0/c vat summit

Date: 19-11-2019

From:
M/s. Summit Builders,
D.No.5-4-187/3&4,
Soham Mansion, M.G. Road,
Secunderabad – 500 003.

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

Sir,

Sub: TVAT Act' 2005- Filing of appeal in the case of M/s. Summit Builders, Secunderabad - For the year 2013-14 to 2017-18 (upto June'2017)/Penalty – Stay Petition filed – Intimation – Reg.

Ref: 1) ADC orderNo.1541 in Appeal No.BV/69/2019-20, dt.22-10-2019.
2) Stay petition filed before Addl.Commr.(CT) Legal on 07-11-2019.
3) Your arrear notice dated 08-11-2019.

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It is submitted that against the penalty order passed by the AC(ST), M.G. Road- S.D. Road Circle, Hyderabad under TVAT Act, we have filed appeal before the Hon'ble Appellate Dy. Commissioner (CT), Punjagutta Division, Hyderabad and also filed application for stay of collection of the disputed penalty. In this connection it is submitted that appeal petition was rejected by ADC (CT), Punjagutta Division, Hyderabad vide his order dated 22-10-2019. Aggrieved by the said stay rejection order we have filed second stay application before the Hon'ble Addl. Commissioner (CT) Legal, O/o Commissioner(ST) Hyderabad on 07-11-2019.

In this connection we invite your kind attention to the latest judgment dated 22.6.2018 in the case of Sri Dedeepriya Paints Vs DCTO-I (2019—107 taxmann.com 377) delivered by the Honourable High Court for the State of Andhra Pradesh and the State of Telangana, wherein it has been held as follows:-

We further 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.

SUMMIT BUILDERS M.G.ROAD SEC'BAD

Assistant Commissioner (ST) RECEIVED 21/11/19 Sig........ M.G. Road-S.D. Road Circle

"We are not inclined to interfere with the impugned judgment. The Special Leave Petition is accordingly dismissed."

In view of the above binding decisions and as our appeals have been still pending disposal. it is not just to demand the balance of the disputed tax amount. In view of the said decisions, the orders of the learned Additional Commissioner have become infructuous and inoperative. In view of the above decisions; no coercive steps shall be taken to demand the balance tax and penalty. As we didn't know about the said decisions, we couldn't place the same before the learned Appellate Joint Commissioner (CT). Our legal counsel has advised that demand of payment of the balance tax and penalty would be in violation of the decision of the honourable Supreme Court and hence it would also amount to contempt of the Court, if we are forced to pay the same. We therefore request not to press for collection of the balance of the disputed tax and kindly wait till the disposal of the appeal.

Thanking you,

Yours truly

for Summit Builders

SUMMIT BUILDERS M.G ROAD SEC'BAD.

Encl.: As Above

GOVERNMENT OF TELANGANA
COMMERCIAL TAX DEPARTMENT

Office of the
Asst. Commissioner (ST),
M.G. Road - S.D. Road Circle,
4th floor, Pavani Prestige,
Ameerpet, Hyderabad – 500 016.

Rc. No. 36790571789

Date: 08-11-2019

ARREAR NOTICE

Sub:- APGST/CST/VAT Acts– M.G. Road - S.D. Road Circle – M/s. SUMMIT BUILDERS - Arrears of Sales Tax due – Notice issued for payment of Tax – Reg.

Ref:- 1) ADC Order No.1541, in Appeal No. BV/69/2019-20, Dt.22.10.2019.

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Please take notice that M/s. SUMMIT BUILDERS, Secunderabad have preferred an appeal before the ADC (CT), Punjagutta Division against the Penalty Order passed by the Commercial Tax Officer, M.G.Road-S.D.Road Circle on 17.12.2018 under VAT Act for the period 2013-14 to 2017-18 (Upto June'17) and the disputed tax is Rs. 6,81,171/-. The ADC (CT) Punjagutta has gone through the case and the issue involved there in has passed orders rejecting the appeal vide ADC Order No.1541, in Appeal No. BV/69/2019-20, Dt.22.10.2019.

Year/Tax period	Act	Demand
2013-14 to 2017-18 (Upto June'17)	VAT	6,81,171-00

The above Sales Tax arrears are not covered by any Stay Order of the Competent Authority. Therefore the dealer is hereby requested to pay the above Sales Tax arrears within (3) days from the date of receipt of this Notice failing which action will be initiated under the provisions of VAT Act'2005 and Revenue Recovery Act' 1864.

In case if any of the amount of the Sales Tax arrears as mentioned above, has already been paid, proof of payment may be furnished to this Office immediately.

Asst. Commissioner (ST),
M.G. Road - S.D. Road Circle, 8/11/2019
Begumpet Division, Hyderabad.

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

To,
M/s. SUMMIT BUILDERS,
5/4/187/3 & 4, M.G.Road, Soham Mansion, Secunderabad.
jayaprakash@modiproperties.com

M.RAMACHANDRA MURTHY
CHARTERED ACCOUNTANT

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

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

Sir

Sub:- Filing the Stay petition in the case of **M/s. Summit Builders., Hyderabad**
-For the period 2013-14 to 2017-18(upto June 2017)/VAT -reg.

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Please find enclosed herewith the following appeal papers:

1. Form – APP 406 2 copies.
2. Grounds of Appeal 2 copies.
3. Stay Rejection order passed by the Appellate Deputy Commissioner (CT), Punjagutta Division, Hyderabad dated. 22/10/2019 (in original) along with Xerox copy.
4. Two copies of the Assessment Value Added Tax order Form VAT 305 dt 17-12-2018, passed by the Assistant Commissioner (ST), MG Road – S.D.Road, Begumpet Division, Hyderabad.
5. Form 565 (Authorisation).

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

Thanking you,
Yours sincerely,

M.Ramachandra Murthy,
Chartered Accountant.

FORM APP 405

APPLICATION FOR STAY OF COLLECTION OF DISPUTED TAX

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

01 Appeal Office Address

To

The Addl. Commissioner (CT) Legal

O/o the Commissioner of Commercial Taxes,

Nampally, Hyderabad

Date	Month	Year
	11	2019

02	TIN	36790571789

03. Name M/s. Summit Builders.

Address: D.No.5-4-187/3&4. Soham Mansion.

M.G. Road. Secunderabad.

04.	Tax period	2013-14 to 2017-18 (upto June'2017) / VAT
05.	Authority passing the order or proceeding disputed	Stay rejection order dt.22/10/2019 passed by Appellate Dy. Commissioner (CT) Punjagutta Division, Hyderabad.
06.	Date on which the order or proceeding was Communicated.	25/10/2019
07.	(1) (a) Tax assessed	Rs.6,81,171/-
	(b) Tax disputed	Rs.6,81,171/-
	(2) Penalty / ~~Interest~~ disputed	NIL
08.	Amount for which stay is being sought	Rs.6,81,171/-
09.	Address to which the communications may be sent to the applicant	M/s. Summit Builders. D.No.5-4-187/3&4. Soham Mansion. M.G. Road. Secunderabad

Signature of the Dealer(s)

Signature of the Authorised Representatives

10. GROUNDS OF REVISION

1.) The appellant submits that substantial question of facts and law 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 Appellate Dy. Commissioner (CT), has not properly considered all the grounds of appeal and arbitrarily dismissed the stay petition filed before him. The main appeal is pending for disposal.

4.) The grounds that are stated in the main appeal may kindly be read as grounds of this application.

5.) The appellant has already paid 12.5% of disputed tax for the purpose of admission of the appeal and hence it is requested grant stay on the balance disputed tax till the disposal of the appeal.

6.) In this regard the appellant relied on the latest decision of the Hon'ble Supreme Court in a case wherein the Hon'ble Court dismissed the SLP filed against the order of the Hon'ble High Court of Andhra Pradesh & Telangana in the case of Deputy Commercial Tax Officer-I, Bhavanipuram Circle, Vijayawada Vs. Sri Dedeepriya Paints in Diary No.11711 of 20[illegible] dt.22/04/2019.

The Honourable High Court of Andhra Pradesh & Telangana in its decision in WP No.[illegible] of 2018 dated 22.06.2018 in the case of Sri Dedeepriya Paints Vs Deputy Commercial Tax Officer-I, Bhavanipuram Circle, Vijayawada held as follows:-

"When the petitioner concern already paid 12.5% of the disputed tax amount for the purpose of maintaining an appeal as required by law, it would be wholly unjust for the tax authorities to demand the balance of the disputed tax amount notwithstanding the pendency of the appeal

Hence it is just and necessary that the Addl. Commissioner (CT) Legal may be pleased to grant stay on collection of the disputed tax of Rs.6,81,171/- pending disposal of the appeal

VERIFICATION

I [illegible] (Managing Director) applicant (s) do hereby declare that what is stated above is true to the best of my / our knowledge and belief.

Verified today the - 06th day of November'2019

Signature of the Dealer

Signature of the Authorised Representative of dealer