L-35

Hiregange
& Associates LLP
Chartered Accountants

Date: 21.03.2023

To
Assistant Registrar,
Customs, Central Excise and Service Tax Appellate Tribunal,
1st Floor, Rear Portion of HMWSSB Building,
Khairatabad, Hyderabad-500 004.

Dear Sir,

Sub: Filing of Appeal to Appellate authority in Form ST-5.

Ref: Order-In-Appeal No. HYD-SVTAX-SC-AP2-060-22-23-ST dated 29.11.2022 pertaining to M/s. **Modi and Modi Constructions.**

1. We have been authorized by M/s. Modi and Modi Constructions to submit an appeal to the above Order-In-Appeal No. HYD-SVTAX-SC-AP2-060-22-23-ST dated 29.11.2022 and represent before this Hon'ble CESTAT and to do necessary correspondence in the above referred matter. A copy of authorization is attached to the appeal.
2. In this regard, we are herewith submitting the appeal in Form ST-5 along with authorization letter and other annexures referred in the appeal along with this letter.
3. We have also attached the Demand Draft No. 905796 dated 20.3.2023 for an amount of Rs. 5,000/- towards appeal fees.

We shall be glad to provide any other information in this regard.

Thanking You,

Yours faithfully,
For M/s. Hiregange & Associates LLP
Chartered Accountants

CA Venkata Prasad
Partner

4th Floor, West Block, Srida Anushka Pride, Beside SBI Bank, Above Lawrence & Mayo store,
Road Number 12, Banjara Hills, Hyderabad, Telangana - 500 034, INDIA.
+91 040 2331 8128 | venkataprasad@hiregange.com | www.hiregange.com
Bengaluru (Jayanagar, Whitefield) | Hyderabad | Visakhapatnam | Gurugram (NCR) | Mumbai | Pune | Chennai | Guwahati | Vijayawada | Kolkata | Raipur | Kochi | Indore

Index

YES BANK

A/C. PAYEE / Non-Negotiable

YES BANK LTD.
YES BANK House,
Off Western Express Highway,
Santacruz East, Mumbai - 400055
Tel No.: 022 5091 9800/022 6507 9800
Fax No: 022 26192866

DEMAND DRAFT

VALID FOR THREE MONTHS FROM DATE OF ISSUE.

2 0 | 0 | 3 | 2 | 0 | 2 | 3 | | |
D D M M Y Y Y Y

009713018765

On Demand Pay ***ASSISTANT REGISTRAR CESTAT*** or Order
को या उनके आदेश पर

Rupees FIVE THOUSAND ONLY.**
रुपये अदा करें ₹ 5,000.00**

Purchaser Name: MODI AND MODI CONSTRUCTIONS

For YES BANK LTD.

AUTHORISED SIGNATORY(IES)

YES BANK LTD
CHANAKYAPURI, NEW DELHI
DRAWEE BANK AND BRANCH

YES BANK
BEGUMPET, SECUNDRABAD
ISSUING BANK AND BRANCH

"905796" 000532000"

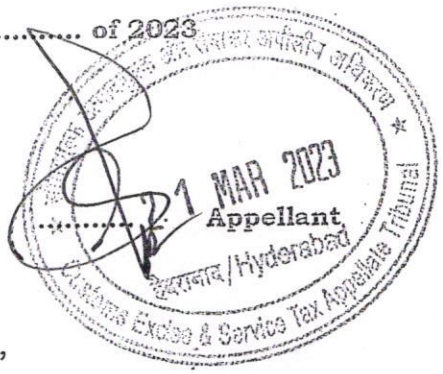
FORM ST - 5

[See rule 9(1)]

Form of Appeal to the Appellate Tribunal under sub-Section (1) of Section 86 of the Finance Act, 1994

IN THE CUSTOMS, CENTRAL EXCISE & SERVICE TAX APPELLATE TRIBUNAL: HYDERABAD

APPEAL No. ST/..... of 2023

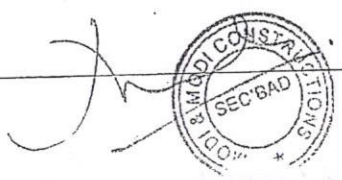


Between:
M/s Modi & Modi Constructions.,
5-4- 187/3& 4, 2"d Floor,
Soham Mansion, M.G. Road,
Secunderabad -500003

Vs.

The Principal Commissioner of Central Tax,
Secunderabad GST Commissionerate,
GST Bhavan,
Opp. L B Stadium Road,
Hyderabad -500 004 ..... **Respondent**

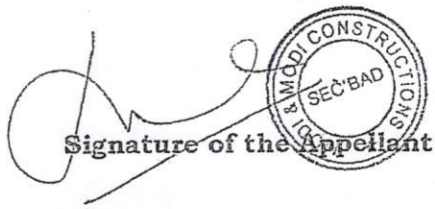
01(a)	Assessee Code	AAKFM7214NST001
(b)	Premises Code	SW0201400 1
(c)	PAN or UID	AAKFM7214N
(e)	E-mail Address	jayaprakash@modiproperties.com
(f)	Phone Number	9502288200
(g)	Fax Number	-
02.	The Designation and Address of the Authority passing the Order Appealed against.	Commissioner of GST & Central Tax (Appeals- II) Commissionerate. GST Bhavan ,7th Floor, Opp. L.B Stadium, Basheerbagh, Hyderabad – 500 004
03.	Number and Date of the Order appealed against	Order-In-Appeal No. HYD-SVTAX-SC-AP2-060-22-23-ST dated 29.11.2022
04.	Date of Communication of a copy of the Order appealed against	22.12.2022
05.	State or Union Territory and the Commissionerate in which the order or decision of assessment, penalty, was made	Telangana, Secunderabad GST Commissionerate
06.	If the order appealed against relates to more than one Commissionerate, mention the names of all the Commissionerate, so far as it relates to the Appellant	No
07.	Designation and address of the adjudicating authority in case where the order appealed against is an order of the Commissioner (Appeals)	Deputy/Assistant Commissioner of Central Tax and Customs, Secunderabad GST Division & Secunderabad Commissionerate, Salike Senate, D.No.2-4-416 & 417, Ramgopalpet, MG road, Secunderabad-500003.



08.	Address to which notices may be sent to the appellant	M/s. Hiregange & Associates LLP, Chartered Accountants, 4th Floor, West Block, Srida Anushka Pride, Road No. 12, Banjara Hills, Hyderabad – 500 034 venkataprasad@hiregange.com 8978114334 **(And also copy to the Appellant)**
09.	Address to which notices may be sent to the Respondent	The Principal Commissioner of Central Tax, Secunderabad GST Commissionerate, GST Bhavan, Opp. L B Stadium Road, Hyderabad -500 004
10.	Whether the decision or order appealed against involves any question having a relation to the rate of Service Tax or to the value of goods for the purpose of assessment.	Yes
11.	Description of service and whether in 'negative list'	No
12.	Period of Dispute	April 2015 to June 2017
13(i)	Amount of service tax, if any Demanded for the period of dispute	42,07,651/- under the section 73 of the Finance Act, 1994.
(ii)	Amount of interest involved up to the date of the order appealed against	As applicable u/s 75 of the Finance Act, 1994
(iii)	Amount of refund if any, rejected or disallowed for the period of dispute	NA
(iv)	Amount of penalty imposed	4,20,765/- as per section 76 and 10,000/- under section 77 of the Finance at, 1994.
14(i)	Amount of service tax or penalty or Interest deposited. If so, mention the amount deposited under each head in the box.	An amount of Rs.2,59,503/- was already paid while filing the ST-3 returns and an amount of Rs. 56,070/- was paid vide Challan dated 21.5.2022 and an amount of Rs.1,05,191/- paid vide challan dated 20.3.2023 towards mandatory pre deposit u/s. 35F of Central Excise Act, 1944. (Copy of ST-3 returns and challan is attached as **Annexure** I)
(ii)	If not, whether any application for dispensing with such deposit has been made?	Not applicable
15.	Does the order appealed against also involve any central excise duty demand, and related fine or penalty, so far as the appellant is concerned?	No
16.	Does the order appealed against also involve any customs duty demand, and related penalty, so far as the appellant is concerned?	No
17.	Subject matter of dispute in order of priority (please choose two items from the list below) [i] Taxability – Sl. No. of Negative	(i) Taxability (ii) Others

MODI & MODI CONSTRUCTIONS SEC'BAD

	List. ii) Classification of Services iii)Applicability of Exemption Notification No., iv) Export of Services v) Import of Services vi) Point of Taxation vii) CENVAT viii) Refund ix) Valuation x) Others]	
18.	Central Excise Assessee Code, if registered with Central Excise	Not Applicable
19.	Give details of Importer/Exporter Code (IEC), if registered with Director General Of Foreign Trade	Not Applicable
20.	If the appeal is against an Order-in-appeal of Commissioner (Appeals), the Number of Order-in-original covered by the said Order-in-Appeal.	ORDER-IN-ORIGINAL No. 09/2021-22 (S.Tax-Adjn) dated 23.12.2021
21.	Whether the respondent has also filed Appeal against the order against which this appeal is made.	No. As per knowledge of the Appellant
22.	If answer to serial number 21 above is 'Yes', furnish details of appeal.	No
23.	Whether the appellant wishes to be Heard in person?	Yes. At the earliest convenience of this Hon'ble Tribunal.
24.	Reliefs claim in appeal	To set aside the impugned order and grant the relief claimed.



Signature of the Appellant

STATEMENT OF FACTS

A. M/s. Modi & Modi Constructions, Secunderabad (hereinafter referred to as 'Appellant) is mainly engaged in the sale of residential villas to prospective buyers during and after construction. During the disputed period Notice has undertaken the following type of transactions:

B. Sale of Villas after receipt of Completion Certificate (CC) without any agreement of construction: In these transactions, sale deed is executed for the entire sale consideration without entering into any construction agreement. As the Villas sold after CC are not leviable to service tax, Appellant has not paid any service tax on the same.

Eg: For instance, the villa No. 85 was booked on 28.05.2016 with agreed price of Rs.38,00,000 + taxes and registration charges. The copy of the booking form is enclosed as Annexure VII and for the entire amount the sale deed dated 04.08.2016 was executed which is enclosed as Annexure VIII and as seen from the receipt's statements, Appellant received Rs.40,81,851/- which consists of

i) Rs.38,00,000 towards sale deed (Rs.50,000/- was not received during the subject period)

ii) Rs.2,81,300 towards VAT & registration charges and

iii) Rs.50,544/- towards water & electricity connection/deposits

As the above referred villa is sold after OC, Appellant had not paid any service tax on the same. Further, the amounts received towards VAT, registration charges, water and electricity connections are not leviable to service tax therefore Appellant had not paid any service tax on the same.

C. Sale of Villas after receipt of Completion Certificate (CC) with agreement of construction: In these cases, Appellant is selling the villas by entering into sale deed but the customers are asking to make extensive changes to the villas therefore Appellant is entering into agreement of construction to

MODI & MODI CONSTRUCTIONS SEC'BAD

make changes. In most of the cases, sale deed is executed for the entire sale consideration and in some cases **Sale deed is being executed for semi-finished construction along with an agreement of construction.** As the Villas sold after CC is not leviable to service tax, Appellant has not paid any service tax on sale deed value but paid service tax only on amounts received towards construction agreements.

D. Sale of Villas before receipt of Completion Certificate (CC): In these transactions, Appellant is executing sale deed for semi-finished villa along with an agreement of construction. Sale deed is registered and appropriate 'Stamp Duty' has been discharged on the same. Appellant is discharging service tax on agreement of construction value after availing deduction towards sale deed value and non-taxable receipts.

Eg: For instance, the Villa No. 74 was booked in the year 2012 wherein the agreement of sale was entered for total consideration of Rs.43,05,000 + taxes + registration charges etc., and the sale deed dated 28.02.2013 was executed for Rs.15,00,000 conveying the title of the land as well the semi-finished Villas and balance consideration was agreed towards the construction work to be undertaken as on that date (Rs.28,05,000 vide construction agreement dated 28.02.2013). Copy of the sale deed and construction agreement is enclosed as **Annexure IX**.

E. The details of no of Villas booked before CC and after CC are as follows:

Particulars	No of Villas
No of Villas booked before receipt of CC (Taxable as the Villas are booked before CC)	11
No of Villas booked after receipt of CC (Not-taxable as the Villas are booked after CC)	16
No of Villas booked after receipt of CC but with Construction Agreement (Taxable only to the extent of Agreement of Constructions)	4
Total	31

MODI & MODI CONSTRUCTIONS SEC'BAD

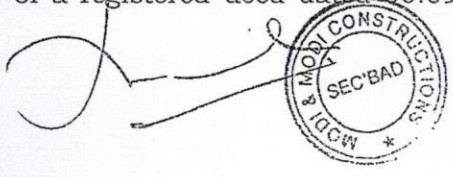
F. Completion certificate from the 'chartered engineer' for 33 villas was obtained on 05.05.2013 and applied for Occupancy Certificate (OC) on 05.11.2014.

G. Appellant have obtained the building permit as per the Building Rules mentioned in GOMs No.86/2006 dated 03.03.2006 wherein clause 21 requires the developer to obtain the occupancy certificate mandatorily. However, the said GOMs has been amended vide GOMs No 171/2006 dated 19.04.2006 and stated that the Occupancy Certificate in respect of individual buildings in plots up to 200 Sq M with height up to 6 M is optional. This shows that there is no requirement to obtain Occupancy Certificate, thereby, the Completion Certificate obtained by us is sufficient for the purpose of Section 66E(b) of Finance Act, 1994.

H. In the instant case, the building permit was obtained for sub-division of land into plots along the individual buildings on each plot under the group housing scheme. Subsequently, the construction is completed and the chartered engineer has certified **List Enclosed** that the project has been completed on 05.05.2013. Further, the completion of the project has also been certified by the license structural engineer whose services were used for building permit and structural design on 31.08.2014. In the terminology of HMDA, the issuance of "final layout" would mean the issuance of occupancy certificate.

I. Since the construction is completed, the application for final layout was made on 05.11.2014 which was processed by HMDA on 21.04.2015 by making a demand of Rs.9.03 Lakhs as *"processing charges towards final layout"*. The fees have been paid and a request was made to release final layout on 14.05.2015. Further, follow-up for the same was made on 18.05.2015 and 18.09.2015.

J. Considering the application, the HMDA after having satisfied with all the development works are completed has released the mortgaged villas by way of a registered deed dated 30.09.2015 by clearly stating that the



"releaser (HMDA) after satisfying the development work done by the releasee (developer) ....".

K. Technically, the HMDA releases the final layout to the local gram panchayat (i.e, Rampally Gram panchayat) who in turn releases to developer.

After several followups, Grampanchayat has written to HMDA on 14.09.20 15 to release the final layout.

L. However, at that point of time the Government of Telangana was in the pr ocess of converting Grampanchayats around Hyderabad into Municipalitie s. Ultimately, the Rampally Gram Panchayat was merged with a newly created Nagaram Municipality by way of GO No.93 dated 18.04.2018. In this transition process, Gram panchayats were barred from issuing any permits or Occupancy certificates. After years of follow-up, the Grampanchayat and HMDA officials have stated that the Occupancy Certificate is not required since all houses in the project are upto 6 mts in heights and on plots less than 200 sq m. Accordingly, no further attempts were made to obtain the Occupancy Certificate. Even this shows that there is no requirement to obtain Occupancy Certificate and what is relevant is only Completion Certificate.

M. The amount charged from the customers are as under:

i. Value towards the sale deed

ii. Value towards the construction agreement

iii. Other Charges like electricity charges, etc.

iv. Collection of taxes like VAT, Service Tax, Stamp Duty and Registration Charges from the buyer

N. The levy of service tax on such arrangements has seen a fair share of litigation and amendments. The Appellant is also a party to the litigation process and matters for earlier periods are pending at various adjudication/judicial forums.

MODI & MODI CONSTRUCTIONS SEC'BAD

O. In July 2012, the service tax law underwent a paradigm shift and importantly, the exemption for personal use available for construction of residential complexes was removed and also the condition of having more than 12 residential units was dispensed with. Accordingly, it became evident that service tax was payable on the construction agreement as per valuation prescribed under Rule 2A of the Service Tax (Determination of Value) Rules, 2012 i.e., on a presumed value of 40% of the contract value. The Appellant regularly discharged the service tax on the said value in normal course. It also discharged service tax on other charges. However, it did not discharge service tax on sale deed value, which is in the nature of immovable property and on the value of taxes collected.

P. The detailed working of the receipts and the attribution of the said receipts was already provided to the Department authorities, identified receipt wise and villa wise. The summary of the same is provided hereunder:

Description	Receipts	Non taxable	Taxable
Sum of towards sale deed	66,085,098	66,085,098	0
Sum of towards agreement of construction	3,426,600	0	3,426,600
Sum of towards other taxable receipts	172,289	0	172,289
Sum of towards VAT, Registration charges, etc.	5,365,770	5,365,770	0
Total	75,049,757	71,450,868	3,598,889

Q. Accordingly, the value of taxable services constituted 40% of Rs.35,98,889/- i.e. Rs.14,39,555/- and the service tax thereon @ 12.36%/14%/14.5%/15% constituted Rs.2,05,803/-. It was also explained that the actual payment of service tax amounted to Rs.2,05,803/-.

R. Previously, several SCN's were issued covering the period upto March 2015 with sole allegation that "*services rendered by them after execution of sale deed against agreements of construction to each of their customers to whom*

the land was already sold vide sale deed are taxable services under "works contract service".

i. Vide Para 3of SCN dated 12.04.2010and Para 2 of the Order adjudicating the said SCN

ii. Vide Para 3 of Second SCN dated 23.04.2011

iii. Vide Para 2 of third SCN dated 24.04.2012

iv. Vide Para 2 of fourth SCN dated 02.12.2013

v. Vide Para 2 of fifth SCN dated 24.09.2014

vi. Vide Para 2 of sixth SCN dated 18.04.2016

S. In all the above SCN's, there is error in as much including the value of sale deeds within the ambit taxable value while alleging service tax is liable only after execution of sale deed i.e., on construction agreements.

T. The status of SCN's as referred above is as follows:

Period	SCN	Amount	Status
2009	HQPQR No. 34/2010 Adjn (ST)(ADC) dated 12.04.2010	Rs.6,04,187/-	Final Order No. A/30172-30178/2019
2010	OR No.59/2011-Adjn (ST) Gr. X,dated 23.04.2011	Rs.12,06,447/-	CESTAT Final Order No.A/30575/2019 dated 03.10.2019
2011	OR No. 53/2012 Adjn (ADC) dated 24.04.2012	Rs.27,61,048/-	
Jan 12 to Jun 12	OR No. 81/2013-Adjn. (ST)(ADC) dated 02.12.2013	Rs. 11,87,407/-	Settled under Sabka Vishwas Scheme
July 2012 to March 2014	OR No.109/2014 Adjn (ST) (JC) dated 24.09.2014	Rs. 38,35,321/-	
April 2014 to March 2015	OR No. 25/2016-Adjn (ST) (JC) dated 18.04.2016	Rs. 6,30,349/-	

U. Now the present SCN was also issued with similar error of quantifying the proposed demand of service tax in as much treating the sale deed values & other taxes as taxable value of services (annexure to SCN) while alleging

MOBI CONSTRUCTIONS SEC'BAD

that service rendered after execution of sale deed alone liable for service tax (Para 2 of SCN).

V. The SCN was issued on 16.04.2018 proposing an amount of Rs. 42,07,651/- u/s 73(1) along with proposal for applicable interest u/s 75 along with the proposal for penalty under sections 76 and 77 of the Finance Act 1994. In this regard, the Appellant has replied to the SCN on 14.06.2018. (Copy of SCN and reply are attached as **Annexure** VI, VI).

W. Subsequently, Appellant has attended the personal hearing and submitted the documents such as party-wise ledgers for the period April 2015 to June 2017, copy of sale deeds and copy of completion certificates..

X. Subsequently. Appellant has received the Order in Original No. 09/2021-22 dated 23.12.2021 confirming the demand as proposed in the show cause notice (Copy of Order-in-original is enclosed as **Annexure** IV).

Y. Aggrieved by the above order, Appellant filed an Appeal against the above referred order before Commissioner of Central tax (Appeals-II), Hyderabad who passed impugned order vide Order-In-Appeal No. HYD-SVTAX-SC-AP2-060-22-23 (APP-II) dated 29.11.2022 upholding the Order-in-Original (Copy of Order-in-Appeal is enclosed as **Annexure** II).

Aggrieved by impugned order, which is contrary to facts, law, and evidence, apart from being contrary to a catena of judicial decisions and beset with grave and incurable legal infirmities, the Appellant prefers this appeal on the following grounds (which are alternate pleas and without prejudice to one another) amongst those to be urged at the time of hearing of the appeal.

MODI & MODI CONSTRUCTIONS SEC'BAD

GROUNDS OF APPEAL

1. Appellant submits that the impugned order is ex-facie illegal and untenable in law since the same is contrary to facts and judicial decisions.

2. Without prejudice to any other submissions made hereunder, the Appellant submits that the first appellate authority failed to properly appreciate the submission that present proceedings and the issuance of the impugned Order in Appeal were without authority of the law as the provisions of the Finance Act, 1994 which authorizes the levy and collection of Service tax were repealed in terms of Section 19 of Constitution (one hundred and first amendment) Act, 2016 read with Section 173 of CGST Act, 2017. Further section 174 of CGST Act, 2017 as amended only saves the proceedings already instituted before the enactment of the CGST Act, 2017 (w.e.f. 01.07.2017) whereas the issuance of the impugned SCN was initiated after 01.07.2017. Hence, the impugned order passed should be set aside on this ground alone.

In Re: Impugned Order is not valid

3. Appellant submits that various submissions on facts and law were made before the Ld. Appellate authority which were neither accepted nor negated. Hence, the impugned order being non-speaking, should be set aside on this ground alone.

4. Appellant submits that with due respects, the impugned order is passed without appropriately considering the nature of the activity, the perspective of the same, documents on record, but creating its own assumptions, presumptions and surmises, ignoring the statutory provisions. Supreme Court in the case of ***Oudh Sugar Mills Limited v. UOI, 1978 (2) ELT 172 (SC)*** has held that such orders are not sustainable under the law.

MODI CONSTRUCTIONS SEC'BAD

5. The issue is *no more res integra* in view of the order passed by this Jurisdictional Hon'ble CESTAT, Hyderabad in one of the case among many others viz., M/s. Greenwood Estates, Secunderabad for the period April 2014 to March 2015 vide Final Order No. A/31078/2019 dated 19.11.2019 remanded the matter back to adjudicating authority with a direction to the adjudicating authority to re-quantify the demand after excluding the value of sale deed by considering the allegations made in the Show Cause Notice.

6. Appellant further submits that most of the submissions made in the appeal at the outset were ignored while passing the impugned order. The following submissions were not considered by the Appellate authority while passing the order:

a) Appellant submitted that the impugned SCN has clearly stated that the services rendered after execution of sale deed against agreement of constructions are taxable and it never proposed to demand service tax on sale deed values. An extract of the same has been provided for your ready reference:

*"As seen from the records, the assessee entered into 1) a sale deed for sale of undivided portion of land together with semi-finished portion of the villa and ii) agreement for construction, with their customers. On execution of the sale deed the right in a property got transferred to the customer, hence the construction service rendered by the assessees to their customers under agreement of construction is classifiable under " Works Contract Service" under Section 65 (105) (zzzza) under Service tax as there exists service provider and receiver relationship between them. As there is transfer of property in goods in execution of the said construction agreements, **it appears that the services rendered by them after execution of sale deed against agreements of***

MODI & MODI CONSTRUCTIONS SEC'BAD

construction to each of their customers to whom the land was already sold are taxable services under "Works Contract Service".

b) Further, Appellant would like to draw the attention towards the Para 4 of the same show cause notice which reads as follows

"As per the information furnished by the assessee vide letter dated 15.02.2018 along with statements, it is seen that "the assessee" have rendered taxable services under the category of "Works Contract Services" during the period April, 2015 to June, 2017. The assessee had rendered services for a taxable value of Rs.7,81,36,512/ (Rupees Seven Crores Eighty One Lakhs Thirty Six Thousand Five Hundred twelve only). After deduction of VAT of Rs.38,59,385/- the taxable value works out to Rs.7,42,77,127/- on which service tax (including Education and S & H.E cess) works out to be Rs.42,01,762/-. The service tax liability work sheet is enclosed to this notice"

c) On conjoint reading of both the paragraphs, it is clear that on one hand the Show Cause Notice is stating that the Appellant is liable only on the construction services rendered by the Appellant post execution of sale deed and on other hand while quantifying the taxable value, it has considered the entire receipts. To be on point, it has not even stated the basis of such value as to where it has derived. The notice has merely mentioned that the values submitted by the appellant which include both value towards sale deed and construction services were considered. Since, the notice is self-contradictory and erroneous, the SCN shall not sustain and the impugned order based on such SCN is not valid.

d) Appellant submits that the impugned order needs to be set aside for more than 1 reason as follows:

MOU CONSTRUCTIONS SEC'BAD

i) The SCN itself is erroneous, the order based on such SCN shall not sustain and needs to be set aside.

ii) The findings of the impugned order are not in line with the allegations of the SCN and are beyond the scope of SCN.

iii) The SCN has clearly stated that the value of the sale deed is not subjected to the service tax. However, the impugned order has given a finding on the valuation and confirmed the demands on the same.

Therefore, the impugned order has clearly travelled beyond the SCN and hence is not valid to *that* extent. Relied on Commissioner v. Shital International — 2010 (259) E.L.T. 165 (S.C.) wherein it was held that *"it is trite law that unless the foundation of the case is laid in the show cause notice, the revenue cannot be permitted to build up a new case against the assessee."*.

e) Appellant further submits that likewise the impugned SCN, the order in original was also self-contradictory. On one hand, it is stating that there are two agreements out of one is with respect to the sale of land which is totally out of purview of service tax and on other hand, it is stating that entire value of contract including the value towards the sale of undivided portion of land are liable to service tax. An extract of the same is given for your ready reference:

*"16.8. The undisputed facts of the case are that the Appellant had entered in to **two agreements** with such prospective buyers - one whereby they agreed to transfer undivided share of land relating to the villas to be constructed on works contract basis and the second, whereby they agreed to undertake construction of villas and transfer them to buyers on terms specified which included*

payment of sums due at different stages of construction of the villas. The total consideration is received in to two parts- one representing the value of undivided share of land and the other the taxable value of construction services provided. The assessee seemed to have determined the taxable value of the works contract services provided to be 40% of the value of such services earmarked (after excluding land value) and claimed it to be in accordance with Rule 2(A) (ii) of the Service Tax (Determination of Value) Rules, 2006 and paid service tax accordingly. The allegation in the notice is that they had short-paid service tax in contravention of Rule 2(A) (ii) of the Service Tax (Determination of Value) Rules, 2006 since the Appellant did not include the value of the land as part of the total amount charged for the works contract while arriving at the taxable value."

f) Appellant submits that the SCN has never disputed the valuation adopted by the Appellant, however, the impugned order itself has stated that contract value includes the value towards the sale of undivided portion of land. This clearly shows that the impugned order has travelled beyond the SCN to confirm the demand.

g) Appellant submits that the adjudicating authority has not at all made an attempt to understand the transaction undertaken by the Appellant and the scope of different agreements entered with the customer. Without verifying the scope of the agreements, the impugned order has simply confirmed the demand by extracting various definitions of Finance Act, 1994 and without giving any reasons why the amounts received by the Appellant is taxable. This shows that impugned order is not reasoned order and hence not valid and requires to be set aside. In this regard Appellant wish to rely on

MODI CONSTRUCTION SES'BAD

i) Sant Lal Gupta v. Modern Coop.G.H.Society Ltd. — 2010 (262) E.L.T. 6 (S.C.) wherein it was held that *"The reason is the heartbeat of every conclusion. It introduces clarity in an order and without the same, the order becomes lifeless. Reasons substitute subjectivity with objectivity. The absence of reasons renders an order indefensible/unsustainable particularly when the order is subject to further challenge before a higher forum. Recording of reasons is principle of natural justice and every judicial order must be supported by reasons recorded in writing. It ensures transparency and fairness in decision making. The person who is adversely affected must know why his application has been rejected."*

ii) *AC of* CTDVs. *Shukla and Brothers,* 2011 (22) S.T.R. 105 (S.C.)

iii) *State of Orissa* v. *DhaniramLuhar* - (2004) 5 SCC *568*

h) The submissions made on non-taxability of non-taxable items and on valuation, submissions on imposition of interest and penalties were not at all discussed.

In Re: Villas sold after receipt of Completion Certificate are not leviable to service tax

7. Appellant submits that as stated in background facts, 'Completion certificate' from the Chartered Engineer was obtained on 05.05.2013 for the 33 villas and applied for occupancy certificate on 05.11.2014 and 20 villas were booked after this date and sale deed is being executed for the entire sale value of villas. In such circumstances, no service tax is liable on the amounts received towards said villas since same is 'sale of immovable property' and it was specifically provided in Section 66E(b) of Finance Act, 1994 that service tax is not liable for the villas booked after completion certificate date (Statement showing amounts received towards villas booked after Completion Certificate but with construction agreement is enclosed as Annexure ____).

MODI CONSTRUCTIONS SEC'BAD

8. In this regard, Appellant submits that initially Order in Original vide Para 29 has stated that

"29 As per the Provisions of Telangana Building Rules 20 12, "Upon completion of the construction, the builder or the developer of the building has to apply for the **Completion Certificate** *to the municipal authority" If the building is constructed as per the building approval plan and if it meets other building standards, the concerned authority will issue* **completion certificate.** *As per the law the "competent authority" means the Government authority and it is mandatary to obtain such certificate from the Municipal authorities The completion certificates submitted by the assessee are issued by Chartered Engineer / Registered Valuer and not by the Competent authority of the government as specified and as such the completion certificates obtained from the Chartered Engineer/ registered valuer/architect by the assessee are not valid and proper documents for this purpose and thus, they are liable for rejection"*

9. Accordingly, it was submitted that the finding of the order in original that as per the provisions of Telangana Building Rules, 2012, the builder or developer has to apply for the **Completion Certificate** to the municipal authority is not correct in as much as there is no such requirement under those rules. Appellant also submitted that the above referred rules only prescribes that the builder or developer has to obtain "Occupancy Certificate" and not the "Completion certificate". Hence, the confirmation of demand on such ground is not correct.

10. Appellant further submitted that the receipt of 'occupancy certificate' is not relevant for determining the service tax liability and it is only receipt of 'completion certificate' that is relevant to determine the service tax liability under section 66E(b), *ibid* which reads as under:

(b) construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or

MODI & MODI CONSTRUCTIONS SEC'BAD

partly, except where the entire consideration is received after issuance of ***completion-certificate*** *by the competent authority.*

Explanation.—For the purposes of this clause,—

(I) the expression "competent authority" means the Government or any authority authorised to issue ***completion certificate*** *under any law for the time being in force and in case of non-requirement of such certificate from such authority, from any of the following, namely:—*

(A) architect registered with the Council of Architecture constituted under the Architects Act, 1972 (20 of 1972); or

(B) chartered engineer registered with the Institution of Engineers (India); or

(C) licensed surveyor of the respective local body of the city or town or village or development or planning authority;

(II) the expression "construction" includes additions, alterations, replacements or remodelling of any existing civil structure.

11. From the above referred section, it is very clear that if the entire consideration is received after issuance of **'Completion Certificate'** by the competent authority, the same is excluded from the purview of Section 66E(b) of Finance Act, 1994. However, the said section has not referred 'Occupancy Certificate' anywhere.

12. Further, explanation - I clarifies that the **"competent authority"** means the Government or any authority who is authorized to issue **completion certificate** under any law for the time being in force and in case of non-requirement of such certificate from competent authority the same can be obtained from specified persons under Finance Act 1994. In the instant case, completion certificate has been obtained from the chartered engineer who is authorized to issue the same.

MODI & MODI CONSTRUCTIONS SEC'BAD

13. Appellant further submitted that the completion and occupancy certificate are two different things and cannot be interchanged. Completion Certificate is the certificate which certifies that the building is completed as per the approved plan and meets other requirements such as distance from road, height of the building etc.

14. However, the Occupancy Certificate is the certificate which certifies that the building has been complied with all the required building standards, local laws and is safe to occupy. Occupancy certificate will be issued by municipal authorities that provide no objection to occupy the building for its specified use. The Occupancy Certificate will be issued only once the building has been completed in all respects and can be occupied.

15. This shows that the completion certificate precedes the occupancy certificate, and both are completely different. Further, Section 66E(b) refers the completion certificate but not the occupancy certificate. In state of Telangana, there is no requirement to obtain completion certificate from any authority and there is only requirement to obtain Occupancy Certificate from HMDA. Since there is no requirement to obtain completion certificate from the government or any authority, Appellant have obtained the same from a Chartered Engineer who is a professional capable of issuing such certificate. Hence, the confirmation of demand by the impugned order is not correct.

16. Further, Appellant submit that as per Section 2(g) of RERA Act, 2016 "completion certificate" (CC) *means the completion certificate, or such other certificate, by whatever name called, issued by the competent authority certifying that the real estate project has been developed according to the sanctioned plan, layout plan and specifications, as approved by the competent authority under the local laws;*

MODI & MODI CONSTRUCTIONS SEC'BAD

17. Also, as per Section 2(f) of RERA Act, 2016 occupancy certificate" (OC) *means the occupancy certificate, or such other certificate, by whatever name called, issued by the competent authority permitting occupation of any building, as provided under local laws, which has provision for civic infrastructure such as water, sanitation and electricity;*

18. From the above referred definitions, it is clear that a Completion Certificate is a certificate which certifies that the building is completed as per the approved plan whereas, Occupancy Certificate is a certificate which certifies that the building is safe to occupy. Also, Completion Certificate if required to be issued, would precede the Occupancy Certificate. Further, as per **Section 455 of GHMC Act, 1955, Completion Certificate needs to be submitted for applying for Occupancy Certificate.**

Sec 455: (1) Every person shall, within one month after the completion of the erection or re-erection of a building or the execution of any such work as is described in section 343 deliver or send or cause to be delivered or sent to the Commissioner at his office, a notice in writing of such completion accompanied by a certificate in the form specified in the bye-laws signed and subscribed in the manner so specified, and shall give to the Commissioner all necessary facilities for the inspection of such building or of such work and shall apply for permission to occupy the building.

19. Appellant submits that on conjoint reading of the Section 66E(b), Section 2(g) of RERA Act, 2016, Section 2(f) of RERA Act, 2016 and **Section 455 of GHMC Act, 1955**, it is clear that the "completion certificate" and "occupancy certificate" are completely different. The requirement under Section 66E(b) is the "completion certificate" and the receipts during the disputed period are received after the date of "completion certificate".

MODI & MODI CONSTRUCTIONS SEC'BAD

Therefore, there is no service tax liability on such receipts. Hence, the confirmation of demand is not correct and the same needs to be set aside.

20. Appellant wish to reply on the Advance Ruling in case of Confederation Of Real Estate Developers Association Of India (CREDAI) 2022 (59) GSTL 411 (AAR-GST)- Kerala wherein it was held that *"8.6. On a combined reading of the above provisions and the prescribed formats; it is clear that the completion certificate in respect of the construction of a building or civil structure in the State of Kerala is the certificate prescribed in sub-rule (1) of Rule 22 and Rule 20 respectively of the KMBR, 1999 and KMBR, 2019. On the basis of the discussion above, we conclude that the completion certificate under any law for the time being in force mentioned in clause (b) of Paragraph 5 of Schedule II of the CGST Act, in so far as the State of Kerala is concerned is the certificate in form in Appendix F prescribed under proviso to sub-rule (1) of Rule 22 of the KMBR, 1999 or the certificate in form in Appendix E3 prescribed under proviso to sub-rule (1) of Rule 20 of the KMBR, 2019. Accordingly. the date of issue of completion certificate for the purpose of clause (b) of Paragraph 5 of Schedule II of the CGST Act shall be the date of issue of the completion certificate submitted to the Secretary in form in Appendix F of the KMBR, 1999 or in form in Appendix E3 of the KMBR, 2019"*

21. Appellant submits that the impugned order has referred to Andhra Pradesh Building Rules, 2012 and stated that obtaining Completion Certificate from Competent Authority is compulsory. However, Appellant submit that Clause 25 and 26 of the Andhra Pradesh Building Rules, 2012 requires the builder to obtain the Occupancy Certificate and have provided certain exemptions from obtaining the Occupancy Certificate. But Clause 25 and 26 do not mention anything about Completion

MODI CONSTRUCTIONS & MODI SEC'BAD

Certificate as stated by the impugned order. This shows that the finding of the impugned order is not correct and the same needs to be set aside.

22. Without prejudice to above, even assuming but not admitting that the Occupancy Certificate is required, Appellant submits that they have obtained the building permit as per the Building Rules mentioned in GOMs No.86/2006 dated 03.03.2006 wherein clause 21 requires the developer to obtain the occupancy certificate mandatorily. However, the said GOMs has been amended vide GOMs No 171/2006 dated 19.04.2006 and stated that the Occupancy Certificate in respect of individual buildings in plots up to 200 Sq M with height up to 6 M is optional. This shows that there is no requirement to obtain Occupancy Certificate, thereby, the Completion Certificate obtained by us is sufficient for the purpose of Section 66E(b) of Finance Act, 1994.

23. In the instant case, the building permit was obtained for sub-division of land into plots along the individual buildings on each plot under the group housing scheme. Subsequently, the construction is completed and the chartered engineer has certified that the project has been completed on 05.05.2013. Further, the completion of the project has also been certified by the license structural engineer whose services were used for building permit and structural design on 31.08.2014. In the terminology of HMDA, the issuance of "final layout" would mean the issuance of occupancy certificate.

24. Since the construction is completed, the application for final layout was made on 05.11.2014 which was processed by HMDA on 21.04.2015 by making a demand of Rs.9.03 Lakhs as *"processing charges towards final layout"*. The fees have been paid and a request was made to release final layout on 14.05.2015. 'Further, follow-up for the same was made on 18.05.2015 and 18.09.2015.

MODI & MODI CONSTRUCTIONS SEC'BAD

25. Considering the application, the HMDA after having satisfied with all the development works are completed has released the mortgaged villas by way of a registered deed dated 30.09.2015 by clearly stating that the *"releaser (HMDA) after satisfying the development work done by the releasee (developer) ...."*.

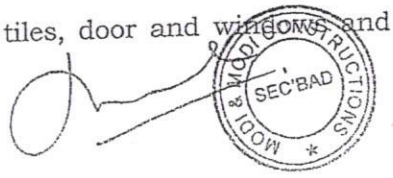
26. Technically, the HMDA releases the final layout to the local gram panchayat (i.e, Rampally Gram panchayat) who in turn releases to developer.

    After several followups, Grampanchayat has written to HMDA on 14.09.2015 to release the final layout.

27. However, at that point of time the Government of Telangana was in the process of converting Grampanchayats around Hyderabad into Municipalities. Ultimately, the rampally gram panchayat was merged with a newly created Nagaram Municipality by way of GO No.93 dated 18.04.2018. In this transition process, Gram panchayats were barred from issuing any permits or Occupancy certificates. After years of follow-up, the Grampanchayat and HMDA officials have stated that the Occupancy Certificate is not required since all houses in the project are upto 6 mts in heights and on plots less than **200 sq mm**. Accordingly, no further attempts were made to obtain the Occupancy Certificate. Even this shows that there is no requirement to obtain Occupancy Certificate and what is relevant is only Completion Certificate.

28. From the above referred submissions, it is clear that the confirmation of the demand by the impugned order is not correct and the same needs to be set aside.

29. When above submissions were provided to the Ld. Appellate authority, he confirmed the demand referring to booking form dt.28.5.2016 for Villa No. 85 holding that since instalment payments includes, payments to be made after completion of flooring, bathing tiles, door and windows and



further on completion of first coat of paint, it is clear that as on date of booking of villa it was still under construction and completion certificate could not have been obtained.

30. In this regard it is submitted that completion certificate should not be mis understood for occupancy certificate. As submitted above completion certificate will be provided by the prescribed authorities only when such construction complied with approved sanctioned building plan which includes Floors, Parking, Setbacks, distance from road, height of the building etc., As such the villas sold by the appellant after completion certificates are not liable for service tax.

31. Assuming that the activity of flooring, tiles, doors, windows and painting was on going it is submitted that in all most all cases the prospective buyers want the above items to be used as per his/her convenience or of his brand. Accordingly, there arises no question of pendency of construction. And it is a general practise across the industry to leave the above portion un-finished though it is un-connected with completion certificate.

In Re: No Service tax on sale of semi-finished Villa

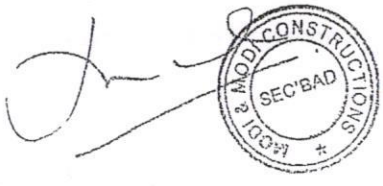
32. Appellant submits that from the plain reading of the SCN which culminated in Order in Original and thereafter in this impugned order, it is clear that the subject SCN itself admitted the fact that ***only services rendered by the Appellant after execution of sale deed against agreements of construction to each of their customers*** is liable for service tax under works contract service *qua* accepted that service tax is not applicable for the sale of semi-finished villa. Despite of this admittance in Para 2, the subject SCN while quantifying the demand has considered the total gross receipts which also includes the amount received for sale of semi-finished villa. On the basis of the same,

Appellant submits that the proposition of the subject show cause notice demanding service tax on sale of semi-finished villa is not sustainable and thereby the impugned Order in Original and Order in Appeal so passed on the basis of such notice needs to be set aside.

33. The Ld. Appellate authority failed to give any finding on the submission of the appellant that *"from the findings of the impugned order; it is clear that the adjudicating authority itself has admitted that there are two agreements out of which one is taxable and the other being not liable to service tax involving the transfer of immovable property. However, the impugned order while confirming the demand has not considered the same."*

34. Appellant submits that this Hon'ble CESTAT, Hyderabad in the case of M/s. Greenwood Estates, Secunderabad for the period April 2014 to March 2015 vide Final Order No. A/31078/2019 dated 19.11.2019 remanded the matter back to adjudicating authority with a direction to the adjudicating authority to re-quantify the demand after excluding the value of sale deed by considering the allegations made in the Show Cause Notice. The relevant extract is as follows

"7. We have considered the arguments on both sides and perused the records. There is no dispute that the show cause notice demanded service tax only on the amounts received after sale has been completed. Therefore, the amounts received towards sale deed were supposed not to have been included in the demand. However, prima facie, looking at the annexure to the SCN and the table presented before us by the learned CA as well as the reply to RTI query received by him, it does appear that sale deed value has been included while computing the demand and confirming it. Since the dispute is only regarding the computation of the demand and not on any specific point of law, we think it is a fit case to be remanded to



the original authority to recalculate the demand after excluding the sale deed value"

35. Further, in an identical case the Hon'ble Jurisdictional CESTAT, in the case of Paramount Builders vs. Commr. Of Central Tax, vide Final Order No. A/30704/2019 dated 22.10.2019 has also clearly held that Sale deed value should be deducted while computing the service tax as it represents sale of immovable property.

36. Further, in another identical case the Hon'ble Jurisdictional CESTAT, in the case of M/s. Alpine Estates vs. vs. Commr. Of Central Excise, vide Final Order No. A/30699/2019 dated 22.10.2019 and Miscellaneous Order No. M/30226/2022 dated 11.3.2022 has once again clearly held that Sale deed value should be deducted while computing the service tax as it represents sale of immovable property.

From all these decisions, it is clear that there is no requirement to pay service tax on sale deed values. Thereby, the impugned order needs to be set aside.

37. Without prejudice to above, Appellant submits that the sale of semi-finished villa is ***transfer of immovable property which is not leviable to service tax.*** In the present case, the agreement of sale deed is entered for sale/register of semi-finished villa which is an immovable property. Accordingly, the amount received for sale of semi-finished villa is not liable to service tax. On the basis of same, Appellant submits that the confirmation of demand by the impugned order is not sustainable and requires to be set aside.

38. Appellant further submits that there is no service tax levy on sale of semi-finished villa as the same was excluded from the definition of 'service' u/s. Section 65B(44) of Finance Act, 1994 ("Transfer of title in goods or immovable property, by way of sale").

MODI & MODI CONSTRUCTIONS SEC'BAD

39. It is further submitted that the Ld. Appellate authority also failed to properly appreciate the submissions made by the appellant that the order in original vide Para 16.6 and vide Para 23 stated that

"16.6 In the instant case the assessees are paying VAT, hence there appears to be a transfer of property involved in the execution of work. Further the contract was for the purpose of construction of complex, which is a declared service. So, the work under taken by the assessees appear to satisfy the definition specified at Section 658 (541 of Finance Act, 1994 and the same can be termed as "Works Contract service".

"23. The noticee took the argument that they are not liable for pay Service tax on those villas sold after completion certificate as per Section 66E(b) of Finance Act 1994 and that after deduction of the same, they have paid the tax @ 40 % abatement on the remaining amounts received towards agreement for construction with customers. This is undisputedly a transaction involving (execution of works contract and accordingly Section 66 E (h) of Finance Act, 1994 ("service portion in the execution of a works contract") read with Rule 2A(ii) of the Service Tax (Determination of Value) Rules, 2006 are the relevant legal provisions in this instant case."

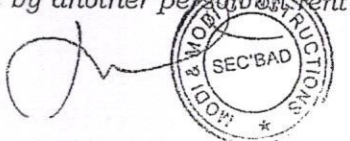
40. In this regard, it was submitted by the appellant that the finding of the impugned order is not at all correct in as much as the sale of villas after receipt of completion certificate becomes an immovable property and will go out of the purview of works contract definition under Section 65B(54) of Finance Act, 1994. Once the same is not a works contract service, there is no liability of pay service tax on the sale of immovable property. Hence, the findings of the impugned order needs to be set aside.

41. Appellant further submits that value of 'agreement of sale' consists of two parts namely **'undivided (Divided) portion** of land' and 'semi-finished villa. The semi-finished villa represents the construction work already

done prior to booking of villa by the prospective buyer. The work undertaken till that time of entering 'AOS' is nothing but work done for self as there is no service provider and receiver. It is settled law that there is no levy of service tax on the self-service and further to be a works contract, there should be a contract and any work done prior to entering of such contracts cannot be bought into the realm of works contract. In this regard reliance is placed on the following:

a) Apex court judgment in Larsen and Toubro Limited v. State of Karnataka — 2014 (303) E.L.T. 3 (S.C.): ***"115.*** *It may, however,* ***be clarified that activity of construction undertaken by the developer would be works contract only from the stage the developer enters into a contract with the villa purchaser****. The value addition made to the goods transferred after the agreement is entered into with the villa purchaser can only be made chargeable to tax by the State Government."*

b) **Jurisdictional CESTAT decisions in case of Modi & Modi Construction Vs CCE, Hyderabad -II 2021 (45) GSTL 398 (Tri-Hyd) wherein it was held that "***11. The second question is the nature of the contract on which service tax is proposed to be charged. The SCN itself states that the plots along with semi-finished buildings were sold to the buyers under the sale agreement. Thereafter, a separate agreement was entered into with the individual home owners for completion of the building/structure as per the agreement. In other words, there is no agreement for completion of the entire complex but there are a number of agreements with each individual house owner for completion of their building. In other words, the individual house owner is engaging the appellant for construction of the complex for his personal use as residence. The explanation to Section 65 (91a) categorically states that personal use includes permitting the complex for use as residence by another person on rent



or without consideration. Therefore, it does not matter whether the individual buyer uses the villa himself or rents it out. There is nothing on record to establish that the individual buyers do not fall under the aforesaid explanation. For this reason, we find no service tax is chargeable from the appellant on the agreements entered into by them with individual buyers for completion of their buildings as has been alleged in the SCN. Consequently, the demand needs to be set aside and we do so. Accordingly, the demands for interest and imposition of penalties also need to be set aside."

c) CHD Developers Ltd vs State of Haryana and others, 2015 –TIOL-1521-HC – P&H-VAT wherein it was held that *"45. In view of the above, essentially, the value of immovable property and any other thing done prior to the date of entering of the agreement of sale is to be excluded from the agreement value. The value of goods in a works contract in the case of a developer etc. on the basis of which VAT is levied would be the value of the goods at the time of incorporation in the works even where property in goods passes later. Further, VAT is to be directed on the value of the goods at the time of incorporation and it should not purport to tax the transfer of immovable property."*

42. Appellant further submits that to be covered under the definition of works contract, one of the vital conditions is that there should be transfer of property in goods leviable for sales tax/VAT. **Undisputedly sale of undivided portion of land along with semi-finished villa is not chargeable to VAT** as there is no transfer of property in goods is involved and it is mere sale of immovable property (same was supported by above cited judgments also). Therefore, said sale cannot be considered as works contract and consequently no service tax is liable to be paid. All the goods till the prospective customer becomes owner (i.e., upto entering of 'Agreement of sale') has been self-consumed and not transferred to anybody. Further goods, being used in the construction of semi-finished

villa, have lost its identity and been converted into immovable property which cannot be considered as goods therefore the liability to pay service under works contract service up till the execution of 'Agreement of sale' would not arise.

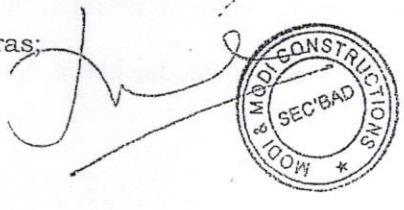
43. Appellant submits that once it is concluded that the amount received towards sale deed is not taxable then there is no short payment of service tax, therefore, the impugned order needs to be set aside.

44. With regards to the valuation aspect it is submitted that the show cause notice has never disputed the valuation adopted by the Appellant. Therefore, the question of inclusion of sale deed values in the taxable values is not correct and the same needs to be set aside.

45. Appellant further submits that once the sale deed is entered, the right in the semi-finished villa is transferred to the customers and for completion of balance construction, appellant has been entering into construction agreement on which appropriate service tax has been already paid. In this regard, Appellant submits that the agreement entered with customer involves only transfer of property in goods along with services and does not involve transfer of land as the same was already transferred to the customer by entering into sale deed. Once the transaction does not include land, there is no requirement to include the value of land while calculating the service tax. Hence, inclusion of sale deed value for the purpose of valuation is not correct.

In Re: Other non-taxable receipts (Corpus fund, Electricity deposit, water charges, service tax etc.,) are not liable – hence shall not be included in 'taxable value'

46. The appellant herein submits that the various submissions were made with regards to non-taxability of Corpus fund, Electricity deposit, Water charges, Service tax etc., which were simply ignored by the appellate authority without giving any finding; the appellant once again re-produces the same hereafter in subsequent paras;



47. Appellant submits that the lower adjudicating authority while confirming the demand vide Para 32 stated as follows

"32. I find that the assessee has referred to "nontaxable receipts" in his worksheet which he claims has to be deducted while determining the taxable value. In his submissions, he contends that VAT, registration charges, Stamp duty, electricity charges are to be deducted. I find that the notice itself has not taken VAT and registration charges for purpose of quantification of taxable value. Therefore, it is not a bone of contention between the Department and the assessee. As regards other "non taxable receipts" as claimed by the Appellant, he has not provided any documents except the worksheet. Without any other material facts on record, I am not in a position to examine the nature of the supposed non taxable receipts. The onus is on the Appellant to provide supporting documents to substantiate his contention that these are not to be taken into consideration for determining the taxable value. They have failed to do so. Here, I must point out that under Rule 2A(ii), total amount charged for the work contract is to be taken for abatement and "total amount" has been defined under the said rules as "sum total of the gross amount charged for the works contract and the fair market value of all goods and services supplied in or in relation to the execution of work contract, whether or not supplied under the same contract or any other contract after deducting

i) the amount charged for such goods or services, if any

ii) the value added tax or sales tax, if any levied thereon"

48. Appellant submits that the finding of the impugned order that the Appellant has not submitted any documents is not at all correct in as much as the adjudicating authority has not asked for such documents. If the documents are not available, the department has the liberty to request the documents instead of confirming the demand. In the instant case, no such request is made by the adjudicating authority. It is settled

law that the department cannot confirm the demand by merely stating that the documents are not submitted. Hence, the impugned order to that extent needs to be set aside.

49. Appellant submits that the amounts classified as non-taxable receipts includes electricity charges, corpus fund etc. Appellant submits that these receipts towards

i) Corpus fund which is collected & totally kept in separate bank account and transferred to society/association once it is formed; collection of corpus fund & keeping in separate bank account and subsequent transfer to association/society is statutory requirement;

ii) Electricity deposit collected & totally remitted/deposited with the 'electricity board' before applying electricity connection to the villa and Appellant does not retain any amount out of it; this deposit is collected & remitted as per the statutory provisions of AP Electricity Reform Act 1998 r/w rules/regulations made there under;

iii) Water deposit collected & totally remitted to 'Hyderabad Metropolitan Water Supply & Sewerage Board (HMWSS)' before taking the water connection. This Deposit amount also includes water consumption charges for first two months along with sewerage cess. All these deposits are collected & paid in terms of HMWSS Act, 1989 r/w rules/regulations made thereunder;

iv) Service tax collected & remitted to the Central government as per the provisions of Finance Act, 1994;

As seen from the above, all these charges collected 'other non-taxable receipts' are statutory charges/deposit and received as mere reimbursements of expenses/charges incurred/paid on behalf of customers and does not involve any provision of service. Hence same

MODI & MODI CONSTRUCTIONS SEC'BAD

shall be excluded from the taxable value *inter alia* in terms of Rule 5(2) of Service tax (determination of value) Rules, 2006.

50. Judicially also it was held that above charges are not to be included in taxable value. Relied on ICC Reality & Others Vs CCE2013 (32) S.T.R. 427 (Tri. - Mumbai); Karnataka Trade Promotion Organisation v. CST 2016-TIOL-1783-CESTAT-BANG; hence demand does not sustain to this extent. To evidence the receipt of corpus fund, service tax and electricity charges, Appellant is herewith enclosing the sample copies of ledger accounts of the customers as **Annexure X**.

In Re: Re-quantification of demand

51. Without prejudice to above, in case any tax demand stands confirmed for the subject period, it is submitted that the amounts received towards construction agreement only should be taxed and not the total amount received. The details of service tax liability and payments made by Appellant are as follows

Particulars	As per Noticee/Appellant	As per SCN
a. Gross Receipts	75,049,757	75,049,757
Less: Deductions		
b. Sale Deed Value	66,085,098	0
c. VAT, Registration charges, stamp duty and other non-taxable receipts	5,365,770	4,012,405
d. Taxable amount ((a-b-c)	3,598,889	71,037,352
e. Abatement @ 40% on (d)	1,439,555	28,414,941
f. Service Tax as applicable	205,803	4,207,651
g. Actually Paid	205,803	
h. Balance Demand	0	4,207,651

Cum-tax benefit under Section 67 should be extended

52. The Ld. Appellate authority referring to Booking form of Villa No. 85 held that service tax was payable in addition to consideration towards sale of villa. This fact on record indicates that the appellant charged service tax in respect of the villa sold.

M/S. MODI CONSTRUCTION SEC'BAD

53. In this regard it is submitted that, as stated above booking form of villa no.85 was referred by this appellant to show that there is a sale of villa after receipt of completion certificate and to put forth the argument that sale of such villa is exempted from payment of service tax. Accordingly, it is clear that from the date of transaction entered with the prospective buyer this appellant is of the opinion that there is no service tax payment to be made in this transaction as such no service tax at any time was collected from the prospective buyer. Further, there is no allegation in SCN that this appellant has collected and not paid any service tax.

54. Even assuming but not admitting there is a liability under works contract service for sale of semi-finished villa, then as the Appellant has not collected service tax from the buyer, the benefit of cum-tax requires to be extended to the appellant.

55. Appellant submits that in light of the statutory backup as mentioned above and cases where it was held that when no service tax is collected from the customers the assessee shall be given the benefit of paying service tax on cum-tax basis

a) P. Jani & Co. vs. CST 2010 (020) STR 0701 (Tri.-Ahmd).

b) Municipal Corporation of Delhi vs CST, Delhi 2009 (016) STR 0654 Tri.-Del

c) Omega Financial Services Vs CCE, Cochin 2011 (24) S.T.R 590

d) BSNL Vs CCE, Jaipure 2011 (24) S.T.R 435 (Tri-Del).

56. On the basis of above decisions, Appellant submits that the benefit of cum-tax requires to be provided to the Appellant. On the basis of the same, Appellant submits that the cum-tax benefit shall be extended.

In Re: Interest and Penalties are not imposable

MODI & MODI CONSTRUCTIONS SEC'BAD

57. Appellant submits that where the Service Tax itself is not payable, the question of paying of interest on the same does not arise as held by the Supreme Court in **Prathiba Processors Vs. UOI**, 1996 (88) ELT 12 (SC).

58. Appellant submits that imposition of penalty cannot be merely as an automatic consequence of failure to pay duty hence the impugned order imposing the penalty requires to be set aside.

59. Appellant submits that they are under bonafide belief that the amounts received towards sale deeds are not subjected to service tax. It settled position of the law that if the Appellant is under bonafide belief as regards to non-taxability, imposition of the penalties are not warranted. In this regard, wishes to rely on the following judicial pronouncements.

    a) Padmini Products v. Collector —1989 (43) E.L.T. 195 (S.C.)

    b) Commissioner v. Surat Textiles Mills Ltd. — 2004 (167) E.L.T. 379 (S.C.)

60. Appellant submits that, when the tax itself is not payable, the question of penalty under section 76 does not arise. Further assuming but not admitting, that there was a tax liability, as explained in the previous paragraphs when Appellant were not at all having the intention to evade the service tax and further also there was a genuine doubt about the liability of tax on land value in the industry where the builder pays tax under Rule 2A Valuation (A huge matter of litigation), Appellant is acting in a bona fide belief, that he is not liable to collect and pay service tax, there is no question of penalty under section 76 resorting to the provisions of Section 80 considering it to be a reasonable cause for not collecting and paying service tax.

61. The Appellant submits that penalty is imposable when the Appellant breaches the provision of the statute with an intent to defeat the scheme of the Act when there is a confusion prevalent as to the leviability and the

mala fide not established by the department, it would be a fit case for waiver of penalty as held by various tribunals as under

a) Vipul Motors (P) Ltd. vs Commissioner of C. Ex., Jaipur-I 2008 (009) STR 0220 Tri.-Del

b) Commissioner of Service Tax, Daman vs Meghna Cement Depot 2009 (015) STR 0179 Tri.- Ahmd.

62. Appellant submits that issue involves interpretation and the periodical notices have been issued to the Appellant, the imposition of penalties under Section 76 is not tenable and the same needs to be set aside. In this regard, Appellant relied on M/s. Phoenix IT Solutions Ltd Vs CCE 2017 (52) STR 182 (Tri-Hyd).

63. Without prejudice to the foregoing, Appellant submits that penalty is proposed under section 77. However, the subject show cause notice has not provided any reasons as to why how the penalty is applicable under section 77 of the Finance Act, 1994. Further, the Appellant is already registered under service tax under works contract service and filing returns regularly to the department. Accordingly, the penal provision mentioned under section 77 is not applicable for the present case. As the subject order has not considered these essential aspects, the penalty under section 77 is not sustainable and requires to be set aside.

64. The Appellant submits that in the following two cases, M/s Creative Hotels Pvt. Ltd. Vs CCE, Mumbai (2007) (6) S.T.R (Tri-Mumbai) and M/s Jewel Hotels Pvt Limited Vs CCE, Mumbai-1 (2007) (6) S.T.R 240 (Tri-Mumbai) it was held that *"The authorities below have not given any allegation as to why penalty is required to be imposed upon them. Only because penalty can be imposed, it is not necessary that in all cases penalty is required to be imposed. In this case I accept the explanation of the Appellant and therefore dropped the penalty and allow the appeal."*

MODI CONSTRUCTIONS SEC'BAD

Benefit of Section 80 should be extended

65. Appellant submits that alleged short/non-payment of service tax was due to various reasons *inter alia*

a) Given understanding that compliance made by Appellant is in accordance with the law.

b) Whatever believed as taxable was duly paid voluntarily.

c) There were divergent views of Courts over the classification of indivisible contracts, taxability of transaction involving immovable property etc.,

d) There was enough confusion prevalent on the applicability of the Service tax among the industry.

e) Matters were referred to larger bench at various instances.

66. All the above can be considered as reasonable cause and waiver of penalty can be granted in terms of section 80 of Finance Act, 1994. Relied on **CST, Vs Motor World 2012 (27) S.T.R 225 (Kar)**

67. The Appellant craves leave to alter, add to and/or amend the aforesaid grounds.

68. The Appellant wishes to be heard in person before passing any order in this regard.

MODI & MODI CONSTRUCTIONS SEC'BAD

Signature of the Appellant

PRAYER

Wherefore it is prayed that

a. To set aside the impugned order to the extent aggrieved;

b. To hold that the impugned order has violated the judicial discipline:

c. To hold that impugned order has went beyond SCN;

d. To hold that service tax is not applicable on amount received towards Sale Deed;

e. To hold that no service tax is liable to be paid on villas sold after receipt of completion certificate:

f. To hold that service tax is not applicable on other non-taxable receipts

g. To hold that demand should be re-quantified;

h. To hold that cum-tax benefit under Section 67 should be extended;

i. To hold that no interest and penalties are leviable;

j. To hold that benefit of section 80 shall be extended;

k. To hold that service tax already paid should be appropriated;

l. Any other consequential relief shall be granted;

MODI CONSTRUCTIONS SEC'BAD

Signature of the Appellant

VERIFICATION

I, Soham Modi, Partner of M/s. Modi and Modi Constructions, Hyderabad the Appellant herein do declare that what is stated above is true to the best of our information and belief.

Verified today 20 day of March 2023

Place: Hyderabad

Signature of the Appellant

MODI CONSTRUCTIONS SEC'BAD

DECLARATION

I/We, Soham Modi, Partner of Appellant firm herein, do hereby declare that subject matter not previously filed or pending before any other legal forum including Hon'ble High Courts/Supreme Court.

The Appellant further declare that they have not previously filed any appeal, writ petition or suit regarding the Order-In-Appeal No. HYD-SVTAX-SC-AP2-060-22-23-ST dated 29.11.2022, before any court or any other authority or any other Bench of the Tribunal."

Declared today the 20 day of March 2023 at Hyderabad

MODI CONSTRUCTIONS SEC'BAD

Signature of the Appellant

IN THE CUSTOMS, CENTRAL EXCISE, AND SERVICE TAX APPELLATE TRIBUNAL, 1st FLOOR, REAR PORTION OF HMWSSB BUILDING, KHAIRATABAD, HYDERABAD –500 004.

Sub: Appeal against Order-In-Appeal No. HYD-SVTAX-SC-AP2-060-22-23-ST dated 29.11.2022 pertaining to M/s. Modi and Modi Constructions.

I, Soham Modi, Partner of M/s. Modi and Modi Constructions, hereby authorizes and appoint Hiregange & Associates LLP, Chartered Accountants, Hyderabad or their partners and qualified staff who are authorized to act as an authorized representative under the relevant provisions of the law, to do all or any of the following acts: -

a. To act, appear and plead in the above-noted proceedings before the above authorities or any other authorities before whom the same may be posted or heard and to file and take back documents.
b. To sign, file verify and present pleadings, applications, appeals, cross-objections, revision, restoration, withdrawal and compromise applications, replies, objections and affidavits etc., as may be deemed necessary or proper in the above proceedings from time to time.
c. To Sub-delegate all or any of the aforesaid powers to any other representative and I/We do hereby agree to ratify and confirm acts done by our above-authorized representative or his substitute in the matter as my/our own acts as if done by me/us for all intents and purposes.

This authorization will remain in force till it is duly revoked by me/us.
Executed this on 20 day of March 2023 at Hyderabad.

Signature of appellant

I the undersigned partner of M/s Hiregange& Associates LLP, Chartered Accountants, do hereby declare that the said M/s Hiregange& Associates LLP is a registered firm of Chartered Accountants and all its partners are Chartered Accountants holding certificate of practice and duly qualified to represent in above proceedings under Section 35Q of the Central Excises Act, 1944. I accept the above-said appointment on behalf of M/s Hiregange& Associates. The firm will represent through any one or more of its partners or Staff members who are qualified to represent before the above authorities.
Dated: 20.3.2023

Address for service:
Hiregange& Associates LLP,
Chartered Accountants,
4th Floor, West Block, Anushka Pride,
Road Number 12, Banjara Hills,
Hyderabad, Telangana 500034

For Hiregange& Associates LLP
Chartered Accountants

Venkata Prasad P
Partner (M.No. 236558)

I Partner/employee/associate of M/s Hiregange& Associates duly qualified to represent in above proceedings in terms of the relevant law, also accept the above said authorization and appointment.

Sl.No.	Name	Qualification	Membership No.	Signature
1	Sudhir V S	CA	219109	
2	Lakshman Kumar K	CA	241726	
3	Rasika Kasat	CA	243001	
4	Mohammad Shabaz	BA LLB	TS/2223/2016	

AFFIDAVIT

I, Soham Modi, aged about 52 years, S/o. Satish Modi, and Partner of M/s. Modi and Modi Constructions, the appellant herein, do swear and state on oath that the An amount of Rs.2,59,503/- was already paid while filing the ST-3 returns and an amount of Rs. 56,070/- was paid vide Challan dated 21.5.20202 and an amount of Rs.1,05,191/- paid vide challan dated 20.3.2023 is paid towards mandatory pre deposit u/s. 35F of Central Excise Act, against Order-In-Original No. 09/2021-22 (S.Tax-Adjn) dated 23.12.2021 and against Order-In-Appeal No. HYD-SVTAX-SC-AP2-060-22-23-ST dated 29.11.2022.

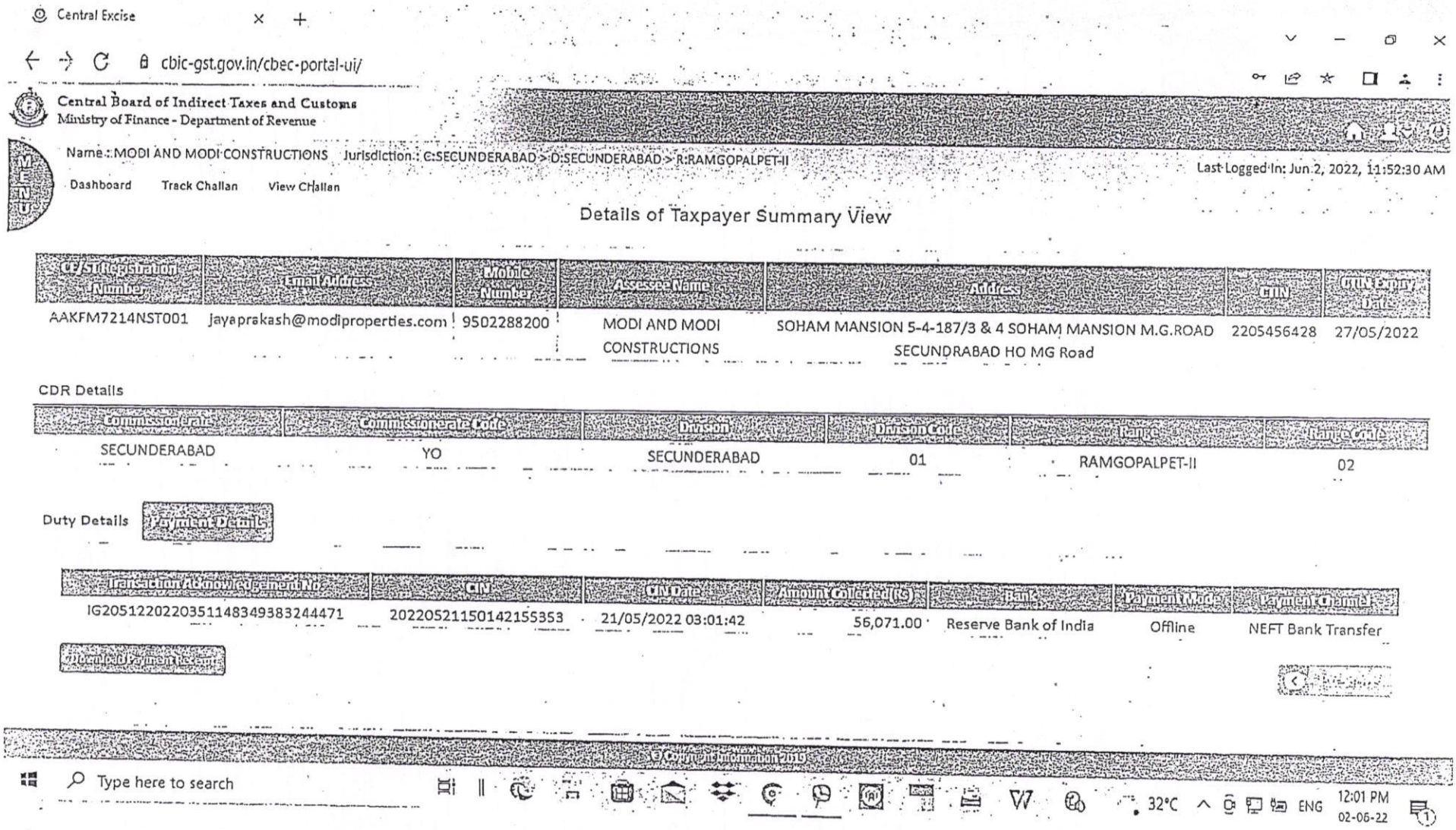
I, Soham Modi, state that the above statement is true and correct to the best of my knowledge and belief.

Executed on this _____ March 2023 at Hyderabad

(Soham Modi)

NOTARY PUBLIC

ATTESTED
C.V.N. RAMA KRISHNA
M.Com.,LLB
ADVOCATE & NOTARY
12-11-236, Warasiguda,
SECUNDERABAD-500 061.
Phone No:9346673478
20 MAR 2023



A001

Annexure-1

Annexure – IX

Form ST-3

CENTRAL BOARD OF EXCISE AND CUSTOMS

Ministry of Finance - Department of Revenue

Form ST-3

(Return under Section 70 of the Finance Act, 1994 read with Rule 7 of Service Tax Rules, 1994)

PART - A	GENERAL INFORMATION					
A1	ORIGINAL RETURN	Yes	REVISED RETURN		No	
A2	STC Number	AAKFM7214NST001	A3	Name of the Assessee	MODIAND MODI CONSTRUCTIONS	
Address of Registered Unit		SOHAM MANSION 5-4-187/3 & 4 SOHAM MANSION M.G.ROAD SECUNDRABAD HO MG Road				
Commissionerate		SECUNDERABAD NEW	Division	SECUDERABAD NEW	Range	RAMGOPALPET-II
A4	Financial Year	2015-2016	A5	Return for the Period	April-September	

RETURN FILING DETAILS	
Due date for filing of this return	25/10/2015
Actual date of filing	30/10/2015
No of days beyond due date	5

A6		
A 6.1	Has the Assessee opted to operate as "Large Taxpayer" Unit ('Y'/'N') (As defined under Rule 2(e)(ea) of the Central Excise Rules, 2002 read with Rule 2(1)(c)(cc) of the Service Tax Rules, 1994)	No
A 6.2	If reply to column A 6.1 is 'Y', name of Large Taxpayer Unit opted for	
A7	Premises Code Number	SW0201A001
A8	Constitution of the Assessee	A Firm

COMPUTATION OF SERVICE TAX (TO BE FILLED BY A PERSON LIABLE TO PAY SERVICE TAX/NOT TO BE FILLED BY INPUT SERVICE DISTRIBUTOR)

A9		
Description of Taxable Services	Taxable Service(s) for which Tax is being paid	Sub Clause
	Construction of residential complex service	(zzzh)

A10				
Taxable Service for which Tax is being paid	Construction of residential complex service			
Assessee is liable to pay Service Tax on this taxable service as				
A10.1 A Service Provider under Section 68(1)	Yes	A10.2 A Service Receiver under Section 68(2)	No	
A10.3 A Service Provider under partial reverse charge under proviso to Section 68(2)	No	A10.4 A Service Receiver under partial reverse charge under proviso to Section 68(2)	No	
A10.5 If covered by A10.3 above, then the percentage of Service Tax.Payable as Provider of Service	0	A10.6 If covered by A10.4 above, then the percentage of Service Tax Payable as Recipient of Service	0	

A11	EXEMPTIONS	
A 11.1	Has the assessee availed benefit of any exemption Notification('Y'/'N')	N
A11.2	If reply to A11.1 is 'Y', please furnish Notification No. and Sl.No in the Notification under which such exemption is availed	

Sl.No	Notification Number	Sl.No
1		

A12	ABATEMENTS	
A 12.1	Has any abatement from the value of services been claimed('Y'/'N')	N
A12.2	If reply to A12.1 is 'Y', please furnish Notification No. and Sl.No in the Notification under which such abatement is availed	

A002

ADDIA

Central Board of Indirect Taxes and Customs (CBIC)

e-Receipt for Central Excise & Service Tax Payments

CTIN Number :	2303530444	CTIN Date:	18/3/23 12:41 PM	CTIN Expiry Date:	2/4/23 12:00 AM

Payment Particulars

Transaction Acknowledgement Number :	IG203182023124106628404921 9463		
IG Reference Number :	002000STYO0102031820231252 0182		
CIN :	20230320140152755683	CIN Date :	20-03-2023
Name of the Bank :	Reserve Bank of India	BSR Code :	

Details Of the Assessee

Registration Number :	AAKFM7214NST001		Assessee Name :	MODI AND MODI CONSTRUCTIONS	
Address :	SOHAM MANSION 5-4-187/3 & 4 SOHAM MANSION M.G.ROAD SECUNDRABAD HO MG Road				
Mobile Number :	9502288200		Email Id :	jayaprakash@modiproperties.com	
Commissionerate :	SECUNDERABAD	Commissionerate Code :	YO		
Division :	SECUNDERABAD	Division Code :	01		
Range:	RAMGOPALPET-II	Range Code :	02	Location Code :	YO0102

Details of Deposits

Central Excise/ Service Tax	Description of Duty	Accounting Code	Amount Tendered
ST	Works contract service	0410	105912

Total Amount (in Rs.)	105912		
Total Amount (in Words.)	Rupees One Lakh Five Thousand Nine Hundred and Twelve Only		
Payment Mode :	offline	Payment Channel :	NF

NOTES :

1. Status of the Transaction can be tracked under "Track Challan" under Menu-->Epayment
2. Payment status will be set as "PAID" for this Transaction
3. This is a system generated Receipt

Sl.No	Notification Number	Sl. No.
1		

A13	PROVISIONAL ASSESSMENT	
A 13.1	Whether provisionally assessed('Y'/'N')	N
A13.2	If reply to A13.1 is 'Y', please furnish Provisional Assessment Order No. & Date	

Provisional Assessment Order No.	Date

PART - B VALUE OF TAXABLE SERVICE AND SERVICE TAX PAYABLE

PART - B1 FOR SERVICE PROVIDER

Sl No.	Quarter	Apr-Jun	Jul-Sept	Total
B1.1	Gross Amount (excluding amounts received in advance, amounts taxable on receipt basis, for which bills/invoices/challans or any other document may not have been issued) for which bills/invoices/challans or any other documents are issued relating to service provided or to be provided(including export of service and exempted service)	0	0	0
B1.2	Amount received in advance for services for which bills/invoices/challans or any other documents have not been issued	0	0	0
B1.3	Amount taxable on receipt basis under third proviso to Rule6(1) of Service Tax Rules, 1994 for which bills/invoices/challans or any other documents have not been issued	0	0	0
B1.4	Amount taxable for services provided for which bills/invoices/challans or any other documents have not been issued	0	0	0
B1.5	Money equivalent of other considerations charged, if any, in a form other than money	0	0	0
B1.6	Amount on which Service Tax is payable under partial reverse charge	0	0	0
B1.7	Gross Taxable Amount B1.7 = (B1.1+ B1.2 + B1.3 + B1.4 + B1.5 + B1.6)	0	0	0
B1.8	Amount charged against export of service provided or to be provided	0	0	0
B1.9	Amount charged for exempted service provided or to be provided (other than export of service given at B1.8 and above)	0	0	0
B1.10	Amount charged as Pure Agent	0	0	0
B1.11	Amount claimed as abatement	0	0	0
B1.12	Any other amount claimed as deduction, (please specify)	0	0	0
B1.13	Total Amount claimed as Deduction B1.13 = (B1.8 + B1.9 + B1.10 + B1.11 + B1.12)	0	0	0
B1.14	Net Taxable Value B1.14 = (B1.7 - B1.13)	0	0	0

B1.15 Service Tax Rate-wise breakup of NET TAXABLE VALUE(B1.14):Advalorem Rate

Sl No.	Taxable Rate			Taxable Value		
	Tax Rate%	Education Cess Rate%	Secondary And Higher Education Cess Rate%	Apr-Jun	Jul-Sept	Total
(1)	0	0	0	0	0	0

B1.16 Specific Rate(applicable as per Rule 6 of ST Rules)

Sl No.	Taxable Rate			Taxable Units		
	Specific Rate	Education Cess Rate%	Secondary And Higher Education Cess Rate%	Apr-Jun	Jul-Sept	Total
(2)	0	0	0	0	0	0

B1.17	Service Tax payable	0	0	0
B1.18	Less R&D Cess payable	0	0	0
B1.19	Net Service Tax payable B1.19 = (B1.17 - B1.18)	0	0	0
B1.20	Education Cess payable	0	0	0

A003

B1.21	Secondary & Higher Education Cess payable	0	0	0

COMPUTATION OF SERVICE TAX (TO BE FILLED BY A PERSON LIABLE TO PAY SERVICE TAX/NOT TO BE FILLED BY INPUT SERVICE DISTRIBUTOR)

A9	Taxable Service(s) for which Tax is being paid	Sub Clause
Description of Taxable Services	Works contract service	(zzzza)

	Taxable Service for which Tax is being paid	Works contract service		
	Assessee is liable to pay Service Tax on this taxable service as			
A10	A10.1 A Service Provider under Section 68(1)	Yes	A10.2 A Service Receiver under Section 68(2)	No
	A10.3 A Service Provider under partial reverse charge under proviso to Section 68(2)	No	A10.4 A Service Receiver under partial reverse charge under proviso to Section 68(2)	No
	A10.5 If covered by A10.3 above, then the percentage of Service Tax Payable as Provider of Service	0	A10.6 If covered by A10.4 above, then the percentage of Service Tax Payable as Recipient of Service	0

A11	EXEMPTIONS	
A 11.1	Has the assessee availed benefit of any exemption Notification('Y'/'N')	N
A11.2	If reply to A11.1 is 'Y', please furnish Notification No. and Sl.No in the Notification under which such exemption is availed	

Sl.No	Notification Number	Sl.No
1		

A12	ABATEMENTS	
A 12.1	Has any abatement from the value of services been claimed('Y'/'N')	Y
A12.2	If reply to A12.1 is 'Y', please furnish Notification No. and Sl.No in the Notification under which such abatement is availed	

Sl.No	Notification Number	Sl. No.
1	024/2012-S.T.	1

A13	PROVISIONAL ASSESSMENT	
A 13.1	Whether provisionally assessed('Y'/'N')	N
A13.2	If reply to A13.1 is 'Y', please furnish Provisional Assessment Order No. & Date	

Provisional Assessment Order No.	Date

PART - B VALUE OF TAXABLE SERVICE AND SERVICE TAX PAYABLE

PART - B1

FOR SERVICE PROVIDER

Sl No.	Quarter	Apr-Jun	Jul-Sept	Total
B1.1	Gross Amount (excluding amounts received in advance, amounts taxable on receipt basis, for which bills/invoices/challans or any other document may not have been issued) for which bills/invoices/challans or any other documents are issued relating to service provided or to be provided(including export of service and exempted service)	1484003	3795115	5279118
B1.2	Amount received in advance for services for which bills/invoices/challans or any other documents have not been issued	0	0	0
B1.3	Amount taxable on receipt basis under third proviso to Rule6(1) of Service Tax Rules, 1994 for which bills/invoices/challans or any other documents have not been issued	0	0	0
B1.4	Amount taxable for services provided for which bills/invoices/challans or any other documents have not been issued	0	0	0
B1.5	Money equivalent of other considerations charged, if any, in a form other than money	0	0	0
B1.6	Amount on which Service Tax is payable under partial reverse charge	0	0	0
B1.7	Gross Taxable Amount B1.7 = (B1. 1+ B1.2 + B1.3 + B1.4 + B1.5 + B1.6)	1484003	3795115	5279118
B1.8	Amount charged against export of service provided or to be provided	0	0	0
B1.9	Amount charged for exempted service provided or to be provided (other than	0	0	0

A004

	export of service given at B1.8 and above)				
B1.10	Amount charged as Pure Agent		427738	420115	847853
B1.11	Amount claimed as abatement		123759	540000	663759
B1.12	Any other amount claimed as deduction, (please specify)	Sale Deed Value	850000	2475000	3325000
B1.13	Total Amount claimed as Deduction B1.13 = (B1.8 + B1.9 + B1.10 + B1.11 + B1.12)		1401497	3435115	4836612
B1.14	Net Taxable Value B1.14 = (B1.7 - B1.13)		82506	360000	442506

B1.15 Service Tax Rate-wise breakup of NET TAXABLE VALUE(B1.14):Advalorem Rate

Sl No.	Taxable Rate			Taxable Value		
	Tax Rate%	Education Cess Rate%	Secondary And Higher Education Cess Rate%	Apr-Jun	Jul-Sept	Total
(1)	12	2	1	82506	0	82506
(2)	14	0	0	0	360000	360000

B1.16 Specific Rate(applicable as per Rule 6 of ST Rules)

Sl No.	Taxable Rate			Taxable Units		
	Specific Rate	Education Cess Rate%	Secondary And Higher Education Cess Rate%	Apr-Jun	Jul-Sept	Total
(3)	0	0	0	0	0	0

B1.17	Service Tax payable	9901	50400	60301
B1.18	Less R&D Cess payable	0	0	0
B1.19	Net Service Tax payable B1.19 = (B1.17 - B1.18)	9901	50400	60301
B1.20	Education Cess payable	198	0	198
B1.21	Secondary & Higher Education Cess payable	99	0	99

PART - C SERVICE TAX PAID IN ADVANCE

Amount of Service Tax paid in advance under sub-rule (1A) of Rule 6 of ST Rules

Sl N.o	Quarter	Apr-Jun	Jul-Sept	Total
C1	Amount of Service Tax deposited in advance	0	0	0
C2	Amount of Education Cess deposited in advance	0	0	0
C3	Amount of Secondary & Higher Education Cess deposited in advance	0	0	0
C4	Challan Nos & Amount			

Sl. No.	Challan Number(CIN)	Amount
1		0

PART - D SERVICE TAX PAID IN CASH AND THROUGH CENVAT CREDIT

Service Tax, Education Cess, Secondary & Higher Education Cess and other amounts paid
(To be filled by a person liable to pay Service Tax and not to be filled by an Input Service Distributor)

Sl No.	Quarter	Apr-Jun	Jul-Sept	Total
D1	In cash	0	44103	44103
D2	By CENVAT Credit (not applicable where the Service Tax is liable to be paid by the recipient of service)	9901	6297	16198
D3	By adjustment of amount paid as Service Tax in advance under Rule 6(1A) the ST Rules	0	0	0
D4	By adjustment of excess amount paid earlier as Service Tax and adjusted, by taking credit of such excess Service Tax paid, in this period under Rule 6(3) of the ST Rules	0	0	0
D5	By adjustment of excess amount paid earlier as Service Tax and adjusted in this period under Rule 6(4A) of the	0	0	0

A005