

M.RAMACHANDRA MURTHY
CHARTERED ACCOUNTANT

Flat No.303, ASHOKA SCINTILLA
H.No.3-6-520, Opp. To Malabar,
Himayathnagar Main Road,
Hyderabad -500 029
Tel.:040-402478935 / 36

To,
The Appellate Dy. Commissioner (CT)
Punjagutta Division,
Hyderabad.

Sir,

Sub:- Filing the appeal in the case of M/s. **Green Wood Estate., Hyderabad,**
- For the Period – 2013-14 to 2014-15/Upto May 2014) May/VAT – reg.

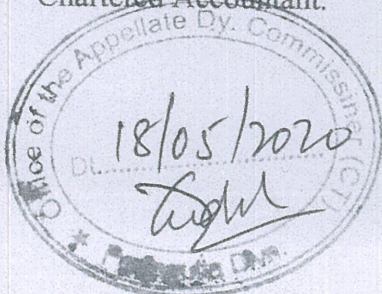
Please find enclosed herewith the following appeal papers:

1. Form –APP 400 2 copies.
2. Grounds of Appeal 2 copies.
3. Challan bearing No.20002219864 for Rs.1,000/- dt.21/3/2020 towards appeal fees.
4. A.O. No.18268 dt.29/02/2020 passed by the Deputy Commercial Tax Officer -II, Maredpally Circle, Begumpet Division, Hyderabad. (in original) along with Xerox copy.
5. Copy of the proof of payment of 12.5% disputed tax.
6. Form APP 400A
7. Form APP 406 2 copies.
8. Form –565 (Authorization).

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

Thanking you,
Yours sincerely,

M.Ramachandra Murthy,
Chartered Accountant.



FORM APP 400
FORM OF APPEAL UNDER SECTION 31
[See Rule 38(2)(a)]

1. Appeal Office Address : The Appellate Dy. Commissioner (CT)
Punjagutta Division, Hyderabad
 2. TIN/GRN : 36389317452
 3. Name & Address : M/s. Green Wood Estates,
5/4/187/344, 2nd Floor, M.G. Road,
Secunderabad – 500 003.
 4. I wish to appeal the following decision /
assessment received from the tax office on : 03/03/2020
 5. Date of filing of appeal : /03/2020
 6. Reasons for delay (if applicable enclose a
separate sheet : Not Applicable
 7. Tax Period / Tax Periods : 2013-14 & 2014-15(upto May'2014)/VAT
 8. Tax Office decision / assessment Order No. : Assessment order No.18268 (Form VAT 305)
dt.29/02/2020 passed by
by Deputy Commercial Tax Officer-II,
Maredpally Circle, Begumpet Division,
Hyderabad.
 9. Grounds of the appeal (use separate sheet
if space is insufficient : Separately Enclosed
 10. If turnover is disputed
 - a) Disputed turnover : NIL
 - b) Tax on the disputed turnover : Rs.8,78,505/-

If rate of tax is disputed

 - a) Turnover involved : NIL
 - b) Amount of tax disputed : NIL
 11. 12.5% of the above disputed tax paid : Rs.1,09,813/-
- Note:** Any other relief claimed : Other grounds that may be urged at the
time of hearing.

(The payment particulars are to be enclosed if ready paid along with the reasons on Form APP 400A)

12. Payment Details:

a)Challan / Instrument No. : 200 0223 978.
b)Date : 30-03-2020
c)Bank / Treasury : AXIS Bank
d)Branch Code : 000540
e)Amount : 109813

TOTAL

: Rs. 1,09,813/-

Declaration:

I, SOHAM MODE (MANAGING DIRECTOR) hereby declare that the information provided on this form to the best of my knowledge is true and accurate.



Signature of the Appellant & Stamp

Date of declaration

Name : SOHAM MODE
Designation : MANAGING DIRECTOR.

Please Note: A false declaration is an offence.

GREEN WOOD ESTATES,
MG Road, Secunderabad.

Statement of facts:-

2013-14 & 14-15/VAT

1. It is submitted that the appellant is a registered VAT dealer under the provisions of the TVAT Act, 2005 (for short Act) on the rolls of the Commercial Tax Officer, MG Road – SD Road Circle, Hyderabad and is engaged in the business of constructing and selling the residential flats. Appellant has opted to pay tax under composition scheme under Section 4 (7) (d) of the Act.
2. In accordance with the said provision, appellant has filed the monthly turnover returns and paid the applicable taxes on 25% of the gross consideration.
3. Claiming authorization from the DC (CT), Begumpet Division, the learned Deputy Commercial Tax Officer-II, Maredpally Circle, Hyderabad (for short DCTO) conducted audit of the books of account of the appellant, issued show cause notice proposing to raise certain demand and thereafter passed the assessment order dated **29.2.2020** levying the following tax:-

2013-14	Rs.6,61,180
2014-15 (upto 5/2014)	2,17,325
Total	8,78,505

4. Aggrieved by such assessment order, appellant prefers this appeal on the following grounds, amongst others:-

Grounds of appeal:-

- a. It is submitted that the impugned order is unjustifiable, arbitrary and illegal.
- b. The learned DCTO has not granted proper opportunity to the appellant to explain the case. When the appellant has filed letter dated 24.2.2020 requesting to grant sufficient time, the learned DCTO has endorsed on 25.2.2020 posting the case to 28.2.2020.
- c. Appellant has reported actual sale considerations in the returns filed and paid tax on 25% of such gross consideration, but the learned DCTO took the gross figures from the P&L Account, compared and levied tax on 25% of such figures. The details are as follows:-

Description	2013-14 Amount Rs.	April and May, 2014 Rs.
As per returns	11,2769,000	2,92,64,000
As per P&L A/c	14,68,98,863	2,92,64,000

- d. It is submitted that no such tax on the so called differential amount is leviable. Receipts in P&L account are posted as per the Accounting Standards of ICAI based on WIP (work in progress) method and whereas the turnovers reported in the VAT 200 returns are the actual sale amounts, as per the registration of property made with the Sub Registrar. 'Turnover' for the purposes of the VAT Act is different from 'income' declared in the P&L account. The learned DCTO ought to have understood this concept. As and when the property is registered, tax is paid under Section 4 (7) (d) of the VAT Act, read with Rule 17 (4) of the VAT Rules.
- e. It is therefore submitted that the entire demand is in the nature of double levy of tax and resultantly it is illegal and arbitrary. Appellant shall be explaining the figures at the time of hearing.
- f. For these grounds and the other grounds that may be urged at the time of hearing, appellant prays to set aside the impugned order and allow the appeal.



*** APPELLANT.**

APPLICATION FOR STAY OF COLLECTION OF DISPUTED TAX

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

Date Month Year

01. Appeal Office Address:
To,
The Appellate Deputy Commissioner (CT)
Punjagutta Division,
Hyderabad

	03	2020
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02	TIN	36389317452
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03. Name : M/s. Green Wood Estates,
Address : 5/4/187/344, 2nd Floor, M.G. Road,
Secunderabad – 500 003.

04.	Tax period	2013-14 & 2014-15(upto May'2014)/VAT
05.	Authority passing the order or proceeding disputed.	Assessment order no.18268 dt.29/02/2020 passed by Deputy Commercial Tax Officer-II Maredpally Circle, Begumpet Division, Hyderabad.
06.	Date on which the order or proceeding was Communicated.	03/03/2020
07.	(1) (a) Tax assessed (b) Tax disputed (2) Penalty / Interest disputed	Rs.8,78,505/- Rs.8,78,505/- NIL
08.	Amount for which stay is being sought	Rs.8,78,505/-
09.	Address to which the communications may be sent to the applicant.	M/s. Green Wood Estates, 5/4/187/344, 2 nd Floor, M.G. Road, Secunderabad – 500 003.



Signature of the Dealer(s)

Signature of the Authorised Representatives if any

10. GROUNDS OF STAY

- 1.) Substantial question of facts and law that may 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 grounds that are stated in the main appeal may kindly be read as grounds of this appeal.
- 4.) 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.
- 5.) 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 2019 dt.22/04/2019.

The Honourable High Court of Andhra Pradesh & Telangana in its decision in WP No.20922 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:-

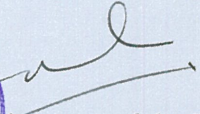
“When the petitioner concern already paid 12.5% of the disputed tax amount for the purpose of maintaining an appeal as required by law, it would be wholly unjust for the tax authorities to demand the balance of the disputed tax amount notwithstanding the pendency of the appeal”.

Hence it is just and necessary that the Appellate Dy. Commissioner (CT) may be pleased to grant stay of collection of the disputed tax of Rs.8,78,505/- pending disposal of the appeal.

VERIFICATION

I, SOHAM MODI (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 ____ day of March'2020

 
Signature of the Dealer(s)

Signature of the Authorised Representatives if any

DECLARATION

FORM APP 400A

[See 'under Section 31(1)] [Rule 38 (2)(d)]

TIN / GRN	Date	Month	Year
36389317452		03	2020

From, M/s. Green Wood Estates, 5/4/187/344, 2 nd Floor, M.G. Road, Secunderabad – 500 003.	To The Appellate Dy. Commissioner (CT) Punjagutta Division, Nampally, Hyderabad
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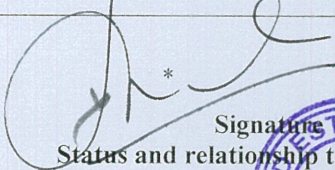
I SOHAN MODD S/o, SATHISH MODD appellant named in the appeal preferred herein as M/s. Green Wood Estates, Secunderabad (Dealer/Firm Name) with TIN/GRN: 36389317452 hereby declare that

* the tax admitted to be due, or of such instalments as have been granted and the payment of 12.5% of the difference of tax assessed by the authority have been paid, for the relevant tax period in respect of which the appeal is preferred, the details of which are given below.

* no arrears are due from me for the relevant tax period for which appeal is preferred due to the reasons:

12.5% Disputed Tax Rs.

Total Tax Paid:	
a) Cheque/DD particulars	Number _____ Date _____ Bank _____ Branch: _____
b) Cash Particulars:	Receipt No: _____ Date: _____
c) Challan particulars:	E- receipt Challan No: <u>2000223 978</u> Date <u>30-03-2020</u>


Signature
Status and relationship to the dealer



(* Strike off which is not applicable)



Your Tax Payment has been done successfully.

Payment ID for future communication: 14806334 (Confirmation has been mailed you.)

E-Receipt for

Tax Payment

Remitter's Name	M S GREEN WOOD ESTATES
Customer Account Number	CYBER_TG
Department Code	2303
Challan Number	2000223978
Departmental Transid	200330276259
DDO Code	25002303013
Head of Account	0040001020005000000NVN
Amount	1,09,813.00
Transaction Date & Time	30-03-2020 15:53:21
Debit Account Number	919020031272204
Transaction Status	SUC
Remarks	vat gwe 12.5% Disputed Tax for the period 2013-14 to 2014-15 till upto may 2014



Your Tax Payment has been done successfully.

Payment ID for future communication: 14786664 (Confirmation has been mailed you.)

E-Receipt for

Tax Payment

Remitter's Name	M S GREEN WOOD ESTATES
Customer Account Number	CYBER_TG
Department Code	2303
Challan Number	2000219864
Departmental Transid	36200321219153
DDO Code	25002303017
Head of Account	0040001020005000000NVN
Amount	1,000.00
Transaction Date & Time	21-03-2020 13:51:18
Debit Account Number	919020031272204
Transaction Status	SUC
Remarks	Appeal fees Before ADC AAO No.18268

FORM OF AUTHORISATION

FORM 565

[See Rule 65(7)]

Authorisation to be filed by a person appearing before any authority on behalf of a dealer
under Section 66 of the Telgana Value Added Tax Act '2005

To,

The Appellate Dy. Commissioner (CT)
Punjagutta Division,
Nampally, Hyderabad

Date Month Year

	03	2020
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TIN / GRN	36389317452
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I, SOHAM MODE (MANAGING DIRECTOR) hereby appoint Sri.M.Ramachandra Murthy who is a Chartered Accountant, Shaik Yasin, Chartered Accountant, M.Anil, Chartered Accountant and Ch.Vamsi Krishna, Chartered Accountant to attend on my behalf/behalf of the said Company before the Appellate Dy. Commissioner(CT), Punjagutta Division, Hyderabad (State the Tax Authority) the proceedings (describe the proceedings) _____/VAT before the said (State the Tax Authority) the Appellate Dy. Commissioner (CT), Punjagutta Division, Hyderabad and to produce accounts and documents / statements and to receive on my behalf/behalf of the said Company any notice or documents / statements issued in connection with the said proceedings Sri.M.Ramachandra Murthy, Chartered Accountant, M.Anil, Chartered Accountant, Shaik Yasin , Chartered Accountant and Ch. Vamsi Krishna are hereby authorised to act on my behalf/behalf of the said Company in the said proceedings.

We agree/ the said Company agrees to ratify all acts done by the said Sri.M.Ramachandra Murthy, Shaik Yasin , M.Anil and Ch. Vamsi Krishna in pursuance of this authorisation.



Signature(s) of the Authorizing person(s)

We, Sri.M.Ramachandra Murthy, Shaik Yasin, M.Anil and Ch. Vamsi Krishna accept the above responsibility.

Signature(s) of Authorised person(s)

M.Rama Chandra Murthy,	Shaik Yasin	Ch.Vamsi Krishna	M.Anil
Chartered Accountant,	Chartered Accountant	Chartered Accountant	Chartered Accountant
Flat No.303, 'ASHOKA SCINTILLA'			
H.No.3-6-520, Opp.: to KFC			
Himayathnagar Main Road,			
Hyderabad -500 029			