

**GOVERNMENT OF ANDHRA PRADESH
COMMERCIAL TAXES DEPARTMENT**

Office of the
Deputy Commissioner(CT),
Begumpet Division, Hyderabad.

Rc.No.E3/R/244/2010 Dt. 03-02-2011.

**Revision Show Cause Notice under VAT for the tax periods
December, 05 October,06 under Section 32(2) of AP VAT Act, 2005.**

Sub:- AP VAT Act, 2005 – M/s.Summit Builders – Assessee on the rolls of Commercial Tax Officer, M.G. Road Circle, Begumpet Division – Completion of Assessment under VAT for the tax periods December, 2005 to October, 2006 by the Deputy Commercial Tax Officer (Revisions), Begumpet Division, Hyderabad – Certain discrepancies noticed in VAT Assessment Order passed – Proposal of Revision of Assessment under Section 32(2) of AP VAT Act, 2005 – Revision Show Cause Notice issued – Bill wise purchase details filed by the dealer – Revision Show Cause Notice issued – Written objections called for – Regarding.

- Ref:- 1).Deputy Commercial Tax Officer (Revisions), Begumpet Division, Hyderabad Assessment of Value Added Tax in Form VAT 305 Dt.17-04-2007.
2).DC(CT), Begumpet Division, Revision Show Cause Notice in Rc.No.E3/R/244/2010 Dt.07-01-2011.
3).Dealers reply Dt.25-01-2011.

M/s.Summit Builders, D.No.5-4-187/3 & 4, Soham Mansion, Secunderabad are registered Dealers under the provisions of AP VAT Act, 2005 with TIN 28790571789 and assessee on the rolls of Commercial Tax Officer, M.G. Road Circle, Begumpet Division, Hyderabad.

They are dealers in execution of Civil Works Contracts i.e. sales of Independent Houses and Apartments. They opted to pay tax @ 1% under composition under Section 4 (7) (d) of AP VAT Act, 2005.

As per the authorization of the Deputy Commissioner(CT), Begumpet Division, Hyderabad the Deputy Commercial Tax Officer, Begumpet Division, Hyderabad has conducted VAT Audit of the business transactions of the dealer on 23-11-2006 and passed Assessment of Value Added Tax in Form VAT 305 Dt.17-04-2007 vide the reference 1st cited for the tax periods December, 2005 to October, 2006 and levied and confirmed under declared VAT Output Tax of Rs.73,757-00.

Subsequent to passing VAT Assessment Order the Department is in receipt of information from other State Government Department of Andhra Pradesh where in it is informed that during the tax periods December, 2005 to March, 2006 and April, 2006 to November, 2006 the assessee has suppressed certain Works Contracts Receipts Turnovers and the assessee also failed to pay VAT Tax on Service Tax Component and failed to pay VAT Tax on purchase of 4% & 12.5% VAT goods purchased from unregistered sources which were used in execution of Civil Works Contract.

As per Section 4 (7) (e) of AP VAT Act, 2005 any dealer having opted for composition under Section 4 (7) (b) (c) & (d) of AP VAT Act, 2005 purchases or receives any goods from outside the State or India or from any dealer other than a Value Added Tax dealer in the State and uses such goods in the execution of the Works Contracts, such dealer shall pay tax on such goods at the rates applicable to them under the Act and the value of such goods shall be excluded for the purpose of computation of turnover on which tax by way of composition at the rate of 4% is payable.

Verified the information received from other State Government Department of Andhra Pradesh with reference to the VAT Assessment Order passed and by the Deputy Commercial Tax Officer Revisions, Begumpet Division, Hyderabad vide the reference 1st cited and monthly returns filed by the dealer in Form VAT 200, information furnished by the dealer at the time of VAT Audit and noticed that the VAT Assessment Order passed is prejudicial to the interest of State Revenue due to the following explained reasons.

1). During the tax periods December, 2005 to March, 2006 the assessee has received Works Contracts Receipts of Rs.56,44,500-00 and charges towards extra Civil Works executed by them, amounts received towards Car Parking and Service Tax Payments of Rs.10,73,384-00 i.e., total Rs.67,17,884-00. where as on filing of monthly returns in Form VAT 200 the assessee has reported only a turnover of Rs.21,22,500-00. Thus, they short reported Works Contracts Receipts Turnover of Rs.45,95,384-00. In the VAT Assessment Order passed vide the reference 1st cited the Assessing Authority has failed to levy VAT Tax @ 1% Rs.45,954-00 on this short reported Works Contracts Receipts Consideration resulting in loss of Revenue to state for Rs.45,954-00 which is prejudicial to the interest of State Revenue.

The details of purchase of 4% & 12.5% VAT goods furnished by the dealer at the time of VAT Audit is verified and found that the assessee has purchased certain 4% & 12.5% VAT goods from unregistered sources/TOT dealers during the tax periods December, 2005 to March, 2006.

2). As per the information received from other State Government Department of Andhra Pradesh it is noticed that during the tax periods April, 2006 to March, 2007 the assessee has received Works Contracts Receipts Consideration of Rs.4,06,13,611-00 and charges towards extra Civil Works

executed by them, amounts received towards Car Parking and Service Tax Payments of Rs.48,47,751-00 i.e., total Rs.4,54,61,362-00. Hence, the average Works Contract Receipts Turnover of Rs.37,88,447-00 per month is taken into consideration and arrived total Works Contracts Receipts Turnover as Rs.2,65,19,128-00 (**Rs.4,54,61,362-00X7/12**) for the tax periods April, 2006 to October, 2006.

As against this Output turnover of Rs.2,65,19,128-00 on filing of monthly returns in Form VAT 200 the assessee has reported only a turnover of Rs.2,10,19,500-00 upto October, 2006. Thus, they short reported Works Contracts Receipts Turnover of Rs.54,99,628-00. In the VAT Assessment Order passed vide the reference 1st cited the Assessing Authority has failed to levy VAT Tax @ 1% of Rs.54,996-00 on this short reported Works Contracts Receipts Consideration resulting in loss of Revenue to state for Rs.54,996-00 which is prejudicial to the interest of State Revenue.

As per the information received in this office it is noticed that during the tax periods April, 2006 to March, 2007 the assessee has purchased Sand, Stone Metal and Bricks valued Rs.36,78,199-00 on which the dealer failed to pay Difference VAT Tax @ 3% as required under Section 4 (7) (e) of AP VAT Act, 2005. Further as seen from the bill wise purchase details filed by the dealer at the time of VAT Audit it is also noticed that the dealer has made purchase of Water Proofing Material, Cement, Hard Ware, Windows, Tools, Chemicals, Sand, Stone Metal, Bricks, Bamboos and Iron & Steel from unregistered sources. The Assessing Authority failed to levy Difference VAT Tax on these purchases from unregistered sources which is prejudicial to the interest of State Revenue. Hence, it is proposed to levy Difference VAT Tax @ 3% & 11.5% on the purchase value of 4% & 12.5% VAT goods from unregistered sources for the tax periods April, 2006 to October, 2006 as under.

Accordingly vide the reference 2nd cited Revision Show Cause Notice under VAT for the tax periods December, 2005 to October, 2006 was issued and served on the dealer with a request to file their written objections if any.

In response to the Revision Show Cause Notice the dealer vide the reference 3rd cited has furnished bill wise local purchase details of 4% & 12.5% VAT goods purchased by them during the tax periods December, 2005 to October, 2006.

In their letter vide the reference 3rd cited the dealer requested the undersigned to furnish the information available in this office records which was received from other Government Department of Andhra Pradesh to verify and to submit the written objections to the Revision Show Cause Notice.

Accordingly as per the request of the dealer copy of the information received from the other State Government Department of Andhra Pradesh Dt.23-05-2009 is provided to the dealers (**Copy enclosed**).

Further on verification of the bill wise purchase details of 4% & 12.5% VAT goods furnished by the dealer vide the reference 3rd cited it is noticed that during the tax periods December, 2005 to March, 2006 the dealer has made purchase of the following 4% & 12.5% VAT goods from other than registered VAT dealers of Andhra Pradesh. They purchased these goods from unregistered sources and TOT dealers. They used these goods in execution of Works Contract.

As per Section 4 (7) (e) of AP VAT Act, 2005 any dealer having opted for composition under Section 4 (7) (b) (c) & (d) of AP VAT Act, 2005 purchases or receives any goods from outside the State or India or from any dealer other than a Value Added Tax dealer in the State and uses such goods in the execution of the Works Contracts, such dealer shall pay tax on such goods at the rates applicable to them under the Act and the value of such goods shall be excluded for the purpose of computation of turnover on which tax by way of composition at the rate of 4% is payable.

Hence, it is proposed to levy difference VAT Tax @ 3% & 11.5% on the purchase value of VAT goods made by them from unregistered sources and proposed to revise the Assessment under VAT for the tax periods December, 2005 to October, 2006 basing on the purchase details furnished by the dealer and also as per the information available in this office records which was received from other Government Department of Andhra Pradesh. The details of such unregistered purchases of 4% & 12.5% VAT goods during the tax periods December, 2005 to October, 2006 are as under.

Tax period	4% VAT goods	Purchase Turnover	12.5% VAT goods	Purchase Turnover
Dec, 05	Sand, Stone Metal, Bricks.	157567	Doors, Windows, Water Proofing Chemical and General Items.	56060
Jan, 06	Sand, Stone Metal, Bricks.	126307	RMC Mix, Ply Wood, Glass and Electrical Goods.	131300
Feb, 06	Sand, Stone Metal, Bricks.	123408	Water Proofing Chemical, Sanitary Items, RMC Mix, Electrical Goods and Sports Items.	143262
Mar, 06	Sand, Stone Metal, Bricks and Tools.	95074	RMC Mix, General Goods, Water Proofing Chemical.	147914
Total Rs.		5,02,356		4,78,536

Thus, the dealer under declared VAT Output Tax of Rs.70,103-00 on purchase of above 4% & 12.5% VAT goods from unregistered sources.

As the dealer failed to pay VAT Tax on purchase value of above 4% & 12.5% VAT goods purchased from other than registered VAT dealers of

A.P. it is proposed to levy difference VAT Tax @ 3% Rs.15,071-00 on the purchase value of 4% VAT goods of Rs.5,02,356-00 and difference VAT Tax @ 11.5% Rs.55,032-00 on the purchase value of 12.5% VAT goods of Rs.4,78,536-00.

Hence, VAT Tax of Rs.70,103-00 is now proposed as above on Revision.

2).As per the information received from other State Government Department of Andhra Pradesh it is noticed that during the tax periods April, 2006 to March, 2007 the assessee has received Works Contracts Receipts Consideration of Rs.4,06,13,611-00 and charges towards extra Civil Works executed by them, amounts received towards Car Parking and Service Tax Payments of Rs.48,47,751-00 i.e., total Rs.4,54,61,362-00. Hence, the average Works Contract Receipts Turnover of Rs.37,88,447-00 per month is taken into consideration and arrived total Works Contracts Receipts Turnover as Rs.2,65,19,128-00 (**Rs.4,54,61,362-00X7/12**) for the tax periods April, 2006 to October, 2006.

As against this Output turnover of Rs.2,65,19,128-00 on filing of monthly returns in Form VAT 200 the assessee has reported only a turnover of Rs.2,10,19,500-00 upto October, 2006. Thus, they short reported Works Contracts Receipts Turnover of Rs.54,99,628-00. In the VAT Assessment Order passed vide the reference 1st cited the Assessing Authority has failed to levy VAT Tax @ 1% of Rs.54,996-00 on this short reported Works Contracts Receipts Consideration resulting in loss of Revenue to state for Rs.54,996-00 which is prejudicial to the interest of State Revenue.

Further on verification of the bill wise purchase details of 4% & 12.5% VAT goods furnished by the dealer vide the reference 3rd cited it is noticed that during the tax periods April, 2006 to October, 2006 the dealer has made purchase of the following 4% & 12.5% VAT goods from other than registered VAT dealers of A.P. They purchased these goods from unregistered sources and TOT dealers. They used these goods in execution of Works Contract.

But they failed to pay VAT Tax @ 4% & 12.5% on these purchases as required under Section 4 (7) (e) of AP VAT Act, 2005. The Assessing Authority failed to levy Difference VAT Tax on these purchases from unregistered sources which is prejudicial to the interest of State Revenue.

Hence, it is proposed to levy difference VAT Tax @ 3% & 11.5% on the purchase value of VAT goods made by them from unregistered sources. The details of such unregistered purchases of 4% & 12.5% VAT goods during the tax periods April, 2006 to October, 2006 are as under.

Tax period	4% VAT goods	Purchase Turnover	12.5% VAT goods	Purchase Turnover
Apr, 06	Sand, Stone Metal, Bricks.	174673	Water Proofing Chemical and Cement.	12600
May, 06	Sand, Stone Metal, Bricks.	77156	-----	-----
June, 06	Sand, Stone Metal, Bricks and Tools.	171936	Water Proofing Chemical, Cement, and Wood.	28351
July, 06	Sand, Stone Metal, Bricks and Tools.	201686	Ply Wood, Glass, Water Proofing Chemical.	3246
Aug, 06	Sand, Stone Metal, Bricks, Hard Ware and Tools.	169715	Water Proofing Chemical, Cement.	8987
Sep, 06	Sand, Stone Metal, Bricks and Tools.	427011	Water Proofing Chemical, Ply Wood, Glass, Doors, Windows and Cement.	144235
Oct, 06	Sand, Stone Metal, Bricks and Tools.	228865	Water Proofing Chemical.	32920
Total Rs.		14,51,042		2,30,339

Thus, the dealer under declared VAT Output Tax of Rs.70,020-00 on purchase of above 4% & 12.5% VAT goods from unregistered sources.

As the dealer failed to pay VAT Tax on purchase value of above 4% & 12.5% VAT goods purchased from other than registered VAT dealers of A.P. it is proposed to levy difference VAT Tax @ 3% Rs.43,531-00 on the purchase value of 4% VAT goods of Rs.14,51,042-00 and difference VAT Tax @ 11.5% Rs.26,489-00 on the purchase value of 12.5% VAT goods of Rs.2,30,339-00.

Hence, VAT Tax of Rs.70,020-00 is now proposed as above on Revision.

Hence, in order to rectify the omissions in the VAT Assessment Order passed and to levy the correct VAT Tax which is legitimately due to the State it is proposed to set aside the VAT Assessment Order passed by the Deputy Commercial Tax Officer Revisions, Begumpet Divisions, Hyderabad vide the reference 1st cited and proposed to revise the VAT Assessment Order for the tax periods December, 2005 to October, 2006 by taking into consideration of the average Works Contracts Receipts Consideration for the tax periods April, 2006 to October, 2006 and also by proposing Difference VAT Tax @ 3% & 11.5% on the unregistered purchases of 4% & 12.5% VAT goods .

(I).Under declaration of VAT Output Tax Rs.1,16,057-00 for the Tax Periods December, 2005 to March, 2006:

As per the information received from other State Government Department of Andhra Pradesh it is noticed that during this tax periods the assessee has received Works Contracts Receipts Consideration and paid Service Tax and the details are as under.

A).works Contracts Receipts on sale of Flats/ Independent Houses	Rs. 56,44,500-00
B).Add receipts for extra works under taken/ Service Tax Payments / Amount Received For Car Parking	Rs. 10,73,384-00
C).Total Receipts	Rs. 67,17,884-00
D).Less Works Contracts Receipts Turnover disclosed in monthly VAT 200 Returns	Rs. 21,22,500-00
E).Works Contracts Receipts Turnover short reported	Rs. 45,95,384-00
F).VAT Tax proposed @ 1% on the short reported turnover on Revision	Rs. 45,954-00
G).Difference VAT Tax @ 3% & 11.5% proposed on Purchase of VAT goods from unregistered sources	Rs. 70,103-00
Total VAT Tax proposed on Revision	Rs. 1,16,057-00

Thus, the dealer has under declared VAT Output Tax of Rs.1,16,057-00. Hence, now the same is proposed on Revision.

(II).Under declaration of VAT Output Tax of Rs.1,25,016-00 for the Tax Periods April, 2006 to October, 2006:

As per the information received from other State Government Department of Andhra Pradesh it is noticed that during the tax periods April, 2006 to March, 2007 the assessee has received Works Contracts Receipts Consideration of Rs.4,54,61,362-00 including charges for extra Civil Works, charges for Car Parking and Service Tax Payments and paid Service Tax and the details are as under.

Hence, the average Works Contracts Receipts Consideration per month is arrived as Rs.37,88,447-00 (**Rs.4,06,13,611-00+Rs.48,47,751-00=Rs.4,54,61,362-00 x 7/12**) and the total turnover for the tax periods April, 2006 to October, 2006 is proposed as Rs.2,65,19,127-00.

A).works Contracts Receipts on sale of Flats / Independent Houses	Rs.4,06,13,611-00
B).Add receipts for extra works rendered / Service Tax Payments / Amount Received For Car Parking	Rs. 48,47,751-00
C).Total Receipts	Rs. 4,54,61,362-00
D).Average turnover per month proposed (Rs.4,54,61,362-00x7/12)	Rs. 37,88,447-00
E).Total Works Contracts Receipts Turnover proposed for April, 06 to October, 06	Rs. 2,65,19,127-00
F).Less Works Contracts Receipts Turnover disclosed in monthly VAT 200 Returns for April, 06 to October, 06	Rs. 2,10,19,500-00
G).Works Contracts Receipts Turnover short reported	Rs. 54,99,627-00
H).VAT Tax proposed @ 1% on the above turnover	Rs. 54,996-00
I).Difference VAT Tax @ 3% & 11.5% proposed On purchase of VAT goods from unregistered Sources.	Rs. 70,020-00
Total VAT Tax proposed on Revision	Rs. 1,25,016-00

Thus, the dealer has under declared VAT Output Tax of Rs.1,25,016-00. Hence, now the same is proposed on Revision.

In Exercise of the powers conferred under Section 32(2) of AP VAT Act, 2005 it is proposed to revise the Assessment of the dealers under VAT for the tax periods December, 2005 to October, 2006 as discussed above.

Further the dealer is liable to pay interest @ 1% on the under declared VAT Input Tax for the period of delay. Separate proceedings to this effect will be issued.

From the foregoing it indicates that the dealer has committed an offence under the provisions of AP VAT Act, 2005 and the penalty proceedings as per the provisions of AP VAT Act, 2005 will be issued separately.

Further the assessee is here by given the copy of the records available with the Department for cross verification as requested by them in their Lr. Dt.25-01-2011.


Hence, M/s.Summit Builders, Soham Mansion, M.G. Road, Secunderabad are here by requested to file their written objections if any along with documentary evidence within (15) days from the date receipt of the Revision Show Cause Notice failing which Revision Orders will be passed accordingly.


Further the dealers are also informed that they can avail the opportunity of personal hearing to represent their case either in person or through the authorized representative under prior intimation to the undersigned during the period of time allowed in the Revision Show Cause Notice to represent the facts of the case along with documentary evidence as requested above.


Deputy Commissioner(CT),
Begumpet Division, Hyderabad.

To

M/s.Summit Builders, Soham Mansion, M.G. Road, Secunderabad (Through the Commercial Tax Officer, M.G. Road Circle, Secunderabad for service and return of the served copy).


31/2/2011


03/02/2011