

Date:17.11.2023

To,
The Assistant Commissioner (ST),
M.G. Road-S.D. Road Circle,
Begumpet Division,
Hyderabad,

Sir,

Sub: VAT Act'2005- M/s.Mehta & Modi Homes, M.G. Road Circle, Hyderabad – Passed Final Assessment and Penalty orders., for the years 2007-08 to 2012-13(upto 09/2012) under VAT Act completed – Assessee preferred an appeal before the ADC(CT), Punjagutta Division, Hyderabad seeking certain relief(s) of the pre-assessed turnovers/taxes/penalty – Appeal was disposed -off as “ Dismissed “ – Issue of notice for payment of taxes and penalty – Final notice for payment of taxes – Served – But this effort yielded futile results – Issue of Final notice – Reply filed – Reg.

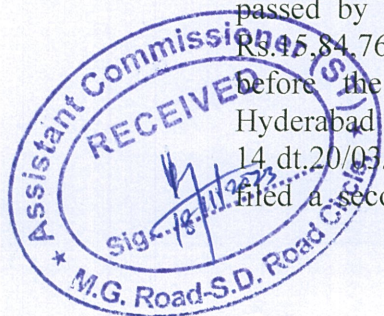
Ref:1) Proceedings by way of orders passed by the Commercial Tax Officer, M.G.Road Circle (Presently re-designated as the Assistant Commissioner(ST), M.G. Road- S. D. Road Circle for the years 2007-08, 2008-09 and 2009-10 to 2012-13(upto09/2012)

- 2) Proceedings by way of appeal orders passed by the Appellate Dy. Commissioner (CT) (Presently re-designated as the Appellate Joint Commissioner(ST), Punjagutta Division, Hyderabad for the years 2007-08, 2008-09 and 2009-10 to 2012-13(upto09/2012) has dismissed the appeal.
- 3) Appeals are pending at Hon'ble STAT, Hyderabad, and also stay granted by the Addl. Commissioner (CT) Legal, Hyderabad
- 4) Your final reminder notice for payment of tax dt.31/10/2023.

We submit that we are in receipt of the final reminder notice for payment of tax and penalty amounts for the years 2007-08,2008-09 and 2009-10 to 2012-13(upto 09/2012) under the TVAT Act, we submit as under:-

1) Year: 2007-08/VAT:

For the year 2007-08, the assessment order in Form VAT 305 dt.06/09/2013 was passed by the Commercial Tax Officer, M. G. Road Circle demanding a tax of Rs.45,84,765. Aggrieved by the said assessment order we have filed an appeal before the learned Appellate Dy. Commissioner (CT), Punjagutta Division, Hyderabad disputing the tax of Rs.16,01,701. The ADC, vide appeal no.BV/93/2013-14 dt.20/03/2015 has dismissed the appeal. Against the said dismissal order we have filed a second appeal before the Hon'ble STAT, Hyderabad disputing the tax of



Rs.16,01,701. For admission of appeal before STAT we have also paid 50% of the disputed tax of Rs.8,00,851. The appeal is numbered as T.A.No.210/2015.

We submit that when the appeal is pending before STAT, we have filed a stay application before the Joint Commissioner (CT)-I Hyderabad (for short JC(CT)-I). The JC(CT)-I vide his order no.150/2015 dt.18/08/2015 has granted a stay on the entire disputed tax amount of Rs.16,01,701 and stated that **“the various issues raised by the appellant on the applicability of rate of tax on sale of Villas are to be decided in appeal before the Telangana Value Added Tax Appellate Tribunal, Hyderabad. Hence, without expressing any opinion on the merits of the case, I feel it just and proper to grant stay of collection of total disputed tax Rs.16,01,701/- till disposal of the appeal by the Telangana Value Added Tax Appellate Tribunal, Hyderabad”**. A copy of the stay order is enclosed herewith.

As per the stay order dt.18/08/2015, there is no need to pay any disputed tax, still, our tax appeal is pending at Hon'ble STAT, Hyderabad.

2) Year: 2008-09/VAT:

We submit that for the year 2008-09, the assessment order no.49257 dt.06/09/2013 was passed by the Commercial Tax Officer, M. G. Road Circle, Hyderabad, and we have an excess tax credit of Rs.2,27,529/-. Aggrieved by the said assessment order, we have filed an appeal before the Appellate Dy. Commissioner (CT), Punjagutta Division, Hyderabad, disputing the tax of Rs.1,42,348/-. The issue involved in the appeal is that we paid tax under the composition scheme under Sec. 4(7)(d), but the CTO levied tax under Section 4(7)(c) of the ACT and also levied a tax on non-VAT purchases. The ADC, vide appeal no.BV/100/2013-14 dt.20/03/2015 has dismissed the appeal. We submit that, against the said dismissal order, we have filed a second appeal before the Hon'ble STAT, Hyderabad, disputing the tax of Rs.1,42,348. The appeal is numbered as 162/2015, and our appeal is still pending.

In this regard we submit that we have an excess tax of Rs.2,27,529/-, as per the assessment order dated 06/09/2013. We submit that there is no need to pay any disputed tax amount of Rs.1,42,348/- because we have paid more tax than the tax disputed in the appeal.

3) Year: 2009-10 to 2012-13(upto January'2013)/VAT:

For the year 2009-10 to 2012-13(upto January'2013), the assessment order in Form VAT 305 dt.19/03/2013 was passed by the Commercial Tax Officer(INT), Begumpet Division, Hyderabad demanding a tax of Rs.44,85,000. Aggrieved by the said assessment order we have filed an appeal before the learned Appellate Dy. Commissioner (CT), Punjagutta Division, Hyderabad disputing the tax of Rs.44,85,000. The ADC vide appeal no.BV/35/2013-14 dt.20/03/2015 has dismissed the appeal. Against the said dismissal order we have filed a second appeal before the Hon'ble STAT, Hyderabad disputing the same tax of Rs.44,85,000. For admission of

appeal before STAT we have also paid 50% of the disputed tax of Rs.22,42,500. The appeal is numbered as T.A.No.211/2015.

We submit that when the appeal is pending before STAT, we have filed a stay application before the Joint Commissioner (CT)-I Hyderabad (for short JC(CT)-I). The JC(CT)-I vide his order no.151/2015 dt.18/08/2015 has granted a stay on the entire disputed tax amount of Rs.44,85,000 and stated that **“the various issues raised by the appellant on the applicability of rate of tax on sale of Villas are to be decided in appeal before the Telangana Value Added Tax Appellate Tribunal, Hyderabad. Hence, without expressing any opinion on the merits of the case, I feel it just and proper to grant stay of collection of total disputed tax Rs.44,85,000 till disposal of the appeal by the Telangana Value Added Tax Appellate Tribunal, Hyderabad”**. A copy of the stay order is enclosed herewith.

As per the stay order dt.18/08/2015, there is no need to pay any disputed tax, still, our appeal is pending at Hon'ble STAT, Hyderabad.

4) Year: 2009-10 to 2012-13(upto January'2013)/Penalty:

For the year 2009-10 to 2012-13(upto January'2013), the penalty order in Form VAT 203 dt.29/04/2013 was passed by the Commercial Tax Officer(INT), Begumpet Division, Hyderabad levy penalty of Rs.4,48,500/-. Aggrieved by the said assessment order we have filed an appeal before the learned Appellate Dy. Commissioner (CT), Punjagutta Division, Hyderabad disputing the penalty of Rs.4,48,500/-. The ADC vide appeal no.BV/28/2014-15 dt.20/03/2015 has dismissed the appeal. Against the said dismissal order we have filed a second appeal before the Hon'ble STAT, Hyderabad disputing the same penalty amount of Rs.4,48,500. For admission of appeal before STAT we have also paid 50% disputed penalty of Rs.2,24,250. The appeal is numbered as T.A.No.195/2015.

We submit that we have filed a revision petition before the Additional Commissioner (CT) Legal, Hyderabad on 14/11/2023. The appeal and stay petitions are pending.

In this connection it is submitted that as the stay application is pending, in view of the decision of the Hon'ble High Court of A.P. IN THE CASE OF ANAB-E-SHAHI Wines & Distilleries (P) Limited Vs. Appellate Deputy Commissioner(1995) 21 APSTJ98 (APHC) no coercive steps for collection of disputed tax can be taken by the assessing authority.

We also submit that the Honourable High Court of AP in its decision in WP No.39378 of 2012 dated 25.2.2013 in the case of Katuri Medical College and Hospitals, Guntur District Vs CTO, Lalapet Circle, Guntur (22 TTR 163) held as follows:-

“The basis of the principle in M/s. Anab-E-Shahi Wines case is that if recoveries of disputed tax or penalty are made where stay application is pending before the appellate authorities, the appeal itself would be rendered infructuous and that the assessee who is aggrieved by an order of assessment has been given a statutory right of appeal which cannot be rendered infructuous by being forced to pay the disputed tax or penalty pending the appeal. We see no reason why the said principle cannot be extended to a situation where the first appellate authority rejects the stay application and a reversion is preferred by the assessee before the revisional authority seeking stay of the disputed tax and penalty. We see no statutory basis for the circular issued by the CCT dated 11.3.1996 and are of the view that the Commissioner had no jurisdiction to issue the said circular and thereby restrict or interfere with the exercise of the revisional jurisdiction by the revisional authorities.”

In view of the above binding decision, we request your good self to kindly keep in abeyance collection of penalty till the disposal of the revision applications by the revisional authority. We are herewith filing copy of revision application duly showing the acknowledgment from the office of the revisional authority.’

In view of the above submissions kindly withdrawn the final reminder notice for payment of tax and penalty

Thanking you,

Yours truly

For M/s. MEHTA AND MODI HOMES
For Mehta & Modi Homes

Partner

Encl.: As Above