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Ph:080-22385861 Fax:080-22385863 Website: www.cestat.gov.in email: cestat_bang@rediffmail.com

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL WTC BUILDING, FKCCI COMPLEX, K.G.ROAD, BANGALORE-560009.

ADJOURNMENT NOTICE

STAY Application No.: ST/Stay/26496/2013

Appeal No.: ST/26165/2013-DB

Сору То

Appellant

Modi Ventures

Respondent

Commissioner of Central Excise, Customs and Service Tax-HYDERABAD-I

You are hereby informed that the hearing of the above matter which was fixed for hearing on 26/11/2013 has been adjourned to 3 at 10:30 A.M. or any subsequent date thereafter as per the causelist and by order convenient to the Tribural.

Dated: 10/12/2013

Copy To:

NO REQUEST FOR ADJOURNMENT
WILL BE ENTERTAINED

Deputy Registrar

Modi Ventures

5-4-187/3&4, 2nd Floor, M.g.road, SECUNDERABAD AP 500003

Commissioner of Central Excise, Customs and Service Tax-HYDERABAD-I

KENDRIYA SHULK BHAVAN, L.B STADIUM ROAD, BASHEERBAGH, HYDERABAD, ANDHRA PRADESH 500004 Commissioner (AR)

Office Copy

Gaurd File

HIRAGANGE & ASSOCIATES

#1010, 1st floor(Above Corp.Bank) 26th Main, 4th T Block, Jayanagar, Bangalore Bangalore Karnataka 560041

Note 1: Please refer to Appeal No. ST/26165/2013-DB for all future correspondence and filing of miscellaneous applications.

Note 2: Please confirm the date of hearing by visiting the website in the previous week.

CIRCUIT BENCH.

C/o The Commissioner of Central Excise.

Hyderbad - I Commissionerate.

Kendriya Shulk Bhavan, L.B. Stadium Road

Bashoer Bagh, Hyderabad - 500 004

Caral

Ph:080-22385861 Fax:080-22385863

Website: www.cestat.gov.in email: cestat_bang@rediffmail.com

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL WTC BUILDING, FKCCI COMPLEX, K.G.ROAD, BANGALORE-560009.

ADJOURNMENT NOTICE

STAY Application No.: ST/Stay/26496/2013

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Appellant Modi Ventures

Respondent

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Dated: 10/12/2013

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5-4-187/3&4, 2nd Floor, M.g.road, SECUNDERABAD AP 500003

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KENDRIYA SHULK BHAVAN, L.B STADIUM ROAD, BASHEERBAGH, HYDERABAD, ANDHRA PRADESH 500004 Commissioner (AR)

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Kendriya Shulk Bhavan, L.B. Stadium Rost

Bashoer Book, Hydersbad - 500 004

5-4-187/3 & 4, IInd Floor, Soham Mansion, M.G. Road, Secunderabad – 500003 Phone: +91-40-66335551, Fax: 040-27544058

Date: 11th November 2013

To,
The Superindent,
Office of the Commissioner of Customs,
Central Excise & Service Tax,
Hyderabad – II, Commissionerate, Group X,
Opp: Singareni Bhavan,
Sitaram Bagh, Red Hills,
Hyderabad.

Dear Sir,

Sub: Intimation of payment – Service Tax. – Apr'13 to Sep'13

Ref: STC No. AAJFM0646DST001

 We have had extensive correspondence with the department regarding the applicability of service tax to our firm. As per understanding service tax is not applicable to the transactions undertaken by our firm.

- We have computed service tax liability for the period 1st April 2013 to 30th September 2013
 under works contract services, composition scheme. Details of receipts during the said period
 and computation of service tax liability is attached herein. Receipts were first appropriated
 towards
 - a. Sale deed.
 - b. Then towards the agreement of construction.
 - c. Towards additions and alternations and
 - d. Finally towards VAT, Service tax, stamp duty, registration charges, excess consideration received etc.
- The receipts under the following heads were excluded for computation of taxable amount under work contract services:
 - a. Receipts towards value of sale deed.
 - b. Receipts towards payment of VAT, service tax, stamp duty and registration charges that were remitted to the government wither in advance or on a later date.
 - c. Receipts that are in excess of the agreed sale consideration which were refunded or liable to refunded to the purchaser.
 - d. Receipts towards the other charges like corpus fund, maintenance charges, electricity charges, etc received on behalf of the Owners Association or the electricity department which were paid to them in advance or on a later date.
- 4. Accordingly, the taxable amount under works contract services with composition was computed to be Rs. 10,647,552.00 and tax liability there on @ 4.944% is Rs. 526,415.00.



5-4-187/3 & 4, IInd Floor, Soham Mansion, M.G. Road, Secunderabad – 500003 Phone: +91-40-66335551, Fax: 040-27544058

- 5. CENVAT credit Rs. 39,148.00 has been adjusted against the tax liability and an amount of Rs.487,267.00 has been paid under protest as per details given below.
 - a. Challan No. 01100841008201300008 of Rs. 50,000.00
 - b. Challan No. 63600671211201300003 of Rs. 4,37,267.00
- We hope that our understanding is correct and we would be glad to provide you with any further information that may be required in this regard. We request you to kindly confirm the same.

Thank You.

Yours sincerely,

FOR MODI VENTURES

Authorized Signatory.

Encl: 1. Statement of receipts from 01.04.13 to 30.09.13 and details of ST.

2. CENVAT statement for the period from 01.04.13 to 30.09.13

3. Copy of Chalan copies (GR7).

CC To: 1. Assistant Commissioner.

2. Deputy Commissioner.

3. Additional Commissioner

5-4-187/3 & 4, IInd Floor, Soham Mansion, M.G. Road, Secunderabad – 500003 Phone: +91-40-66335551, Fax: 040-27544058

Date: 11th November 2013

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3. Copy of Chalan copies (GR7).

CC To: 1. Assistant Commissioner.

2. Deputy Commissioner.

3. Additional Commissioner

Note on the Activity of Modi Ventures

- A. M/s Modi Ventures (hereinafter referred as Noticee) is a partnership firm registered under the Partnership Act, 1932 mainly engaged in the sale of residential units to prospective buyers while the units are under construction.
- B. The Noticee had registered with service tax department vide STC No. AAJFM0646DST001 under the category of construction of complex service. Later on based on Additional Commissioner clarifications, it registered itself under the category of "Works Contract Service" also.
- C. The flow of activity involved in the activity of the Noticee is as under:
 - Noticee has jointly purchased the undivided land along with M/s Sri Sai builders, it is engaged in development and sale of flats.
 - ii. Construction Permit/ Sanction Plan were applied by the Noticee and approval has also been obtained from Greater Hyderabad Municipal Corporation/HUDA under their own names.
 - Noticee has entered into a 'Construction Agreement', it has also executed Sale

 Deed for 'Sale of Undivided Portion of Land'. Both the instruments are registered

 and appropriate 'Stamp Duty' has been discharged on the same.
 - iv. Noticee would collect the following consideration from the prospective buyers
 - a Receipt towards Sale deed i.e. sale of semi-finished flat
 - b. Receipt towards construction service i.e. works contract
 - c.Receipt towards payment of VAT, Service Tax, Stamp duty and registration charges that were remitted to the government either in advance or on a later date.
 - d. Receipts towards other charges like corpus fund, maintenance charges, electricity charges etc. received on behalf of the Owners Association or the

electricity department which were paid to them in advance or on a later date.

- v. Receipts were first appropriated towards,
 - a. Sale deed
 - b. Then towards the agreement of construction
 - c. Towards additions and alterations and
 - d. Finally towards VAT, Service Tax, stamp duty, registration charges, excess consideration received etc.

Details of pending cases for the earlier period

The status of the pending cases for the earlier period are as follows.

SI. No.	Period		Demand made on	Status			
1	April 2006 December 2010	to	Amount received towards agreement for construction	Noticee has paid entire amount of service tax and case is pending before Hon'ble CESTAT			
2	January 2011 December 2011	to	Amount received towards agreement for construction	Noticee has paid entire amount of service tax and pending with adjudicating authority			

Main Ground taken by the Noticee for the earlier period

- Residential units are used for personal use of the buyer and excluded from the definition of the complex service
- b. As per circular no. Circular No. 108/2/2009- S.T. dated 29-01-2009 not liable for service tax.
- c. Assuming but not admitting taxable, then not liable to prior to 01.06.2007 and 01.07.2010 as the works contract came only from 01.06.2007 and amendment to the definition of the taxable service from 01.07.2010.

Show Cause Notice for the present period January 2012 to March 2014

D. The Noticee voluntarily vide their letter dated 22nd July 2012, 29th April 2013, 26th September 2013, 11th November 2013 and 1st June 2014, intimated the department the receipts towards the following heads were excluded for computation of taxable amount under work contract services.

- a. Receipts towards value of sale deed
- b. Receipts towards payment of VAT, Service Tax, Stamp duty and registration charges that were remitted to the government either in advance or on a later date
- c. Receipts that are in excess of the agreed sale consideration which were refunded or liable to refunded to the purchaser
- d. Receipts towards the other charges like corpus fund, maintenance charges, electricity charges, etc, received on behalf of the Owners Association or the electricity department which were paid to them in advance or on a later date
- E. Accordingly, the Noticee has discharged service tax only on the amount received towards agreement of construction and copies of challan is also submitted to the department in the above mentioned intimation made to the department.
- Without appreciating the voluntarily disclosures made, the department vide their letter dated 16.09.2014 issued summons to furnish the information. Accordingly, on the very next day i.e. on 17-09-2014, the Noticee has submitted the details of amount received for agreement of construction and they also, enclosed earlier intimation made to the department which is as explained above.
- F. Without understanding the fact that the service tax has been paid on amount received for construction of service, the subject show cause notice has excluded only the VAT amount from the total amount received and proposed to tax the amount received

towards agreement to sale of semi-finished flat, amount received for electricity charges, stamp duty etc.

- G. Accordingly, the subject show cause notice has issued to show cause as to why;
 - a. An amount of Rs.74,39,581/- including cesses should not be demanded on the Works Contract services rendered by them during the period from January 2012 to March 2014 under section 73(1) of Finance Act, 1994 read with proviso thereto; and an amount of Rs.29,22,154/- already paid should not be adjusted against the above demand.
 - b. Interest on the amount of demand at (a) should not be recovered under section75 of the Finance Act, 1994.
 - Penalty should not be imposed on them under section 78 of the Finance Act,
 1994; and
 - d. Penalty should not be imposed on them under section 77 of the Finance Act,
 1994.

Directions required from the Hon'ble High Court

H. Writ requires to be applied to High court to direct the adjudicating authority to amend the show cause notice to re-quantify the demand after excluding the amount received for agreement for sale of semi-finished flat.

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PH: 080-22385861 FAX: 080-22385863

Website: www.cestat.gov.in Mail: cestat_bang@rediffmail.com

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL WTC BUILDING, FKCCI COMPLEX, K.G.ROAD, BANGALORE-560009.

SHORT HEARING NOTICE

OIA/OIO No.: 06-2013

STAY Application No.: ST/Stay/26496/2013

Appeal No.: ST/26165/2013-DB

Modi Ventures

VS

C.S.T-Service Tax-hyderabad-i

To

Modi Ventures

(Appellant As per address below)

C.S.T-Service Tax-hyderabad-i

(Respondent As per address below)

(Alongwith a copy of appeal & Stay Application)

- Take notice that the Stay Application mentioned above has been fixed for hearing on 31/07/2012 at 10:30 A.M. or any subsequent date thereafter as per cause list or as may be convenient to the Tribunal before CESTAT, FKCCI COMPLEX, K.G. ROAD, BANGALORE-560009.
- 2. In case the respondent fails to appear the application may be decided ex-party.
- 3. In case you do not wish to appear either in person or through an authorized representative you may intimate that the matter may be decided on merits in your absence.
- 4. In case the applicant fails to appear at the above said time of hearing either in person or through an authorised representative the application may be dismissed for default or heard and decided on merits in his absence.
- 5. Please Quote this office Dairy No. / Application No. / Appeal No. and Branch concerned and date of hearing

in future correspondence.

Place: BANGALORE Dated: 10/06/2013

Deputy Registrar

Modi Ventures
5-4-187/3&4, 2nd Floor, M.g.road,
SECUNDERABAD
AP
500003

Commissioner of Service Tax-Service Tax-hyderabad-i KENDRIYA SHULK BHAVAN L.B. STADIUM ROAD,BASHEERBAGH, HYDERABAD AP 500004 Copy To:

Commissioner(AR) Office Copy

5-4-187/3 & 4, IInd Floor, Soham Mansion, M.G. Road, Secunderabad – 500003 Phone: +91-40-66335551, Fax: 040-27544058

Date: 10.06.2013

To,
The Superintendent of
Customs, Central Excise and Service Tax,
Hyderabad II Commissionerate,
Group - X
11-5-423/1/A, Sitaram Prasad Tower,
Red Hills, Hyderabad - 4

Dear Sir,

Sub: Submission of information regarding OIO No. 06/2013 - ST (Commr.)

dated 17.01.2013 issued to M/s. Modi Ventures

Ref: Your Office letter vide C.No. IV/16/212/2012 (ST) G – X dated 29.05.2013

We are in receipt of the above referred letter requiring for payment details of the amounts payable as conferred in the subject OIO No. 06/2013. In this regard, we would like to bring to your kind notice that, we have filed the appeal memorandum in Form ST – 5 and stay application on 09.04.2013 (copy of acknowledgement given in Annexure).

In stay application we gave the prima facie case for waiver of pre – deposit and stay application has not been disposed off till date. The date of hearing is scheduled on 31.07.2013 at Tribunal for the disposal of subject stay application.

With regard to subject OIO No. 06/2013, we would like to submit that the amount confirmed is Rs. 1,38,13,576/- including cess relating to 01.06.2007 to 31.12.2010) has not been paid. Since the service tax itself is not applicable, the question of interest and penalty will not arise and we have not paid.

We shall be glad to provide you any further information required in this regard.

Kindly acknowledge the receipt of this letter.

Thanking You.

Yours Truly,

M/s. Modi Ventures

Authorised Signatory

Annexure:

1. Copy of acknowledgement for filing of ST – 5 and stay application.









सीमाशुल्क, केंद्रीय उत्पाद शुल्क व सेवा कर आयुक्त का कार्यालय OFFICE OF THE COMMISSIONER OF CUSTOMS, CENTRAL EXCISE & SERVICE TAX हैदराबाद-II आयुक्तालय : : HYDERABAD-II COMMISSIONERATE

11-5-423/1/A:: सीताराम प्रसाद टावर:: रेड हिलस:: हैदराबाद – 4

11-5-423/1/A:: SITARAM PRASAD TOWER:: RED HILLS:: HYDERABAD- 4

C.NO.IV/16/212/2012-STG-X

Date: 29.05.2013.

To

M/s. Modi Ventures, 5-4-187/3 & 4, II Floor, MG Road, Secunderabad- 500 003.

Speed Post

Sirs,

Sub:- Service Tax- Arrears-Nonpayment of Service Tax in terms of OIO No. 6/2013- (ST)-(Commr.) Dated 17.01.2013- Reg.

----X----

Please refer to OIO No. 6/2013- (ST)- (Commr.) Dated 17.01.2013 on the above subject.

As seen from this office records the amount demanded in the said Order in Original is to be paid by you.

The amounts paid vide the OIO cited above may be intimated to the under signed immediately in the format helow

Period of OIO	STax confirmed	ST paid	Interest accrued	Interest paid	Penalty levied	Penalty paid

In terms of Board's Circular No.96/01/2013-CX dated 01.01.2013, the time limit stipulated for obtaining stay from the appellate authority was only 30 days in case, an appeal along with Stay application was filed before the appropriate appellate authority.

You are therefore directed to pay the amounts involved in the said OIO immediately, if not paid already along with details of appeals, if any.

Yours faithfully,

Superintendent (Service Tax) 31 Group X -X)

Superintendent (Group-X) केन्द्रीय उत्पाद शुल्क, सीम शुल्क एवं सेवा कर Customs, Central Excide & Service Tax हैदराबाद-II आयुक्तालय Hyderabad-II, Commissionerate

हैदरावाद / HYDERABAD.

ole

MODI VENTURES

5-4-187/3 & 4, IInd Floor, Soham Mansion, M.G. Road, Secunderabad – 500003 Phone: +91-40-66335551, Fax: 040-27544058

Date: 8th April 2013

To,
The Superindent,
Office of the Commissioner of Customs,
Central Excise & Service Tax,
Hyderabad – II, Commissionerate, Group X,
Opp: Singareni Bhavan,
Sitaram Bagh, Red Hills,
Hyderabad.

Dear Sir.

Sub: Intimation of payment – Service Tax.

Ref: Our Letter dated 13th August 2012

STC No. AAJFM0646DST001

- We have had extensive correspondence with the department regarding the applicability of service tax to our firm. As per understanding service tax is not applicable to the transactions undertaken by our firm.
- We have computed service tax liability for the period 1st April 2012 to 30th September 2012 under works contract services, composition scheme. Details of receipts during the said period and computation of service tax liability is attached herein. Receipts were first appropriated towards
 - a. Sale deed.
 - b. Then towards the agreement of construction.
 - c. Towards additions and alternations and
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- 4. Accordingly, the taxable amount under works contract services with composition was computed to be Rs. 2,80,09,684.00 and tax liability there on @ 4.944% is Rs.13,84,799.00.

W

5-4-187/3 & 4, IInd Floor, Soham Mansion, M.G. Road, Secunderabad – 500003 Phone: +91-40-66335551, Fax: 040-27544058

5. CENVAT credit Rs. 16,531.00 has been adjusted against the tax liability and an amount of Rs. 13,68,268.00 has been paid under protest as per details given below.

a. Challan No. 01100840412201200014 of Rs. 50,000.00

b. Challan No. 01100840812201200010 of Rs. 50,000.00

c. Challan No. 01100840801201300002 of Rs. 2,00,000.00

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d. Challan No. 01100841201201300006 of Rs. 2,00,000.00

e. Challan No. 01100842101201300019 of Rs. 2,00,000.00

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f. Challan No. 01100842801201300025 of Rs. 1,50,000.00

g. Challan No. 01100840402201300012 of Rs. 1,50,000.00

h. Challan No. 01100840802201300056 of Rs. 1,50,000.00

i. Challan No. 011008402032013000**K** of Rs. 1,50,000.00

j. Challan No. 011008409032013000 15 of Rs. 41,059.00

K. Challan No. 011008418032013000 of Rs. 27,209.00

6. We hope that our understanding is correct and we would be glad to provide you with any further information that may be required in this regard. We request you to kindly confirm

he same.

Thank You.

Yours sincerely,

uthorized Signatory.

Encl: 1. Statement of receipts from 01.04.12 to 30.09.12 and details of ST. 2. CENVAT statement for the period from 01.04.12 to 30.09.12

3. Additional Commissioner.

4. GR7 Chalan Copies.

CC To: 1. Assistant Commissioner.

2. Deputy Commissioner.

3. Additional Commissioner

PH:080-22385861 Fax:080-22385863

Website: www.cestat.gov.in Mail: cestat_bang@rediffmail.com

By Ord

Deputy Regist

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL WTC BUILDING, FKCCI COMPLEX, K.G. ROAD, BANGALORE-560009.

Appeal Transfer Notice

Notice to the parties of the date fixed for hearing of appeal/Cross Objection to the Hyderabad Bench under the

Appeal No. : ST/26165/2013-DB

STAY Application No.: ST/Stay/26496/2013

Arising out of

06-2013

Dated: 17/01/2013 passed by the commissioner of Customs, Central Excise & Service

Tax Appeals

To,

Name of Appellant

Modi Ventures

5-4-187/3&4, 2nd Floor, M.g.road, SECUNDERABAD AP 500003

Name of Respondent
C.C.,C.E.& S.T-HYDERABAD-I

KENDRIYA SHULK BHAVAN, L.B STADIUM ROAD, BASHEERBAGH, HYDERABAD, ANDHRA PRADESH 500004

Take notice that the appeal/s mentioned above has/have been transferred to Hyderabad bench of CESTAT to be opened shortly at Customs, Excise & Service Tax Appellate Tribunal,1st Floor,Rear Portion of HMWSSB Building, Khairtabad, Hyderabad-500004. Consequent to the said transfer of appeal/s,all further proceedings shall take place at the regional bench Hyderabad at the above premises. For any further enquiry on the matter, you are directed to approach Deputy/Assistant Registrar, Hyderabad Bench.

Dated: 27/10/2015

Copy To:

1. Advocates/ Consultants:

HIRAGANGE & ASSOCIATES

#1010, 1st floor(Above Corp.Bank) 26th Main, 4th T Block, Jayanagar, Bangalore Bangalore Karnataka

Karnatak 560041

2. Office Copy



सीमा शुल्क, केन्द्रीय उत्पाद शुल्क एवं सेवा कर के आयुक्त का कार्यालय OFFICE OF THE COMMISSIONER OF CUSTOMS, CENTRAL EXCISE & SERVICE TAX हैदराबाद - I आयुक्तालय HYDERABAD - I COMMISSIONERATE

एल बी स्टेडियम रोड, बशीरबाग, हैदराबाद - 500 004.

L.B. Stadium Road, Basheerbagh, Hyderabad - 500 004.

Date: 2 11 13

NT.		<u>A</u>	CKN	0	W	L E	D	G	E	M	E	N	T
NO.	457												

Receipt of letter No	_		_Dated	11/3	e us	
from M/s. Modi Me	utures		2			_
address 5-4-187 3	8 h In Ho	ov , Lasur	Harm 1	7 Cil	Calons, Cont	_
is hereby acknowledged du	aly which has bee	n entered at SI	. No. 03	13/15/30		1
Dated	in the Cent	ralised receipt	register of thi	soffice.	JAN 2013 A Service lax	THE PERSON
				Aucho	rized Signatory	

#5-4-187/3 & 4, IInd Floor, Soham Mansion, M.G. Road, Secunderabad – 500003 Phone: +91-40-66335551, Fax: 040-27544058

To, The Commissioner of Customs, Central Excise and Service Tax, Hyderabad − I, 1st Floor, Kendriya Shulk Bhavan, L.B. Stadium Road, Basheerbagh, Hyderabad.

Dear Sir,

Subject:- Submission of the documents.

Reference:- 1. Personal Hearing Conducted on 18.12.12 at your office

2. Our Letter dated 24th December 2012.



Please find enclosed details of receipts towards sales of villas / flats. Details of each receipt that has been split towards sale deed, agreement of construction, other taxable receipts, VAT and registration charges and other non-taxable receipts. Details have been given for phase - I block A to E & phase - II blocks F & G with one statement sorted by date of receipt and other statement sorted by villa / flat number.

Receipts towards VAT and registration charges are collected from customers and paid to the Government. Other non-taxable receipts are receipts towards items like services tax (paid / payable to Govt.), electricity charges (paid to electricity board), loan processing fee (paid to finance company), excess amount received (refunded to customer), maintenance charges (paid to Owners Association), corpus fund (paid to Owners Association), etc. These amounts were remitted / paid / refunded to the Government or the intended recipient.

Please write to us if any further information is required.

Thank You.

Your sincerely, For Modi Venture

Soliam Modi.

(Managing Partner)



सीमा शुल्क , केन्द्रीय उत्पाद शुल्क एवं सेवा कर के आयुक्त का कार्यालय OFFICE OF THE COMMISSIONER OF CUSTOMS, CENTRAL EXCISE & SERVICE TAX हैदराबाद - I आयुक्तालय HYDERABAD - I COMMISSIONERATE

एल बी स्टेडियम रोड, बशीरबाग, हैदराबाद - 500 004. L.B. Stadium Road, Basheerbagh, Hyderabad - 500 004.

ACKNOWLEDGEMENT No

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