

GOVERNMENT OF TELANGANA
COMMERCIAL TAXES DEPARTMENT

PROCEEDINGS OF THE ADDITIONAL COMMISSIONER (ST)
(CCW) (FAC)

OFFICE OF THE COMMISSIONER OF STATE TAX,
 TELANGANA STATE, HYDERABAD

PRESENT: SMT K. Haritha, M.A(Eng)

ACO No. 233/2020

CCT's Ref No. LIII(1)/180/2020
2020.

Date: 05-09-

Sub:-STAY PETITION – VAT Act 2005 – M/s Green Wood Estates, Secunderabad – For the tax period June 2014 to June 2017 - Stay petition filed for stay of collection of Penalty Tax – Personal Hearing allowed – Dealer availed personal hearing – Orders issued – Regarding.

- Ref:- 1. DCTO -II, Marredpally Circle Penalty assessment order in AAO No. 18279,
 dt: 29.02.2020.
 2. AJC (ST),Punjabgutta Division in Order No.1193 in Appeal No.BV/4/2020-21
 2020-21, dated:29.06.2020.
 3. Stay Application in Form APP 406, dated 05.08.2020 filed by the dealer.
 4. Hearing Notice in CCT's Ref T.S L.III(1)/180/2020, dt. 26,08.2020.

ORDER:

M/s Green Wood Estates, Secunderabad are registered dealers and assessee on the rolls of Assistant Commissioner (ST) M.G. Road S.D Circle, ('AC' for short). Vide reference 1st cited, the Deputy Commercial Tax Officer-II, Marredpally Circle has passed order for the tax period June 2014 to June 2017 with Rs. 3,87,278/- tax.

Aggrieved by the orders passed by the AC, the dealer preferred an appeal before the Appellate Joint Commissioner (CT), Punjabgutta Division ('AJC' for short) contesting the orders along with stay application for stay of collection of disputed tax. Vide the reference 2nd cited, the AJC has rejected the appeal filed by the dealer. Aggrieved by the order passed by the AJC the dealer now filed stay petition before undersigned seeking stay of collection of penalty tax of Rs.3,78,278/-.

Accordingly, personal hearing was allowed to represent the case. Sri M. Ramchandra Murthy, Chartered Accountant and Authorized Representative ('AR' for short) of the dealer availed personal hearing on 26-08-2020 and argued the case on the following grounds which are reproduced below:

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 the learned DCTO has endorsed on 25.2.2020 posting the case to 28.2.2020.

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	6/14 to 3/15	2015-16	2016-17	4/17 to 6/17
As per returns	7,56,22,000	7,14,75,011	4,77,17,153	nil
As per P&L A/C	11,83,75,00	5,34,30,000	5,00,57,000	10,08,120

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 purpose 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 Rule 17(4) of the VAT Rules.

Thus, the appellant has requested to grant stay of collection of penalty tax.

I have examined the impugned orders and the contentions of the appellant put forth in the grounds of appeal. Without expressing any opinion on the merits of the case, I feel it just and proper to grant stay of collection of **50%** of the penalty out of the total penalty tax of **Rs.3,87,278/-** on a condition that the appellant petitioner shall pay **50%** of the penalty tax i.e., **Rs. 1,93,278/-** within two weeks from the date of receipt of this order with a direction that the assessee will be given credit of amounts, if any, already paid by them at the time of filing of appeal. The stay will be in force till disposal of the appeal by the Appellate Joint Commissioner (ST), Punjagutta Division.

ADDITIONAL COMMISSIONER (ST) – CCW (FAC).

To

M/s Green Wood Estates, Secunderabad.

Through the Assistant Commissioner (ST), M.G.Road-SD Road Circle.
(Induplicate) for service and return of served copy immediately.

Copy to the Assistant Commissioner (ST), M.G. Road- SD Road Circle,
Copy to the Joint Commissioner (ST), Begumpet Division.