

# Mehta & Modi Homes

5-4-187/3&4, III Floor, M.G. Road, Secunderabad - 500 003

Ph : 66335551

To,  
The Commercial Tax Officer,  
(Audit), O/o. The Deputy Commissioner,  
Commercial Taxes, Begumpet Division,  
Hyderabad.

Date:19.12.2007

Sir,

Ref.: Your notice in form VAT 305A dated 6.12.2006.

1. We submit that we are in receipt of the above mentioned notice issued for the months from September, 2006 to February, 2007 stating that there is under declared tax to a tune of Rs. 36,10,728. We request to kindly consider our objections on the following grounds, as the proposal is not correct.
2. We submit that we are engaged in the construction and selling of apartments/ buildings, bungalows etc., and we are covered by Section 4(7) (d) of the APVAT Act, 2005, liable to pay tax in respect of the execution of works contracts under composition scheme. Accordingly we are opted for composition scheme under the said clause. Two issues are raised in the notice. Firstly it is stated that we have not paid tax on the cost of land sold. Secondly it is stated that we have to pay tax under Section 4 (7) (C) of the Act and not under clause (d), as we have first sold the land to the customer and then did the works. We submit that this proposition is not correct.
3. We submit that we are in the business of selling bungalows to prospective customers along with several amenities. Accordingly, we have entered into agreement of sale with the prospective buyers for the sale of flat/bungalow by mentioning all the costs including land. Pursuant to the said agreement, we have registered the sale deed and entered into construction agreement. As per the terms of the agreement of sale, we have sold the land along with building to the buyers. We invite kind attention to the Advance Ruling given in the case of Mytas Hill County Private Limited in No. AR.Com/80/2006 dated 30.7.2006 wherein point 2 is similar to our case. It read as follows:

“In the second category, a piece of land belonging to the appellant is sold to the customer through a sale deed for the sale of land and then through a separate construction agreement the applicant takes up construction of a house on such land purchased by the customer. In this situation there is a sale deed for the sale of land and also a construction agreement between the applicant and the customer which is also registered with the sub registrar”.



# Mehta & Modi Homes

5-4-187/3&4, III Floor, M.G. Road, Secunderabad - 500 003

Ph : 66335551

4. On a consideration of this case, it is clarified that the dealer is entitled to pay tax on the entire consideration including the cost of the land at the rate of 1% only. Our case is similar to that of Maytas Hill County. We are liable to pay tax on the entire consideration received from the customer including the cost of the land @ 1%. As the Specified authority for Advance Ruling has already decided the issue, it cannot be said that we are liable to pay tax under Section 4 (7) (C). The Ruling given by the authority is binding on all the authorities in the State. The transaction mentioned in your notice has already been interpreted by the said authority. Our transaction therefore fall under Section 4 (7) (d) only. We are entitled to pay tax at the rate of 1% only. Accordingly we have paid tax on the entire sale consideration including land value @ 1%. Please find enclosed the details of VAT paid upto date. In view of the above we request to kindly drop the proposal. We are herewith enclosing one set of agreement and sale deed for record. We also request to afford us an opportunity of personal hearing before conclusion of the proceedings.

Thank You.

Yours sincerely,  
For MEHTA & MODI HOMES,



Soham Modi,

Encl.: as above.