



**GOVERNMENT OF TELANGANA
COMMERCIAL TAXES DEPARTMENT**

**PROCEEDINGS OF THE ADDITIONAL COMMISSIONER (ST) (LEGAL)
OFFICE OF THE COMMISSIONER OF STATE TAX,
TELANGANA STATE, HYDERABAD**

PRESENT: SRI G. DWARAKANATH REDDY, M.Tech., M.S.,

ACO No. 14/2024

CCT's Ref No. LIII(1)/45/2023, Date: 28.03.2024

Sub:- Stay Petition – TVAT Act, 2005 – Stay Petition filed by M/s. Metha & Modi Homes, Hyderabad – For the tax period: 2009-2010 to 2012-2013 – Stay petition filed for stay of collection of Penalty disputed – Personal hearing allowed – Dealer availed personal hearing – Orders issued – Regarding.

- Ref:-
1. AC(ST), M.G.Road - S.D.Road - Circle – Assessment order in A.O. No.32800, dated:29.04.2013
 2. AJC(ST), Punjagutta Division in Order No.369 in Appeal No.BV/28/2014-15, dated 20.03.2015
 3. Stay Application in Form APP 406, dated 14.11.2023. filed by the dealer. received by this Office dated 14.11.2023.
 4. Hearing Notice in CCT's Ref. LIII(1)/45/2023, dated 24.11.2023. personal Hearing on 26.03.2024

ORDER:

M/s. Metha & Modi Homes, Hyderabad., is a registered dealer on the rolls of Assistant Commissioner(ST), M.G.Road - S.D.Road Circle, ('AC' for short). Vide reference 1st cited, AC, has passed orders for the tax period 2009-2010 to 2012-2013 under TVAT Act with a balance Penalty disputed of Rs. 4,48,500/-

Aggrieved by the orders passed by the AC, the dealer preferred an appeal before the Appellate Joint Commissioner (ST), Punjagutta ('ADC' for short) contesting the orders along with stay application for stay of collection of disputed Penalty. Vide the reference 2nd cited the AJC has dismissed the appeal filed by the dealer. Aggrieved by AJC orders **the dealer filed an appeal before the Telangana Value Added Tax Appellate Tribunal and now filed stay petition before the undersigned seeking stay of collection of disputed Penalty.**

A personal hearing was provided to represent the case. Sri. M.Ramachendra Murthy, Advocate Representative ('AR' for short) of the dealer availed personal hearing on 26.03.2024, and argued the case on the following grounds which reproduced the following grounds below:

The Appellant is a registered VAT dealer on the rolls of CTO M.G. Road Circle and is in the business of construction and selling of independent residential villas at

Charlapally, Ghatkesar Mandal. The Appellant opted to pay tax @1% under Section 4(7) (d) of TVAT Act 2005. Against the order passed the Assessment Authority the Appellant filled on appeal before AJC who in turn dismissed the appeal. Hence appellant filed on appeal before TVAT Tribunal, Hyderabad.

- 1.) The grounds that are stated in the main appeal may kindly be read as grounds of this appeal, the appellant has already paid 50% of disputed Penalty for the purpose of admission of the appeal and hence it is requested grant stay on the balance disputed Penalty till the disposal of the appeal. 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-1, Bhavanipuram Circle, Vijayawada Vs Sri Dedeepriya Paints in Diary No.11711 of 2019 dt.22/04/2019.
- 2.) The AR also relied upon the Judgment in case of M/s. Capart Industries, Hyderabad in WP.Nos. 3954, 3976, 4089, 4115, 4518, 4556 and 4577 of 2020.
- 3.) This above order was later confirmed by the Supreme Court in SLP (CIVIL) Diary No.11711 of 2019 on 22.04.2019,
- 4.) The special Government Pleader for Commercial Taxes appearing for respondents does not dispute the principle laid down in these cases. META AND MODI HOMES

Submitting the above, the AR/ applicant has requested to grant stay of collection of taxes, till the finalization of Appeal by TVAT Tribunal, Hyderabad. The AR has also informed that Appeal is pending vide AR No. 195/2015 before TVAT Tribunal, Hyderabad.

I have examined the impugned orders and the contentions of the appellant put forth in the grounds of appeal. Without expressing any opinion on the merits of the case, I feel it just and proper to grant stay on collection of the disputed Penalty out of Rs. 4,48,500/- on a condition that the appellant petitioner shall pay Rs. 3,00,000/- of the Penalty within Two weeks from the date of receipt of this order with a direction that the appellant will be given credit of amounts, if any, already paid by them at the time of filing of appeal. The stay will be in force till disposal of the appeal by the Hon'ble Appellate Tribunal Telangana, Hyderabad, vide AR No. 195/2015.

Additional Commissioner (ST) (Legal).

To

M/s. Metha & Modi Homes, Hyderabad.

Through the Assistant Commissioner (ST) M.G.Road - S.D.Road Circle, Begumpet Division,

(induplicate) for service and return of served copy, immediately.

Copy to the Assistant Commissioner (ST), M.G.Road - S.D.Road Circle,

Copy to the Joint Commissioner (ST), Begumpet Division.