# Mehta & Modi Homes

Office: 5-4-187/3 & 4, II floor,
Soham Mansion, M G Road,
Secunderabad – 500 003.
Ph: +91 40 66335551.

Date: 8th June 2015

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

Sir,

Sub: APVAT Act, 2005 - Appeal filed in the case of M/s.Mehta & Modi Homes, M.G. Road, Secunderabad – For the year 2009-10 to 2012-13(upto January'2013) / Penalty – Proof of payment of 50% disputed penalty paid – Reg.

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Aggrieved by the penalty appeal order dated 20/03/2015 passed by the Appellate Deputy Commissioner (CT), Punjagutta Division, Hyderabad for the year 2009-10 to 2012-13 (upto January'2013) under the APVAT Act, 2005 we are filing appeal before the Hon'ble Telangana Value Added Tax Appellate Tribunal, Hyderabad. For admission of appeal before Telangana Value Added Tax Appellate Tribunal, we are have paid 50% disputed penalty of Rs.2,24,250/- the details are as under:-

| | | |
|---|---|---|
| Penalty disputed in appeal is | Rs.4,48,500/- | |
| 50% penalty works out to | | **Rs.2,24,250-00** |
| **Less:** | | |
| Amount paid vide Cheque No.000256 dt.07/05/2013 towards 12.5% disputed penalty for admission of appeal before ADC. | | Rs. 56,063-00 |
| Now Balance payable is | | Rs.1,68,187-00 |

As required by 1st Proviso under Section 33(2) of the APVAT Act, 2005 we are issuing crossed Demand Draft/ Banker's Cheque for Rs.1,68,187/- towards balance 50% of the disputed penalty.

Please acknowledge receipt of the same.

Thanking you

Yours truly
For MEHTA & MODI HOMES

Authorised Signatory

EncL DD No. 11632 dated 9th June 2015 HDFC Bank Ltd., Rs. 1,68,187/-

COMMERCIAL TAX OFFICER
JUN 2015
M.G Road Circle, Begumpet Division
10/6/2015

23/9/14



allowed and the CTO passed penalty order in Form VAT 203, dated 29-04-2013 levying penalty of Rs.4,48,500/-.

The appellant relied on the decision of Rajasthan High Court in the case of CTO Vs. M/s. Rajadhani Wines (87 STC 362) and in the case of M/s. Hindusthan Steel Limited Vs. State of Orissa (1970) (25 STC 211) and in the case of M/s. Modi Threads, Hyderabad Vs. State of Andhra Pradesh (16 APSTJ 277) (STAT) and in the case of M/s. Salzigitter Hydraulics Private Limited, Hyderabad Vs. State of Andhra Pradesh (48 APSTJ 276) (STAT) and also relied on some more cases, in support of his arguments. Thus, they requested to grant stay of collection of disputed penalty of Rs.4,48,500/-.

I have examined the impugned orders and the contentions of the appellant put forth in the grounds of appeal. As per the impugned orders the dealer has under declared tax of Rs.44,85,000/- in view of levy of tax under Section 4(7)(b) on value of construction of building as there is no single deed for sale of land and building during the year 2009-10 to 2012-13 (upto January 2013) which was assessed by the Audit Officer vide VAT 305, dated 19-03-2013. This omision attracts penalty @10% of under declared tax as per the provisions of Section 53(1)(i) of the APVAT Act, 2005. Accordingly, the Audit Officer proposed and levied penalty of Rs.4,48,500/-. As per the provisions contained under Section 53(1)(i) and (ii), even where fraud or willful neglect has not been established penalty is to be levied under Section 53(1) of the APVAT Act, 2005. This view has been upheld by the Hon'ble Sales Tax Appellate Tribunal, Hyderabad in the case of M/s. Zuari Cements Limited Vs. State of Andhra Pradesh (49 APSTJ 246).

Hence, in view of the above explained reasons I do not find any kind of valid reason in the arguments of the appellant-petitioner for stay of collection of disputed penalty. Therefore, I have not seen any merits in the present case and the stay petition filed by the appellant is accordingly **dismissed**.

22/9/14

JOINT COMMISSIONER (CT)-I

To
M/s. Mehta & Modi Homes, M.G. Road, Secunderabad.
through the Commercial Tax Officer, M.G. Road Circle, Begumpet Divisiion.
in duplicate for service and return of served copy immediately.

Copy to Commercial Tax Officer, M.G. Road Circle, Begumpet Division.
Copy to the Deputy Commissioner (CT), Begumpet Division, Hyderabad.

Copy to M/s. Mehta & Modi Homes, 5-4-187/3 & 4, II Floor, Soham Mansion, M.G. Road, Secunderabad.