composition scheme i.e. at the rate of 4% on 25% of the consideration received or receivable or the market value fixed for the purpose of stamp duty whichever is higher for the contract of constructing and selling bungalows

in the above referred project. We also submit that again in the year 2012-13 on 19.6.2012 we have filed one more Form VAT 250 online for the very same project for other Phases. Copy of the Form VAT 250 is attached herewith. We also submit that during the year 2012-13 on 20.3.2013 we have filed one more Form VAT 250 for another new project i.e. 'Villas at Silver Creek'. Copy of the Form VAT 250 filed online is attached herewith. Hence, we submit that your observation in the show cause notice that we have not filed Form VAT 250 for the bungalows constructed in the year is not correct.

We submit that the very same project i.e. Silver Oaks Bungalows for which we have filed Form VAT 250 on 23.9.2005 and on 19.6.2012 is continued even in the year 2013-14 and the revenues recognised in the profit and loss account are from the very same project. In this regard we also submit that as per Rule 17 (4) (b) of TVAT Rules the VAT dealer shall notify the prescribed authority on Form VAT 250 of his intention to avail composition for all works specified in clause (a) above undertaken by him. We submit that as per this sub-rule we have already informed to the assessing authority of our intention to avail the composition scheme by filing Form VAT 250 for the project which we are going to construct from 2005 onwards.

We submit that as per clause (i) of sub-rule (4) of Rule 17, the VAT dealer who opted for composition scheme of payment under Section 4 (7) (d) of the VAT Act shall pay an amount equivalent to 1% of the total consideration received or receivable (during the year it is increased to 1.25%) or the market value fixed for the purpose of stamp duty, which ever is higher and this payment shall be made by of demand draft and the instrument is to be presented at the time of registration of the property. We submit that with every customer who intends to purchase bungalow in the above referred project we entered into an agreement of sale for full value of the bungalow and subsequently we register the same as per the customer requirement. At the time of registration, we paid entire tax liability of 1.25% irrespective of the fact whether the customer is paid the same or not on the full value of agreement of sale. We have disclosed the tax paid at the time of registration in the corresponding monthly return by declaring the full value of the bungalow as taxable turnover. However, we submit that in the profit & Loss Account we recognized the revenue relating to the bungalows sold as and when the procession is given to the owner of the bungalow after completion of the construction. We therefore submit that there is always difference between the turnover reported in the monthly returns and the amount of income recognised in the profit and loss account. In any case we submit that we have discharged the

legitimate tax liability on the bungalows registered during the year as per Section 4 (7) (d) of the VAT Act read with Rule 17 (4) (i). We are herewith enclosing a statement showing the details of the bungalows registered during the year and the amount of tax paid on the same. We therefore submit that the proposed levy of tax based on the income declared in the profit & loss account is not correct and is against the provisions of the VAT Act. We therefore request your good selves to kindly drop the proposed levy of tax.

Tax period 2016-17:

We submit that Silver Oak Bungalows project and Villas at Silver Creek are continued even during the year for which composition scheme is already opted as above mentioned herein the reply.

We submit that for the purpose of discharging the VAT liability on the above projects we have opted for composition scheme and we have filed Form VAT 250 in the office of the CTO, MG Road Circle on 23.9.2005. Copy of the Form VAT 250 filed is enclosed herewith for your kind consideration and record. We submit that we are intended to discharge the VAT liability under the composition scheme i.e. at the rate of 4% on 25% of the consideration received or receivable or the market value fixed for the purpose of stamp duty whichever is higher for the contract of constructing and selling bungalows in the above referred project. We also submit that again in the year 2012-13 on 19.6.2012 we have filed one more Form VAT 250 online for the very same project for other Phases. Copy of the Form VAT 250 is attached herewith. We also submit that during the year 2012-13 on 20.3.2013 we have filed one more Form VAT 250 for another new project i.e. 'Villas at Silver Creek'. Copy of the Form VAT 250 filed online is attached herewith. Hence, we submit that your observation in the show cause notice that we have not filed Form VAT 250 for the bungalows constructed in the year is not correct.

We submit that the very same project i.e. Silver Oaks Bungalows for which we have filed Form VAT 250 on 23.9.2005 and on 19.6.2012 is continued even in the year 2013-14 and the revenues recognised in the profit and loss account are from the very same project. In this regard we also submit that as per Rule 17 (4) (b) of TVAT Rules the VAT dealer shall notify the prescribed authority on Form VAT 250 of his intention to avail composition for all works specified in clause (a) above undertaken by him. We submit that as per this sub-rule we have already informed to the assessing authority of our

intention to avail the composition scheme by filing Form VAT 250 for the project which we are going to construct from 2005 onwards.

We submit that as per clause (i) of sub-rule (4) of Rule 17, the VAT dealer who opted for composition scheme of payment under Section 4 (7) (d) of the VAT Act shall pay an amount equivalent to 1% of the total consideration received or receivable (during the year it is increased to 1.25%) or the market value fixed for the purpose of stamp duty, whichever ever is higher and this payment shall be made by of demand draft and the instrument is to be presented at the time of registration of the property. We submit that with every customer who intends to purchase bungalow in the above referred project we entered into an agreement of sale for full value of the bungalow and subsequently we register the same as per the customer requirement. At the time of registration, we paid entire tax liability of 1.25% irrespective of the fact whether the customer is paid the same or not on the full value of agreement of sale. We have disclosed the tax paid at the time of registration in the corresponding monthly return by declaring the full value of the bungalow as taxable turnover. However, we submit that in the profit & Loss Account we recognized the revenue relating to the bungalows sold as and when the procession is given to the owner of the bungalow after completion of the construction. We therefore submit that there is always difference between the turnover reported in the monthly returns and the amount of income recognised in the profit and loss account. In any case we submit that we have discharged the legitimate tax liability on the bungalows registered during the year as per Section 4 (7) (d) of the VAT Act read with Rule 17 (4) (i). We are herewith enclosing a statement showing the details of the bungalows registered during the year and the amount of tax paid on the same. We therefore submit that the proposed levy of tax based on the income declared in the profit & loss account is not correct and is against the provisions of the VAT Act. We therefore request your good selves to kindly drop the proposed levy of tax.

Tax period 2017-18:

We submit that Silver Oak Bungalows project and Villas at Silver Creek are continued even during the year for which composition scheme is already opted as above mentioned herein the reply.

We submit that for the purpose of discharging the VAT liability on the above projects we have opted for composition scheme and we have filed Form VAT 250 in the office of the CTO, MG Road Circle

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on 23.9.2005. Copy of the Form VAT 250 filed is enclosed herewith for your kind consideration and record. We submit that we are intended to discharge the VAT liability under the composition scheme i.e. at the rate of 4% on 25% of the consideration received or receivable or the market value fixed for the purpose of stamp duty whichever is higher for the contract of constructing and selling bungalows in the above referred project. We also submit that again in the year 2012-13 on 19.6.2012 we have filed one more Form VAT 250 online for the very same project for other Phases. Copy of the Form VAT 250 is attached herewith. We also submit that during the year 2012-13 on 20.3.2013 we have filed one more Form VAT 250 for another new project i.e. 'Villas at Silver Creek'. Copy of the Form VAT 250 filed online is attached herewith. Hence, we submit that your observation in the show cause notice that we have not filed Form VAT 250 for the bungalows constructed in the year is not correct.

We submit that the very same project i.e. Silver Oaks Bungalows for which we have filed Form VAT 250 on 23.9.2005 and on 19.6.2012 is continued even in the year 2013-14 and the revenues recognised in the profit and loss account are from the very same project. In this regard we also submit that as per Rule 17 (4) (b) of TVAT Rules the VAT dealer shall notify the prescribed authority on Form VAT 250 of his intention to avail composition for all works specified in clause (a) above undertaken by him. We submit that as per this sub-rule we have already informed to the assessing authority of our intention to avail the composition scheme by filing Form VAT 250 for the project which we are going to construct from 2005 onwards.

We submit that as per clause (i) of sub-rule (4) of Rule 17, the VAT dealer who opted for composition scheme of payment under Section 4 (7) (d) of the VAT Act shall pay an amount equivalent to 1% of the total consideration received or receivable (during the year it is increased to 1.25%) or the market value fixed for the purpose of stamp duty, which ever is higher and this payment shall be made by of demand draft and the instrument is to be presented at the time of registration of the property. We submit that with every customer who intends to purchase bungalow in the above referred project we entered into an agreement of sale for full value of the bungalow and subsequently we register the same as per the customer requirement. At the time of registration, we paid entire tax liability of 1.25% irrespective of the fact whether the customer is paid the same or not on the full value of agreement of sale. We have disclosed the tax paid at the time of registration in the corresponding monthly return by declaring the full value of the bungalow as taxable turnover. However, we submit that in the profit &

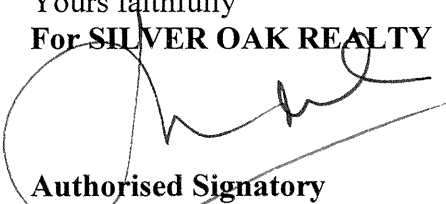
Loss Account we recognized the revenue relating to the bungalows sold as and when the procession is given to the owner of the bungalow after completion of the construction. We therefore submit that there is always difference between the turnover reported in the monthly returns and the amount of income recognised in the profit and loss account. In any case we submit that we have discharged the legitimate tax liability on the bungalows registered during the year as per Section 4 (7) (d) of the VAT Act read with Rule 17 (4) (i). We are herewith enclosing a statement showing the details of the bungalows registered during the year and the amount of tax paid on the same. We therefore submit that the proposed levy of tax based on the income declared in the profit & loss account is not correct and is against the provisions of the VAT Act. We therefore request your good selves to kindly drop the proposed levy of tax.

We also request your good selves to kindly provide us an opportunity of personal hearing in this regard.

Kindly acknowledge for the same

Thanking You,

Yours faithfully
For SILVER OAK REALTY


Authorised Signatory

- Encl. 1. Copies of Form-250 filed
2. Copy of VAT paid Statement as per VAT Returns from 2005-06 to 2017-18.
3. Copy of Revenue statement as per P&L account from 2005-06 to 2017-18.

