MEHTA & MODI HOMES

5-4-187/3 & 4, II Floor, Soham Mansion, M.G. Road, Secunderabad - 500 003.
Phone : +91-40-66335551, Fax :

Date: 21st August 2012

To,
The Commercial Tax Officer,
M.G. Road Circle,
Hyderabad

Sir,

Sub: Stay Petition filed for the collected of disputed Tax – For the year 2005-06 & 2006-07/VAT - Reg.

Ref: 1) Proceedings No. CCT. Ref. L.III (2)/112/2012 dated 24/07/2012 from the Addl. Commissioner (CT) Legal, Hyderabad.
2) Extension of time order dated 17/08/2012 passed by Addl. Commissioner (CT) Legal, Hyderabad.

******

As per the directions of the Additional Commissioner (CT) Legal, in his proceedings cited above, we are enclosing Cheque No. 636125 dated 18th August 2012 for Rs.8,05,937/- (Rupees Eight Lakhs Five Thousand Nine Hundred Thirty Seven Only) as per the details furnished below.

Disputed Tax	:Rs.38,81,737/-
Stay granted for 50% of the Disputed Tax	:Rs.19,40,869/-
Balance payable	**:Rs.19,40,869/-**
As per the effectual order dt.24/05/2012 the tax paid is	Rs.11,34,932/-
Balance, Now Paid	**:Rs. 8,05,937/-**

Kindly acknowledge

Thanking you,

Yours faithfully
For **MEHTA & MODI HOMES**

Authorised Signatory

Encl: 1. Cheque No. 636125 dated 18th August 2012
2. Extention Order copy
3. Stay Order Copy

COMMERCIAL TAX OFFICE
12 AUG 2012
M.G Road Circle, Begumpet Division

HDFC BANK

A/c. Payee Only

USHA KIRAN COMPLEX, GR FLOOR,PARADISE CIRCLE
SAROJINI DEVI ROAD, SECUNDERABAD 500 003,ANDHRA PRADESH
RTGS./ NEFT IFSC : HDFC0000042

Imperia
Premium Banking

18/08/12

Pay C.T.O., M.G. ROAD CIRCLE Or Bearer
या धारक को

Rupees रुपये Eight lakhs five thousand nine hundred thirty seven only अदा करें

₹ 805937/-

A/c No. खाता क्र. 00422000011257 CA

Payable at par through clearing/transfer at all branches of HDFC BANK LTD.

For MEHTA AND MODI HOMES

Authorised Signatories
Please sign above / कृपया यहाँ हस्ताक्षर करें

SESHAASAI(C) CTS-2010 160312

⑈636125⑈ 500240003⑆ 133699⑈ 29

PROCEEDINGS OF THE ADDITIONAL COMMISSIONER(CT) (LEGAL), OFFICE OF THE COMMISSIONER OF COMMERCIAL TAXES, ANDHRA PRADESH, HYDERABAD.

PRESENT: SRI D. RAMACHANDRA REDDY, B.Sc, B.L., CAIIB, M.B.A.,
A.C. Order No.195
CCT.Ref.No.L.III (2)/ 112 /2012 Dated.17 -08-2012

Sub:- Stay Petitions – M/s. Mehta & Modi Homes, M.G.Road, Secudnerabad - for the tax period 2005-2006 & 2006-2007 - under APVAT Act'2005 – Heard the case – Orders – passed – Extention of time – Reg.

Ref:-1) CTO (Audit), Begumpet Division, Form 305, in TIN.No.28840298894, dt.12-08-2007 of Mehta & Modi Homes.
2) Proceedings of the DC(CT), Begumept Division, Hyderabad DC order.No. 162 Rc.No.E3/R/219/2011, Dt.23-4-2012.
3) Application in Form 406, dated. 29-06-2012 filed by the dealer.
4) A.R.No:259/2012 M/s.Mehta & Modi Homes, M.G. Road, Secunderabad pending before the Hon'ble STAT, Hyderabad.
5) Proceedings in CCT's Ref.LIII(2)/112/2012 dt.24-07-2012
6) Lr.No.Nil dt.16-08-2012 by M/s. Mehta & Modi Homes, M.G.Road, Secunderabad.

Extention of time:

M/s. Mehta & Modi Homes, M.G.Road, Secunderabad have filed a representation on the stay orders issued by the undersigned as in the reference 5th cited stating that they have received the orders on the evening of 13-08-2012 and therefore they are unable to comply the orders of the undersigned due to non availability of their Managing Director to remit 50% of the disputed tax on or before 14-8-2012 and hence requested to extend the time upto 22-08-2012 to comply the orders.

In view of the request made by the appellant, the time is hereby extended upto 22-08-2012 as desired by the appellant to comply with the orders as in reference 5th cited.

ADDITIONAL COMMISSIONER (CT) (LEGAL)

To
M/s. Mehta & Modi Homes, M.G.Road, Secunderabad
through the Commercial Tax Officer(Audit) Begumept Division
(in duplicate) for service and return of served copy immediately.

Copy to the Commercial Tax Officer (Audit) Begumept Division
Copy to the Deputy Commissioner (CT), Begumpet Division.

PROCEEDINGS OF THE ADDITIONAL COMMISSIONER(CT) (LEGAL), OFFICE OF THE COMMISSIONER OF COMMERCIAL TAXES, ANDHRA PRADESH, HYDERABAD.

PRESENT: SRI D. RAMACHANDRA REDDY, B.Sc, B.L., CAIIB, M.B.A.,

A.C. Order No.176

CCT.Ref.No.L.III (2)/ 112 /2012

Dated.24-07-2012

Sub:- Stay Petitions – M/s. Mehta & Modi Homes, M.G.Road, Secudnerabad - for the tax period 2005-2006 & 2006-2007 - under APVAT Act'2005 – Heard the case – Orders – passed.

Ref:-1) CTO (Audit), Begumpet Division, Form 305, in TIN.No.28840298894. dt.12-08-2007 of Mehta & Modi Homes.

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3) Application in Form 406, dated. 29-06-2012 filed by the dealer.

4) A.R.No:259/2012 M/s.Mehta & Modi Homes, M.G. Road, Secunderabad pending before the Hon'ble STAT, Hyderabad.

◇◇◇

ORDER:

The stay petition is filed by M/s. Mehta & Modi Homes, M.G.Road, Secunderabad against the revision orders passed by Deputy Commissioner (CT), Begumpet Division raising a demand of Rs.38,81,737/- under Section 4(7) (c) of APVAT Act 05. Inter alia, the appellant's Authorised Representative Sri M. Ramachandra Murthy, Chartered Accountant has specifically contended that even though the appellant enters into agreement for construction and agreement for development charges subsequently the amounts mentioned in these two agreements have already been shown in the original agreement of sale (mother agreement) and the appellant has paid VAT @ 1% on the total consideration received as per the original agreement of sale. Thus the payment of tax @ 1% by the appellant is strictly as per the provisions of Section 4(7) (d) which is also accepted by the assessing authority.

The Authorised Representative submitted that the appellant is engaged in the business of construction and selling of independent bungalows / Villas at Charlapally and has opted for payment of tax @ 4% on 25% of the consideration received or receivable (1%) under composition scheme under Section 4(7) (d) of the Act). The appellant has declared the turnover relating to the constructions and sale of bungalows in the monthly VAT returns and paid tax on the amounts received from the customers @ 1%. Even though the appellant enters into agreement for construction and agreement for development charges subsequently the amounts mentioned in these two agreements have already been shown in the original agreement of sale (mother agreement) and the appellant has paid VAT @ 1% on the total consideration received as per the original agreement of sale. Thus the payment of Tax @ 1% by the appellant is strictly as per the provisions of Section 4(7) (d) which is also accepted by the assessing authority. In the revision notice it is alleged that the appellant executes a sale deed for sale of land and later enters into two separate contracts for development of plot and for constructions of bungalow.

The Authorised Representaive then submitted that it is quite clear that if the property is registered only as a land through a sale deed and there is no subsequent registration after completion of construction the applicant shall ensure payment of 1% of total consideration received ro receivable as per the initial agreement of sale. The appellant reiterates that in the course of business the appellant enters into agreement with the prospective buyers for sale of independent bungalows of similar size, similar elevation, same colour, scheme etc along with certain amenities.

It was further submitted that the Advance Ruling Authority in the ruling M/s. Maytas Hills County (P) Ltd – vide CCT's Ref.No.PMT/T&L/AR com-180/2006 dt.30-07-2006 without any ambiguity has clearly given the ruling that VAT has to be paid @ 1% on the total consideration received as per initial agreement of sale originally agreed upon whether in separate portions for land and constructions cost the above clarification is clearly applicable to the appellant's case as the appellant is very much a builder and developer and has exclusive right to sell the property and very much entitled to opt for composition under clause (d) of sub section (7) of Section of the said Act.

During the personal hearing the Authorised Representative relied upon the following advance ruling.

(i) CCT's Ref.No.PMT/P&L/A.R..Com 180/2006, Dt.30-7-2006.
(ii) CCT's Ref.No.PMT/ P&L/A.R.Com 586/2005, dt./18-5-2006 in the case of M/s. Kashi Kanchan, Tirumalghery.

Submitting the above, the Authorised Representaitve requested to grant stay of collection of taxes.

The main issue involved in this case is whether the revisional authority is correct in adopting section 4(7) (c) of VAT Act 2005 or the contention of the Appellant that he comes under Section 4(7)(d) of VAT Act ? I have carefully gone through the contentions of the appellant. There are two agreements – one for sale of land, and later on for construction of independent villas. because of which the Deputy Commissioner, Begumpet treated the later transaction as without composition and levied tax under – 4(7) © of APVAT Ac '2005. It is submitted that an appeal is pending before the Hon'ble Sales Tax Appellate Tribunal, Hyderabad.

In view of the above, without expressing any opinion on the merits of the case, I feel it just and proper to grant stay of collection of the 50% of the disputed tax of Rs.27,46,805/- out of total disputed tax of Rs.38,81,737/- for the tax period 2005-2006 and 2006-2007 APVAT Act'2005. subject to payment of <u>50%</u> of the total disputed tax on or before <u>14-08-2012</u>. Any amount paid at the time of / after admission of appeal shall be given credit to the assessee. The stay will be in force, till disposal of appeal by the Hon'ble Sales Tax Appellate Tribunal, Hyderabad. If the assessee fails to pay the amount as above, the assessing authority / competent authority is at liberty to enforce collection of entire disputed tax.

Additional Commissioner (CT) Legal
Government of Andhra Pradesh
Office of the Commissioner
Hyderabad.

ADDITIONAL COMMISSIONER (CT) (LEGAL)
24/7/12

To
M/s. Mehta & Modi Homes, M.G.Road, Secunderabad
through the Commercial Tax Officer(Audit) Begumept Division
(in duplicate) for service and return of served copy immediately.

Copy to the Commercial Tax Officer (Audit) Begumept Division
Copy to the Deputy Commissioner (CT), Begumpet Division.

MEHTA & MODI HOMES

5-4-187/3 & 4, II Floor, Soham Mansion, M.G. Road, Secunderabad - 500 003.
Phone : +91-40-66335551, Fax :

Date: 21st August 2012

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The Commercial Tax Officer,
M.G. Road Circle,
Hyderabad

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2) Extension of time order dated 17/08/2012 passed by Addl. Commissioner (CT) Legal, Hyderabad.

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Balance, Now Paid	**:Rs. 8,05,937/-**

Kindly acknowledge

Thanking you,

Yours faithfully
For **MEHTA & MODI HOMES**

Authorised Signatory

Encl: 1. Cheque No. 636125 dated 18th August 2012
2. Extention Order copy
3. Stay Order Copy

21 AUG 2012

ROCEEDINGS OF THE ADDITIONAL COMMISSIONER(CT) (LEGAL), OFFICE OF THE COMMISSIONER OF COMMERCIAL TAXES, ANDHRA PRADESH, HYDERABAD.

PRESENT: SRI D. RAMACHANDRA REDDY, B.Sc. B.L., CAIIB, M.B.A.,

A.C. Order No.195

CCT.Ref.No.L.III (2)/ 112 /2012 Dated.17 -08-2012

Sub:- Stay Petitions M/s. Mehta & Modi Homes, M.G.Road, Secudnerabad - for the tax period 2005-2006 & 2006-2007 - under APVAT Act'2005 – Heard the case - Orders passed - Extention of time – Reg.

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4) A.R.No:259/2012 M/s.Mehta & Modi Homes, M.G. Road, Secunderabad pending before the Hon'ble STAT, Hyderabad.

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ADDITIONAL COMMISSIONER (CT) (LEGAL)

To

M/s. Mehta & Modi Homes, M.G.Road, Secunderabad
through the Commercial Tax Officer(Audit) Begumept Division
(in duplicate) for service and return of served copy immediately.

Copy to the Commercial Tax Officer (Audit) Begumept Division
Copy to the Deputy Commissioner (CT), Begumpet Division.

c/c

From
M/s. Mehta & Modi Homes
Address: D.No.5-4-187/ 3& 4,
III Floor, M.G. Road,
Secunderabad – 500 003

To,
The Addl. Commissioner (CT) Legal
O/o. the Commissioner of Commercial Taxes,
Nampally, Hyderabad.

Sir,

Sub: Stay Petition filed – M/s.Mehta & Modi Homes, Hyderabad – For the tax periods 2005-06 & 2006-07/VAT – Heard the case – Orders passed – Reg.

Ref: Addl. Commissioner (CT) Legal, Hyderabad in CCT.Ref.NO.L.III(2)/112/2012 dated 24/07/2012

****

We submit that against the revision order passed by the DC(CT), Begumpet Division for the years 2005-06 & 2006-07 we have filed appeal before the Hon'ble STAT, Hyderabad which is pending disposal. We have also filed stay petition before the Hon'ble Addl. Commissioner (CT) Legal, Hyderabad for stay of collection of the disputed tax of Rs.38,81,737/-. The Addl. Commissioner(CT) Legal was pleased to grant stay of collection of tax subject to payment of the 50% of the amount for which stay is sought on or before 14/08/2012.

We submit that the said order is received by us at around 5.00 P.M. on 13/08/2012 from the CTO's Office. We have to get approval from our Managing Director. At present he is out of station (Bangalore) and will come back on 18/08/2012. Hence we request your honour to kindly extend the time for making the payment of 50% of the tax till 22/08/2012. We also request to kindly interact the CTO. We regret for the inconvience caused not to take any action for collection of the entire disputed tax.

Thanking you,

Yours faithfully

for Mehta & Modi Homes

M.Jaya Prakash
Manager Finance & Accounts

14-8-2012