

GOVERNMENT OF ANDHRA PRADESH
COMMERCIAL TAXES DEPARTMENT

Proceedings of the Deputy Commissioner(CT), Begumpet Division, Hyd.
Present.Smt.S.JayaKameswari, M.Sc.,

Rc.No.E3/R/244/2010 Dt. 31-03-2011.

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 – Objections filed by the dealer – Revision Orders passed – 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.
4).DC(CT), Begumpet Division, Hyderabad Revision Show Cause Notice under VAT for the tax periods Dec, 2005 to Oct, 2006 in Rc.No.E3/R/244/2010 Dt.03-02-2011.
5).Written objections filed by the dealer vide Lr. Dt.21-02-2011.
6).DC(CT), Begumpet Divn., Hyderabad Lr. in Rc.No.E3/R/244/2010 Dt.09-03-2011.
7).Dealers Lr. Dt.21-03-2011.

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 Output 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.

Accordingly 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 along with documentary evidence and also to avail personal hearing to represent their case.

The dealer received the Revision Show Cause Notice and filed their written objections vide the reference 5th cited by enclosing bill wise purchase details of VAT goods along with copies of purchase invoices.

In their reply the dealer also requested for the opportunity of personal hearing to represent their case.

Accordingly vide the reference 6th cited personal hearing was allowed to the dealer on 22-03-2011 at 11.30 A.M. to represent their case either in person or through the Authorized Representative.

The dealer vide the reference 7th cited has filed a letter with a request to allow personal hearing after one week instead of on 22-03-2011 as their Sales Tax Consultant is out of Station.

As per the request of the dealer personal hearing was allowed on 28-03-2011 at 11.30 A.M. and endorsement was given to this effect.

Accordingly the Authorized Representative of the dealer Firm Sri.U.V.Pavan Kumar, Advocate has appeared in this Office and availed personal hearing on 28-03-2011 at 11.30 A.M. and explained the issues involved in the Revision Case under VAT for the tax periods December, 2005 to October, 2006.

The written objections filed by the dealer vide the reference 5th cited along with documentary evidence are examined and discussed the same as under.

1).Tax periods December, 2005 to March, 2006:-

In their reply the dealer stated that they are engaged in the activity of Works Contracts i.e., Construction & Sales of Independent Houses and Apartments who opted to pay tax under Composition @ 1% under Section 4 (7) (d) of the APVAT Act, 2005.

As per the same " any dealer engaged in the Construction activity of Residential Apartments, Houses or Commercial Complexes may opt to pay tax by way of composition at the rate of 4% of 25% Works Contract Consideration received or receivable or the market value fixed for the purpose of Stamp Duty which ever is higher subject to such conditions as may be prescribed " .

Hence, the consideration received or receivable pertaining to the sale of Apartments, Houses only is taxable but not the Credits or Installments or any other amounts like Car Parking and Service Tax Payments received during the tax periods December, 2005 to March, 2006.

Further in their reply they stated that accordingly they paid VAT Tax @ 1% after registering the Apartments with the Sub-Registrars Office in favour of the prospective buyers on the registration value Rs.30,05,000-00 received by them.

In their reply the dealer stated that where from the Revision Authority has extracted and arrived the Works Contracts Receipts Turnover of Rs.56,44,500-00 is not clear for the tax periods December, 2005 to March, 2006 and requested to consider the Sales Turnover of Rs.30,05,000-00 for the tax periods December, 2005 to March, 2006.

The objections filed by the dealer is not tenable because as per the information received by the Department from other State Government Department of Andhra Pradesh during the tax periods December, 2005 to March, 2006 the dealer has received consideration of Rs.56,44,500-00. In addition to receipt of this sale consideration the dealer also received an amount of Rs.10,73,384-00 towards extra Civil Works executed by them and Service Tax Payments and payments received towards Car Parking i.e. total Rs.67,17,884-00 which is liable to tax @ 4%.

As per the request of the dealer the information available in this Office records which is received from other State Government Department of Andhra Pradesh was already provided to the dealer on 07-02-2011 for which the dealer has given acknowledgement.

Even after obtaining the information from the undersigned on the other hand in their reply the dealer questioned the source of Works Contract Receipts Consideration Turnover proposed by the Revision Authority Rs.56,44,500-00. The source and the total receipt amount is very much available in the information provided to the assessee.

Hence, the objection raised by the dealer in this regard is rejected and the proposal of levy of tax @ 1% Rs.45,954-00 on the short reported Works Contracts Receipts Turnover of Rs.45,95,384-00 is now confirmed.

Further in their reply the dealer objected the proposal of levy of difference VAT Tax @ 3% of Rs.15,071-00 on purchase of Sand, Stone Metal and Bricks and the proposal of levy of difference VAT Tax @11.5% Rs.55,032-00 on purchase of Doors, Windows, Readymade Concrete Mix,

Plywood, Glassed and Electrical Goods which are purchased by the dealer from unregistered sources which are used in execution of Civil Works Contract by the dealer.

They stated that they have purchased these 12.5% VAT Goods from registered VAT dealers. Hence, the proposal of levy of difference VAT Tax @ 11.5% is illegal. Further they also stated that there is no provision under the AP VAT Act, 2005 to levy purchase tax on the purchases made from unregistered sources.

Further in their reply the dealer admitted that they have made purchase of 4% VAT Goods such as Sand, Stone Metal and Bricks valued Rs.5,02,356-00 and used the same in the Construction of Apartments for which they already paid VAT Tax @ 1% on sale of Apartments. Hence, the value of these unregistered purchased goods is already included in the sale value of the Apartments.

Further in their reply they also stated that as per Section 4 (7) (e) of AP VAT Act, 2005 " any dealer having opted for composition under Clauses (b), (c) & (d) 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 Works Contract, 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 ".

The dealer in their reply opined that Clause (e) of Section 4 (7) is applicable only to a dealer who has opted for composition under all (3) Clauses i.e., 4 (7) (b), (c) & (d) but does not apply to a dealer who opts to pay tax under any one of the above (3) Clauses. They replied that in this case the dealer opted to pay tax under composition under Clause 4 (7) (d) hence, the Clause 4 (7) (e) cannot be applied against this dealer. As such no tax is payable by the dealer on the alleged 4% & 12.5% VAT Goods purchased by the dealer from unregistered sources.

Thus, they requested to drop the proposal of levy of difference VAT Tax @ 3% & 11.5% i.e., total VAT Output Tax of Rs.70,103-00 on purchase of 4% & 12.5% VAT Goods from unregistered sources.

The objection raised by the dealer is not tenable because as per Section 4 (7) (e) of AP VAT Act, 2005 " any dealer having opted for composition under Clauses (b), (c) & (d) 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 Works Contract, 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 ".

In this case the dealer has opted to pay tax under composition under Section 4 (7) (d) of AP VAT Act, 2005. Further during the tax periods December, 2005 to March, 2006 the dealer has purchased 4% VAT Goods such as Sand, Stone Metal and Bricks valued Rs.5,02,356-00 and 12.5% VAT Goods such as Doors, Windows, Readymade Concrete Mix, Plywood, Glass, Electrical Goods and General Items Rs.4,78,536-00 from unregistered sources and used the same in Construction & Sale of Apartments. As such levy of VAT Output Tax on these unregistered purchases is valid.

Hence, the objections filed by the dealer in this regard are rejected.

Further as against the proposal of levy of difference VAT Tax on purchase of 4% goods & 12.5% VAT Goods from unregistered sources the dealer has produced (3) tax invoices and requested to withdraw the proposed levy of tax as these purchases are from registered VAT dealers.

Verified the (3) tax invoices produced by the dealer for the tax periods December, 2005 to March, 2006 and noticed that they have made purchase of 12.5% VAT Goods such as Doors, Sanitary Goods and Sports Goods valued Rs.10,807-00 from registered VAT dealers of Andhra Pradesh.

Hence, the proposal of levy of difference VAT Tax of Rs.1,243-00 @ 11.5% on this turnover is withdrawn.

After partly considering and partly rejecting the objections filed by the dealer the proposal of levy of difference VAT Output Tax @ 3% & 11.5% of Rs.68,860-00 for the tax periods December, 2005 to March, 2006 is confirmed as per the Revision Show Cause Notice.

2).Tax periods April, 2006 to October, 2006:-

Similarly for the tax periods April, 2006 to October, 2006 in their reply the dealer stated that where from the Revision Authority has extracted and arrived the Works Contracts Receipts Turnover of Rs.2,65,19,127-00 is not clear and requested to consider the Sales Turnover of Rs.2,10,19,500-00 reported by them and to drop the proposed tax in the matter.

In this connection it is informed that as per the information received by the undersigned from the other State Government Department of Andhra Pradesh the Works Contracts Receipts Consideration received by the dealer for the year 2006-07 is for Rs.4,06,13,611-00. In addition to this they also received amounts on extra Civil Works executed by them, Service Tax Payments and amount towards Car Parking for Rs.48,47,751-00. Thus, the total consideration received by the dealer is for Rs.4,54,61,362-00. As the Revision of Assessment under VAT pertains to the tax periods April, 2006 to October, 2006 i.e. for (7) months the average Works Contracts Receipts Consideration per month is arrived as Rs.37,88,477-00 **(Rs.4,54,61,362-00 X 7/12)**. Thus, the total Works Contracts Receipts

Consideration for the tax periods April, 2006 to October, 2006 is arrived as Rs.2,65,19,127-00. As against the same the dealer on filing of monthly returns in Form VAT 200 during this tax period has reported a turnover of Rs.2,10,19,500-00 only. Thus, there is a short reported turnover of Works Contracts Receipts Consideration of Rs.54,99,627-00 on which VAT Tax @ 1% Rs.54,996-00 was proposed in the Revision Show Cause Notice.

Hence, the objection filed by the dealer not to levy VAT tax @ 1% Rs.54,996-00 on the short reported turnover of Rs.54,99,627-00 is rejected and tax of Rs.54,996-00 is confirmed.

In addition to this during this tax period the dealer also made purchase of 4% VAT Goods such as Sand, Stone Metal, Bricks and Tools valued Rs.14,51,042-00 and 12.5% VAT Goods such as Plywood, Glass, Cement, Doors and Windows of Rs.2,30,339-00 from other than registered VAT dealers of Andhra Pradesh on which difference VAT Tax @ 3% Rs.43,531-00 and difference VAT Tax @ 11.5% Rs.26,489-00 i.e., total Rs.70,020-00 was proposed in the Revision Show Cause Notice under Section 4 (7) (e) of AP VAT Act, 2005.

In their reply the dealer furnished the bill wise purchase details of 12.5% VAT Goods made by them for the tax periods April, 2006 to October, 2006.

Verification of the same revealed that only Plywood valued Rs.1,272-00 is purchased by the dealer from registered VAT dealers of Andhra Pradesh. Hence, the proposal of levy of difference VAT Tax @ 11.5% Rs.146-00 on this turnover is withdrawn.

After allowing the objection to this extent the proposal of levy of difference VAT Output Tax is confirmed for Rs.69,874-00.

After partly allowing and partly disallowing the objections filed by the dealer in exercise of the powers conferred under Section 32 (2) of AP VAT Act, 2005 the Revision of Assessment of the dealers under VAT for the tax periods December, 2005 to October, 2006 is revised as under.

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

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. <u>45,954-00</u>
G).Difference VAT Tax @ 3% & 11.5% proposed on Purchase of VAT goods from unregistered sources	Rs. <u><u>68,860-00</u></u>
Total VAT Output Tax confirmed on Revision	Rs. <u>1,14,814-00</u>

Thus, the proposal of levy of under declared VAT Output Tax of Rs.1,14,814-00 is now confirmed on Revision.

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

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. <u>54,996-00</u>
I).Difference VAT Tax @ 3% & 11.5% levied On purchase of VAT goods from unregistered Sources.	Rs. <u><u>69,874-00</u></u>
Total VAT Output Tax confirmed on Revision	Rs. 1,24,870-00

Thus, the proposal of levy of under declared VAT Output Tax of Rs.1,24,870-00 is now confirmed on Revision.

Further the dealer is liable to pay interest @ 1% on the under declared VAT Output 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.

The Commercial Tax Officer, M.G.Road Circle shall give effect to this order immediately.


Deputy Commissioner(CT),
Begumpet Division, Hyderabad.

Also
31/3/2011 *31/3/2011*

Note: An appeal against this order lies before the Sales Tax Appellate Tribunal, Andhra Pradesh, Hyderabad within (60) days from the date of receipt of this order.

To

✓ M/s.Summit Builders, M.G.Road, Secunderabad (Through the Commercial Tax Officer, M.G. Road Circle, Begumpet Division, Hyderabad for service and to return the served copy).

The Commercial Tax Officer, M.G.Road Circle, Hyderabad along with VAT Assessment Record as above.

Copy submitted to Additional Commissioner(CT) Legal, Andhra Pradesh, Hyderabad for favour of information.