

**GOVERNMENT OF ANDHRA PRADESH
COMMERCIAL TAXES DEPARTMENT**

NOTICE OF ASSESSMENT

FORM VAT 305 A

Tax Office Address:
Commercial Tax Officer (INT)
O/o The Deputy Commissioner (CT)
Begumpet Division., Hyderabad
VI Floor Pavani Prestige,
Ameerpet, Hyderabad

TIN

2 8 8 4 2 0 9 8 8 9 4

Date Month Year
23 02 2013

**03.Name : M/s MEHTA AND MODI HOMES,
Address : Door No 5-4-187/3 & 4, M.G. Road, Sec'bad.**

Examination of your records on 19-02-2013 has shown that the correct amount of Value Added Tax have not been declared in the VAT 200 Returns listed below. Under the provisions of APVAT Act, 2005 the following tax amounts are proposed to assess for the tax period Shown below:

Period	Output / Input Tax	Declared	Found Correct	Under Declared
2009 - 10	output	449675	1344675	895000
2010 - 11	Output	935316	2496310	1561000
2011 - 12	Output	1397249	3104249	1707000
2012 - 13	Output	510559	832559	322000
			Net Tax Due	44,85,000/-

(Rupees Forty Four Lakhs Eighty Five Thousand only)

Explanation for the above proposal

M/s Mehta and Modi Homes, 5-4-187/3 & 4, M.G. Road, Sec - Bad are builders constructing and selling of independent residential villas in fully developed / operational gated housing complex at IDA Cherlapally and paying tax @ 4% on 25% of sale consideration. In this gated housing complex they are laying Bitumin roads, constructing club houses, swimming pools, drains, parks, electricity, etc. They have started paying tax from 2006-07. As per Deputy Commissioner (CT), Begumpet Division audit authorization in ADM 1B No 20121128093283 dt: 29.11.2012 issued and served VAT 304 notice on 29.11.2012 to Sri Jaya Prakash, accounts officer of the company to keep ready of their business records for VAT audit to be held on 11.12.2012. After taking adjournment they filed following business records.

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23/2/2013
Commercial Tax Officer (INT.)
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Begumpet Division, Hyderabad.

- 1) Statement of sale details of villas where VAT is paid from the starting of project
- 2) Statement of un – registered villas and vacant from the starting of project
- 3) Statement of abstract purchase value of goods involved in executive of works contract 01.04.2009 to 31.03.2010 certified by Chartered Accountant
- 4) Audited p & l, balance sheet 2009-10, 2010-11, 2011-12
- 5) Sale deeds of residential plots to prospective buyers of villa Prashanth Benerji, Ramesh Chanda, Anil Kongeri
- 6) Copy of agreements for construction with buyers Sri Prashanth Benerji, Ramesh Chanda, Anil Kongeri.

On verification of the above documents it is noticed that they are selling land / plot separately and entering separate agreement for construction of villa and paying tax U/s 4 (7) (d). As per advance ruling in AP COM/48/2012 dt: 15.09.2012 on the case of M/s Nobel Properties, Bajanra hills, Hyderabad it was clarified that agreement for construction of villa on the land sold by the builder to the buyer will fall under the section 4 (7) (b) of APVAT Act taxable @ 5% on total consideration received towards the construction of building. Further as per advance ruling in AR COM/165/2006 dt: 01.02.2007 in the case of M/s VPL Projects (P) Ltd, it was clarified that on a land already owned by the customer and the applicant has no rights to sell or to register the housing unit, such transactions does not come within the preview of construction and selling of residential houses. Further the tax rate of 4% on 25% of the consideration received is specifically linked to consideration received or receivable or market value fixed for the purpose of stamp duty as clarified in advance ruling no CCT/PMT/P&L/AR COM/566/2005 dt: 18.05.2006 in the case of M/s Kashi Kanchan, Tirmulgherry. Hence this is a normal works contract attracting provisions under clause (a) and clause (c) of sub – section (7) of section (4) of the APVAT Act. Whereas the assessee is paying tax @ 4 / 5% on 25% value of total sale consideration of villa as per section 4 (7) (d) of APVAT Act 2005 which is against the clarification cited above which are binding on this assessing authority. Hence it is proposed to reject the payment of VAT tax due by assessee U/s 4 (7) (d) and proposed to levy tax U/s 4 (7) (b) @ 4 / 5% on total consideration received on building

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construction charges as worked out below from 2009-10 to 2011-12.

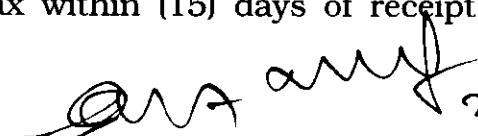
(Figures Rs. In Lakhs)

S.No	Description	2009-10	2010-11	2011-12		2012-13 (up to Sep)
				(up to Sep 15)	(After Sep 15)	
1	Turnover declared	449.67	935.31	1041.63	355.61	449.67
2	Tax paid @ 4/5% on 25% value of (1)	4.49	9.35	10.41	4.44	6.38
3	No of villas sold	14 No s	26 No s	22 No s	9 No s	8 No s
4	Estimated turnover of construction @ Rs: 24,00,000/- each villa	336.00	624.00	52.80	216.00	192.00
5	Tax proposed @ 4/5% U/s 4 (7) (d)	13.44	24.96	21.12	10.80	9.6
6	Under declared tax	8.95	15.61	10.71	6.36	3.22

Thus they have under declared total output tax of Rs: 44.85 lakhs from 2009 - 10 to 2012 - 13 (up to sep) as worked out above as per the discussion made supra.

In view of the above it is proposed to assess them total under declared output tax of Rs: 44.85 Lakhs and issued VAT 305 A assessment notice as per Deputy Commissioner (CT) Begumpet Division assessment authorization in ADM 1C 20130223525462 dt: 23.02.2013.

The assessee is requested to file the written objections if any to above proposed under declared tax within (15) days of receipt of this notice.

 23/2/2013
COMMERCIAL TAX OFFICER (INT)
BEGUMPET DIVISION HYDERABAD

Commercial Tax Officer (INT.)
O/o. The Deputy Commissioner (CT)
Begumpet Division, Hyderabad.