

**GOVERNMENT OF TELANGANA  
COMMERCIAL TAXES DEPARTMENT**

**PROCEEDINGS OF THE ASSISTANT COMMISSIONER (ST),  
M.G.ROAD – S.D.ROAD CIRCLE UNDER T VAT ACT, 2005**

**Present Smt. G.Vijaya Lakshmi**

**AO.No: 1654**

**TIN No.36635086045/2013-14/VAT**

**Dated: 01-03-2023.**

Sub: VAT Act 2005 – M/s. Alpine Estates, Secunderabad - Assessment completed for the period 2013-14 - Orders passed - Dealer preferred appeal before the ADC (CT) Punjagutta Division – Appeal Remanded – Notice issued for production of Books of accounts – Books produced by the dealer – verified - Orders passed - Regarding.

Ref: 1) Assistant Commissioner (ST), M.G. Road - S.D. Road Circle, Order No.52195, Dt: 31-03-2020.

2) Order passed by the Hon'ble ADC (CT) Punjagutta vide AO.No.679, Dt.10-08-2022.

3) Notice Dt.17-12-2022 issued to the dealer for production of Books of accounts.

4) Letter dated 20-02-2023 submitted by the dealer along with documentary evidence.

\*\*\*\*\*

M/s. Alpine Estates, Secunderabad, is a registered dealer under VAT and on the rolls of Commercial Tax Officer, M. G. Road – S.D. Road Circle with TIN: 36635086045. The assessee are engaged in the business of Construction of Apartments. In the reference 1<sup>st</sup> cited their assessment under VAT Act, 2005 for the period Jan 2014- June 2017 was completed on the following under declared tax:

| S No         | Year    | Description                                              | Amount              |
|--------------|---------|----------------------------------------------------------|---------------------|
| 1            | 2013-14 | Tax levied on Exempted Sales                             | 13,63,668-00        |
| 2            | 2013-14 | Scrutiny (ITC claimed Cancelled dealers &Tax defaulters) | 1,03,708-00         |
| <b>Total</b> |         |                                                          | <b>14,67,376-00</b> |

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 2<sup>nd</sup> cited which is extracted as under:

*I have heard the Authorized Representative and gone through his contentions as well as the contents of the impugned order. In the impugned orders, at the pre-assessment stage, the Assessing Authority observed that though the appellant had claimed exemption on a turnover of ₹10,90,93,431/- but failed to furnish the evidence to support such claim. Accordingly, the Assessing Authority arrived at a turnover of ₹2,72,73,358/- (i.e., equal to 25% of ₹10,90,93,431/-) and proposed to levy tax thereon at 5% which comes to ₹13,63,668/-. The Assessing Authority further arrived at a turnover of ₹82,96,623/- towards difference between the turnovers reported in the monthly returns and the turnovers reflected*



in the Profit & Loss account and arrived at a turnover of ₹20,74,155/- (i.e., equal to 25% of ₹82,96,623/-) and proposed to levy tax thereon at 5% which comes to ₹1,03,708/-. In all, the Assessing Authority arrived at a tax due at ₹14,67,376/- and issued a show cause notice. On an observation that though the said notice was served on the appellant on 20-03-2020, but, however, the appellant had not filed any reply, the Assessing Authority passed the impugned orders confirming the proposals made in the show cause notice.

Such order of assessment is vehemently assailed by the appellant stating that the Assessing Authority is not justified in arriving at the disputed tax towards tax due. It is explained that the appellant is dealing in execution of works contract i.e., construction and selling of residential apartments / villas by exercising option to pay tax under composition under Section 4(7)(d) of the TVAT Act and accordingly paid tax on the 25% of the total consideration received on account of execution of such works as per the said provisions of the Act and as such bringing the remaining 75% of the consideration received by the appellant is against the provisions contained under Section 4(7)(d) of the TVAT Act since the provisions contained under the said Section clearly and categorically prescribes the payment of tax at composited rate on the 25% of the consideration received or receivable on account of execution of construction and selling of apartments by exercising the option to pay tax under composition. It is further stated that the Assessing Authority is also not justified in arriving at the differential turnover for the purpose of assessment and to tax thereon.

It is further contended that when the Assessing Authority issued a show cause notice and subsequent passing of the impugned order, there is a complete lockdown not only in the Hyderabad city but also in the entire State of Telangana and in the entire country due to COVID 19 pandemic situation and as such the appellant prevented from filing the objections to the show cause notice issued. It is also stated that had the Assessing Authority provided one more opportunity after relaxation in lockdown, they would have filed their objections along with all the relevant documentary evidence, but the Assessing Authority proceeded to pass the impugned order, which is not only against the situation prevailed at that time, but also against the principles of natural justice. This claim of the appellant is found to be reasonable.

For the facts and reasons discussed above, more particularly the submissions made by the appellant with regard to non-responding to the notice issued for filing objections are convincing, without going into the merits of the case, I feel it just and proper to remit the matter back to the Assessing Authority with a direction to provide an opportunity to the appellant file their objections along with documentary evidence if any, consider the same and then 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 turnover of ₹2,93,47,513/- (tax effect - ₹14,67,376/-) and the appeal thereon remanded.

In the end, the appeal is **REMANDED**”.

In response to the above proposal, the dealer has filed a letter dated 20-02-2023 and submitted as under

"We submit that we are in receipt of the ADC order wide TIN.36635086045 / Apr'13 – Mar'14/VAT proposing of demand a tax of Rs.14,67,376/- for the period from Jan'2014 to Mar'2014. We request you to kindly consider our objection on the following grounds.

M/s. Alpine Estates has developed only one housing project. The project consists of 280 flats spread over 3 blocks (A, B & C). The land was fully owned by firm. The development was completed in phase from 2010-11 Occupancy certificate for 'A' Block was received on 1<sup>st</sup> November 2010, Block "V" received on 9<sup>th</sup> April 2020 and Block "C" received on 23<sup>rd</sup> March 2011 for the same certificates enclosed herein.

VAT was paid under composition scheme Section 4(7)(d) @ 1% or 1.25% on the value of Net Sale Consideration, for the 27 flats out of 280 flats for the period Apr'13 to Mar'14 for the same statement enclosed herein.

The turnover declared in the books of accounts / IT returns does not match with turnover declared in VAT returns. The method adopted for IT returns is as per rules under the IT Act, wherein profit was estimated for each financial year during the course of the project and turnover was based on installments due during the year. In most cases sale deed was executed after receipt of most installments, that too in different financial years. VAT returns were filed based on VAT paid from time to time.

The method of adopting turnover from VAT returns and P & L account is not correct. We have also paid VAT as per turnovers in books and reported in the VAT returns. The difference in the turnover of Rs.82,96,623/- as worked by you does not form turnover and the proposed levy of tax of Rs.1,03,708/- may please be dropped.

In light of the above we request you to drop the demand for payment of shortfall in VAT. We are willing to provide any further documents that you may required".

In support of their objections made above, they have submitted statement of sale deeds concluded during the audit period along with payment particulars thereon, sample copies of Sale deeds and reconciliation statement of P & L Account Vs VAT returns.

The documentary evidence filed by dealer is verified and found no variation of turnovers with reference to turnovers reported in VAT returns are noticed. Hence the proposed tax of Rs.14,67,376/- is hereby dropped.

To,  
M/s. Alpine Estates,  
Address : 5-4-187, 3&4, 2<sup>nd</sup> Floor, Soham Mansion,  
M.G. Road, Secunderabad – 500 003.

*G. Vijaya Lakshmi*  
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