

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

08 2022

02 TIN 36607622962

03. Name M/s. Nilgiri Estates,
Address: 5-4-187, 3&4, 2nd Floor,
Soham Mansion, M.G. Road,
Secunderabad.

04.	Tax period	2017-18(upto June'2017)/Entry Tax
05.	Authority passing the order or proceeding disputed.	Consequential order No.17541 dt.13/07/2022 passed by Assistant Commissioner (ST) (FAC) M.G. Road - S.D. Road Circle, Begumpet Division, Hyderabad.
06.	Date on which the order or proceeding was Communicated.	13/07/2022
07.	(1) (a) Tax assessed (b) Tax disputed (2) Penalty / Interest disputed	Rs.1,76,588/- Rs.1,76,588/- NIL
08.	Amount for which stay is being sought	Rs.1,76,588/-
09.	Address to which the communications may be sent to the applicant.	M/s. Nilgiri Estates, 5-4-187, 3&4, 2 nd Floor, Soham Mansion, M.G. Road, Secunderabad.

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”.

- 1.) The appellant relied on the latest decision of the Honourable High Court of Telangana in the case of M/s. Capart Industries, Hyderabad in WP Nos.3954,3976,4089,4115,4518,4556 and 4577 of 2020, wherein it is held as follows:-

“ 4. Counsel for the petitioner relies upon the order of the Division Bench of this court in Sri Dedeepriya Pains Vs. Deputy Commercial Tax Officer – I wherein a similar action on the part of the Department in proposing to collect the balance disputed tax through 12.5% of the disputed tax amount was already deposited with the Department pending appeal before the Appellate Deputy Commissioner fell for consideration. In that case, this court held that once the assessee had 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 appeal.

5. This above order was later confirmed by the Supreme Court in SLP (CIVIL)Diary No.11711 of 2019 on 22.04.2019.
6. The special Government Pleader for Commercial Taxes appearing for respondents does not dispute **the principle laid down** in these cases.

7. Since the petitioner had already paid 12.5% or more of the disputed tax pending appeals before the Appellate Deputy Commissioner and the Telangana VAT Appellate Tribunal, we are of the considered opinion that the respondents are not justified in refusing to grant the petitioner stay of collection of the balance disputed tax and issuing Garnishee orders to the Petitioner's banker for recover of the balance disputed tax".

Copy of the High Court order mentioned above is attached herewith

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.1,76,588/- pending disposal of the appeal.

VERIFICATION

I, _____ 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 August'2022


Signature of the Dealer(s)

Signature of the Authorised Representatives if any