

GOVERNMENT OF ANDHRA PRADESH

COMMERCIAL TAXES DEPARTMENT



O/o Commercial Tax Officer
MG Road Circle
3rd Floor, Pavani Prestige
Ameerpet, Hyd'bad

TIN No 28840298894 / 07-08

Dated : 24-08-2012

NOTICE OF ASSESSMENT OF VALUE ADDED TAX

Sub : APVAT Act 2005 – M/s MEHTA & MODI HOMES, Secunderabad –VAT-305A –
Assessment year 2007-2008 – Show Cause Notice issued – Regarding.

Ref : Vig. & Enfft Dept, Hyd'bad Rural Rc.No : 4/12/RV&ECHR/Rev.Wing/08
dated 21-01-2009.

M/s Mehta & Modi Homes, HNO 5-4-187, MG Road Secunderabad are registered dealers under the APVAT Act with TIN No 28840298894 and engaged in execution of works contract under APVAT Act 2005. M/s Mehta & Modi Homes, Secunderabad are constructing Independent Bungalows at Cherlapally, Ghatkesar Mandal, Ranga Reddy District. The Vigilance & Enforcement Officials visited the said work site on 10-12-2008 and obtained details of the entire construction work of the dealer and sent the record to the Commercial Tax Officer, MG Road.

On examination of the record it is noticed that the Company opted for composition scheme and paying their taxes due thereon @ 4% on 25% of receipts under Section 4(7)(d) of APVAT Act 2005. It is noticed that they have purchased Sand, Metal, Bricks and Hardware Material from unregistered dealer which are liable to tax under Section 4(7)(e) of APVAT Act 2005 but they have not declared the above purchases and paid tax to the department accordingly. Further as per the documents furnished by the contract, it is noticed that the company has entered into three separate agreements, one with respect to the sale of land, second with respect to development of land by laying of roads, drains, parks and the third with respect to the construction of the bungalow. The company has collected separate amounts for sale of land, for development of plot & for construction of building. Under the VAT Act the sale of plot being immovable is not liable to tax and the transactions of development of plot and construction of bungalow fall under Works contract and liable to VAT under sec.4(7) © of APVAT ACT'05.

As per the Advance ruling issued by the authority for clarification and Advance Ruling of the CT Dept in the case of MAYTAS HILL COUNTY PVT LTD Begumpet Hyderabad Dated 30-07-2006 in the event a piece of land belonging to the applicant is sold to the customer through a sale deed for sale of land and then through a separate construction agreement the applicant takes up construction of a house on such land purchased by the customer, there is a sale deed for the sale of land and also a construction agreement between the applicant and customer which is also registered with the Sub-Registrar, the applicant is not eligible to opt @ 4% of 25% consideration received towards construction cost by excluding cost of land through it could be registered separately at any stage. Here in the present case the company sold plots and executed sale deed and later entered into two contracts, one for development of the plot and the other for construction of bungalow (building).

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The contractor has entered into an agreement of sale with the customers for sale of plot, execution of works contract for developing the plot by laying roads, drainage lines, parks etc., and for construction of bungalow. The contractor has collected separate amounts for sale of land, for development of plot and for construction of building. Though a single document is executed as agreement of sale, the actual transactions cannot be combined and they are separate. Of these transactions, transaction of sale of plot being immovable property, not liable to VAT but the transactions of development and construction of bungalow fall under category of execution of civil works contract and are liable to VAT @ 4% on receipts under Section 4(7)© of APVAT Act 2005.

The transactions of the contractor are similar to second category of situations mentioned in the Advance Ruling in the case of M/s Maytas Hill Country Pvt Ltd.

Second Category reads as under :

A piece of land belonging to the applicant is sold to the customer through a sale deed for the sale of land and then through a separate construction agreement the applicant takes up construction of a house on such land purchased by the customer. In this situation there is a sale deed for the sale of land and also a construction agreement between the applicant and the customer which is also registered with the Sub-registrar.

The applicant shall not eligible for composition under section 4(7)(d) to pay tax @ 4% on 25% on the total consideration"

Similarly in this case, the contractor also sold plot to the customers and entered into two separate covenants, one for development of plot and the other for construction of building, the contractor is not eligible to opt to pay tax @ 4% of 25% on the total consideration.

Further it is revealed that the contractor has purchased Sand, metal, Granites and Bricks from un registered dealer and they have not paid tax under Section 4(7)(e) of APVAT Act 2005. Since the contractor opted for composition and proposed to levy tax @ 4% on the total consideration (after deduction the Plot Value) tax is not levied on the above un-registered purchase under Section 4(7)© of APVAT Act.

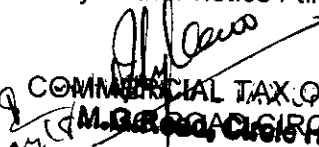
In view of the above, the turnover of the contractor is liable to tax @ 4% on all the receipts under Section 4(7)© of APVAT Act 2005. As per the information available, the contractor has received consideration from customers from 01-04-2007 to 31-03-2008.

2007-08 → Rs 16,61,25,381/-

Computation of taxable turnover and tax

Receipts	Rs	16,61,25,381/-
VAT @ 4%	Rs	66,45,015/-
Less VAT paid	Rs	5,26,322/-✓
Diff. VAT	Rs	61,18,693/-

M/s MEHTA & MODI HOMES, Secunderabad are hereby requested to file their written objections if any alongwith the documentary evidence within (7) days from the date of receipt of this notice, failing which the orders will be confirmed without any further notice / time.


COMMERCIAL TAX OFFICER
M. G. REDDY
Circular No. 115