

35
M.RAMACHANDRA MURTHY
CHARTERED ACCOUNTANT

012
Flat No.303, ASHOKA SCINTILLA
H.No.3-6-520, Opp. Malabar Gold,
Himayathnagar Main Road,
Hyderabad -500 029
Tel.:040-40248935 / 36

To,
The Appellate Dy. Commissioner (CT)
Punjabgutta Division
Hyderabad.

Date: 18/06/2018

Sir,

Sub:- Filing the appeal in the case of M/s. **Serene Constructions, M.G.Road, Secunderabad**, - For the assessment year 2015-16 and 2016-17/VAT- reg.

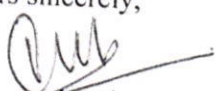
Please find enclosed herewith the following appeal papers:

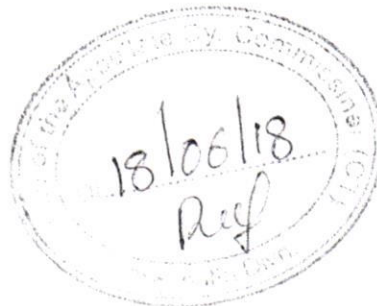
1. Form – APP 400 2 copies.
2. Grounds of Appeal 2 copies.
3. Challan bearing No. **1800395432** dt. **15/06/2018** for Rs.1000/- towards appeal fees.
4. Assessment of Value Added Tax in Form VAT 305 order passed by the Deputy Commercial Tax Officer, Bowenpally Circle Hyderabad, dated. 08/05/2018 (in original) along with xerox copy.
5. Copy of proof of the payment of E-payment of the 12.5% disputed Tax.
6. Form – APP 400A.
7. Form – APP 406 2 copies.
8. Form –565 (Authorization).

Kindly acknowledge receipt of the above documents and post the appeal for hearing.

Thanking you,

Yours sincerely,


M.Ramachandra Murthy,
Chartered Accountant.





COMMERCIAL TAXES DEPARTMENT

(/tgportal/index.html)

Government of Telangana

(/tgportal/index.html)

ABOUT US > ALL ACTS <

TAX COLLECTIONS (/TGPORTAL/TAXCOLLECTIONS.ASPX) TRIBUNAL >

RTI (/TGPORTAL/RIGHT/RIGHTTOINFORMATION.ASPX)

CITIZENS CHARTER (/TGPORTAL/CITIZENCHARTER.ASPX)

FAQ'S (/TGPORTAL/FAQS.ASPX)

GST INFO (/TGPORTAL/GSTINFO.ASPX)

CONTACT US >

Commercial Taxes Department, Govt. of Telangana

Receipt for e-PAYMENT

CTD Transaction ID : 36180615636882

Type of TAX : VAT

TIN : 36570317033

Name of the Firm : SERENE CONSTRUCTIONS LLP

Tax Purpose : Appeal Fee before ADC

Tax Period : Apr, 2015-Mar, 2017

Amount : 1000.00

Head of Account : 004000102000500000NVN

Bank Name : SBI

Bank : null

Acknowledgement

Number :

Challan Number : 1800395432

FORM APP 400
FORM OF APPEAL UNDER SECTION 31
[See Rule 38(2)(a)]

1. Appeal Office Address : The Appellate Dy. Commissioner (CT)
Punjagutta Division, Hyderabad
 2. TIN/GRN : 36570317033
 3. Name & Address : M/s. Serene Constructions LLP
5-4-187, 3&4, 2nd Floor,
Soham Mansion, M.G. Road,
Secunderabad.
 4. I wish to appeal the following decision /
assessment received from the tax office on : 23/05/2018
 5. Date of filing of appeal : /06/2018
 6. Reasons for delay (if applicable enclose a
separate sheet : Not Applicable
 7. Tax Period / Tax Periods : 2015-16 and 2016-2017/VAT
 8. Tax Office decision / assessment Order No. : Assessment of Value Added Tax in
Date. Form VAT 305 order no.27156 dt.08/05/2018
passed by Deputy Commercial Tax Officer,
Bowenapilly Circle, Hyderabad
 9. Grounds of the appeal (use separate sheet : Separately Enclosed
if space is insufficient
 10. If turnover is disputed
 - a) Disputed turnover : **NIL**
 - b) Tax on the disputed turnover : **Rs.5,58,808/-**

If rate of tax is disputed

 - a) Turnover involved : NIL
 - b) Amount of tax disputed : NIL
 11. 12.5% of the above disputed tax paid : Rs.63,601/- (As per assessment order)
- Note:** Any other relief claimed : Other grounds that may be urged at the
time of hearing.

(The payment particulars are to be enclosed if ready paid along with the reasons on Form APP 400A)

12. Payment Details:

a) Challan / Instrument No.	:	
b) Date	:	
c) Bank / Treasury	:	-----
d) Branch Code	:	-----
e) Amount	:	-----
TOTAL	:	-----

Declaration:

I, Soham modi hereby declare that the information provided on this form to the best of my knowledge is true and accurate.

*

Signature of the Appellant & Stamp

Date of declaration :

Name :
Designation :

Please Note: A false declaration is an offence.

APPLICATION FOR STAY OF COLLECTION OF DISPUTED TAX

[Under Section 31(2) & 33(6)] [See Rule 39(1)]

Date Month Year

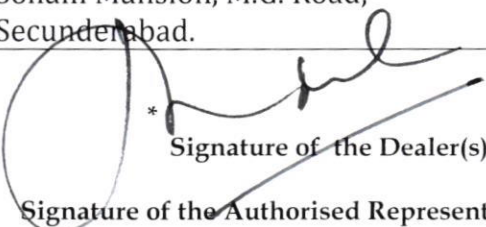
01. Appeal Office Address:
To,
The Appellate Deputy Commissioner (CT)
Punjagutta Division, Hyderabad

18	06	2018
----	----	------

02	TIN	36570317033
----	-----	-------------

03. Name : M/s. Serene Constructions LLP
Address : 5-4-187, 3&4, 2nd Floor,
Soham Mansion, M.G. Road,
Secunderabad.

04.	Tax period	2015-16 and 2016-17/VAT
05.	Authority passing the order or proceeding disputed.	Assessment of Value Added Tax in Form VAT 305 order no.27156 dt.08/05/2018 passed by Deputy Commercial Tax Officer, Bowenpally Circle, Hyderabad.
06.	Date on which the order or proceeding was Communicated.	23/05/2018
07.	(1) (a) Tax assessed	Rs.5,58,808/-
	(b) Tax disputed	Rs.5,58,808/-
	(2) Penalty / Interest disputed	NIL
08.	Amount for which stay is being sought	Rs.5,08,808/-
09.	Address to which the communications may be sent to the applicant.	M/s. Serene Constructions LLP 5-4-187, 3&4, 2 nd Floor, Soham Mansion, M.G. Road, Secunderabad.

* 
Signature of the Dealer(s)

Signature of the Authorised Representatives if any

10. GROUNDS OF STAY

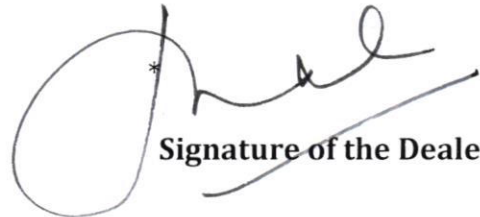
- 1.) Substantial question of facts and law that may arise in the appeal.
- 2.) The appellant will be hard hit if it is called upon to pay this heavy amount of tax pending disposal of the appeal.
- 3.) The grounds that are stated in the main appeal may kindly be read as grounds of this appeal.

Hence it is just and necessary that the Appellate Dy. Commissioner (CT) may be pleased to grant stay of collection of the disputed tax of Rs.5,08,808/- pending disposal of the appeal.

VERIFICATION

I, Soham modi applicant (s) do hereby declare that what is stated above is true to the best of my / our knowledge and belief.

Verified today the 18 day of June'2018


Signature of the Dealer(s)

Signature of the Authorised Representatives if any

M/s. SERENE CONSTRUCTIONS

5-4-187/3 & 4, II Floor, Soham Mansion, M.G. Road, Secunderabad – 500 003.

Tax Period: 2015-16 and 2016-17 /VAT

Statement of Facts:

- 1) The appellant is a registered VAT dealer engaged in the business of construction of Cottages and Villas is an assessee on the rolls of the CTO, MG Road Circle, Hyderabad, with TIN 36570317033. The appellant opted to pay tax @ 5% under Section 4 (7) (b) of the APVAT Act, 2005 (hereinafter referred to as Act) under composition scheme.
- 2) In the course of business appellant entered into a Memorandum of Understanding (MOU) with Modi Farm House (Hyderabad) LLP (for short MFHLLP) on 31-05-2015 as vendor or owner of land for the construction of the cottage/villa on the farm land. The appellant has paid VAT @ 5% on the only one villa sold for Rs. 7,99,926/-.
- 3) Upon authorization given by the Deputy Commissioner (CT), Begumpet Division, the Deputy Commercial Tax Officer, Bowenpally Circle, Begumpet Division (for short DCTO) has conducted VAT audit of the appellant for the tax periods from 2015-16 and 2016-17 and issued Notice of Assessment of VAT in Form VAT 305A dated 16/02/2018 proposing levy of tax of Rs. 5,58,808/-under Section 4 (7) (a) of the Act read with Rule 17 (h) on the total receipts as per P & L account after allowing 30% towards standard deduction.
- 4) The appellant has filed detailed objections before DCTO against the proposed levy of tax by letter dated 22/02/2018 and reiterated the same in personal hearing on 27/03/2018. Without properly considering the objections raised by the appellant, the learned DCTO has completed the assessment proceedings in Form VAT 305 dated 08/05/2018 confirming the proposed levy of tax of Rs. 5,58,808/-.
- 5) Aggrieved by the said assessment order the appellant prefers this appeal on the following grounds, amongst others:-



Grounds of Appeal:

- a) The impugned order is highly illegal, arbitrary, unjustifiable and contrary to facts and law.
- b) Appellant submits that the appellant as developer entered into a Memorandum of Understanding (MOU) with Modi Farm House (Hyderabad) LLP (for short MFHLLP) on 31-05-2015 as vendor or owner of land for the construction of the cottage/villa on the farm land admeasuring about 1000 Sq. ft. as per the specifications of Annexure-C to the MOU. Coy of MOU is filed as **Annexure-1**. The appellant has declared a turnover of Rs. 7,20,000 and 2,88,000/- towards 5% turnover in Form VAT 200 returns filed by the appellant during the years 2015-16 and 2016-17 respectively.
- c) The appellant has also Joint Development Agreement cum General Power of Attorney dated 23-12-2016 with the owners of land to develop the housing project on the Scheduled project and agreement of sale with the owners of land dated 01-02-2017 for sale of the to the prospective purchasers. Xerox copies of the Joint Development agreement dated 23-12-2016 and agreement of sale of flats dated 01-02-2017 are filed as Annexures-3 and 4 respectively. From this tripartite agreement the appellant is the developer of the project and sellers of the villas/flats to the purchasers.
- d) In pursuance of this MOU appellant has received advances of Rs. 7,20,000/- and Rs. 47,85,500/-including Rs. 7,20,00 of 2015-16 and Rs. 2,88,000 of 2016-17 from MFHLLP during the years 2015-16 and 2016-17 respectively and recorded the same in the P &L Account of the appellant for the said two years. In the notice the advance amount received during the year was proposed to be assessed under Section 4 (7) (a) of the VAT act after allowing standard deduction of 30% read with Rule 17 (h) of the Act and levying tax @14.5% on the balance amount as taxable turnover as the appellant not file Form VAT 250. Appellant has completed only one villa and sold the same for Rs. 7,99,920/-vide invoice no.



SCLLP/1/2015-16 dated 19-02-2016 including VAT of Rs. 36,000/- @ 5% to M/s Dr. Tejal Modi & Mr. Soham Modi, Jubilee Hills, Hyderabad as purchaser which is collected and paid along with returns.

- e) Appellant submits that it is the subcontractor to the main contractor i.e. MFHLLP and intended to opt to pay tax under Section 4 (7) (b) of the Act by way of composition @5% on the total amount received or receivable towards the execution of works contract. In view of payment of tax under this sub-section appellant has charged VAT 5% only on the invoice and paid the same. Appellant has recorded all the purchases and paid tax @5% only on the invoice raised on the sale of villa as intended to pay tax under Section 4 (7) (b) only.
- f) In the assessment order the assessing authority confirmed the proposal of levy of tax on the receipts as per P & L account for the years 2015-16 and 2016-17 after deducting 30% towards standard deduction under Section 4 (7) (a) read with Rule 17 (h) of the Act as the appellant could not file Form VAT 250 for levy of tax under Section 4 (7) (b). Appellant submits that it has maintained all books of account and the turnovers were extracted by the learned DCTO from the P & L account of the appellant. This proves that the appellant has maintained all books of account in which case the learned DCTO ought to have assessed the turnover under Section 4 (7) (a) of the Act by levying tax on the value of goods at the time of incorporation at the rates applicable to the goods under the Act by allowing eligible input tax credit to the extent of 75% of the tax paid on the goods purchased as per Rule 17 (1) (b). Appellant submits that the assessment order passed by the DCTO on standard method under Rule 17 (1) (g) is highly illegal and is therefore liable to be set aside.
- g) In view of the above grounds and other grounds that may be urged at the time of hearing the appellant prays the Appellate Authority to set aside the assessment order as illegal and allow the appeal.


(APPELLANT)