

AC
M.RAMACHANDRA MURTHY, B.Com, FCA, LL.B.
Advocate & Tax Consultant

Flat No.303, ASHOKA SCINTILLA
H.No.3-6-520, Opposite to Malabar Gold,
Himayathnagar Main Road,
Hyderabad -500 029
Tel.:040-40248935 / 9391032848

To
The Secretary,
Telangana VAT Appellate Tribunal,
Hyderabad.

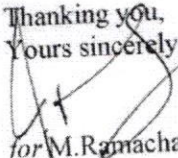
Sir,

Sub: Filing of VAKALAT NAMA in the case of M/s. modi & Modi Constructions, Secunderabad.

I am here with filing VAKALAT NAMA in the following Case T.A. No.209/2015

Kindly acknowledge receipt of the above.

Thanking you,
Yours sincerely,


for M.Ramachandra murthy
Advocate & Tax Consultant



FORM-C
[SEE REGULATION 6 AND 9(1)]
BEFORE THE TELANGANA VALUE ADDED TAX APPELLATE TRIBUNAL,
HYDERABAD

TRIBUNAL APPEAL No. 209/2015

APPELLANT **M/s. Modi & Modi Constructions # 5-4-187/3 & 4, IInd Floor,**
Soham Mansion, M.G.Road, Secunderabad - 500 003.

THROUGH: Sri M Ramachandramurthy, CA.,

And

RESPONDENT : THE STATE OF TELANGANA

To,
The above named appellant.

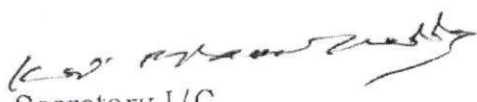
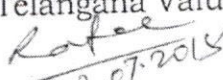
Your appeal before the Appellate Tribunal against the orders of **ADC (CT)**
Punjagutta Division, Hyderabad in his Appeal No. **BV/76/2014-15** Dated
20.03.2015 stands posted for hearing on **24.08.2015** at 10.30 A.M. of the
Office of the Tribunal at Hyderabad.

Please take notice that if you do not appear on the above date or other
day to which hearing may be adjourned either in person by pleader or by any
authorized Agent in support of your appeal it will be dismissed for default or
disposed of on merits ex-parte.

GIVEN UNDER MY HAND THE SEAL OF THE APPELLATE TRIBUNAL
(BY ORDER)

Seal

Date **23-07-2015**


Secretary I/C,
Telangana Value Added Tax Appellate Tribunal,
 Hyderabad
23-07-2015

Copy to the State Representative with copies of
Appeal memorandum and other order appealed
Form to submission of the case records to this Tribunal on or before
10.08.2015

010

M.RAMACHANDRA MURTHY
CHARTERED ACCOUNTANT

Flat No.303, 'ASHOKASCINTILLA'
H.No.3-6-520, Opp. To KFC,
Himayathnagar Main Road,
Hyderabad -500 029
Tel.:040-30878935 / 36

To,
The Secretary,
Telangana Value Added Tax Appellate Tribunal,
Nampally, Hyderabad.

Dt.09/07/2015

Sir,

Sub: Appeal filed in the case of M/s.Modi & Modi Constructions, M.G. Road,
Secunderabad - For the years February'2011 to December'2013/VAT - Form A
issued - Reply submitted - Reg.

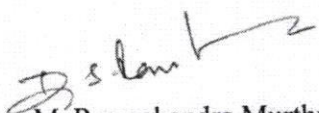
Ref: A.R.No.145/2015 dated 11/06/2015

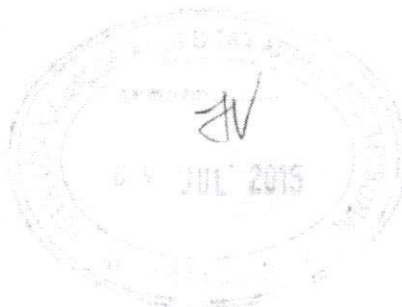
In compliance to the Form 'A' notice, we are herewith filing xerox copies of the bank
statement for payment of Rs.13,22,376/-.

In view of the above submissions kindly admit the appeal.

Thanking you,

Yours truly,


M. Ramachandra Murthy
Chartered Accountant



Office: 5-4-187/3 & 4,
II floor, Soham Mansion,
M G Road, Secunderabad - 500 003.
Ph: +91 40 66335551

Encl.: As Above

Modi & Modi Constructions

Office: 5-4-187/3 & 4, II floor, Soham Mansion, M G Road
Secunderabad - 500 003. Ph: +91 40 66335551

Date: 12th February 2015

To,
The Commercial Tax Officer,
M.G. Road Circle,
Hyderabad

Sir,

Sub: Stay Petition filed for the collected of disputed Tax - For the year February 2011 to December 2013 VAT - Reg.

- Ref:**
- 1) Proceedings of the CTO, M.G Road Circle in AO No. 3954, dated 31.07.14
 - 2) ADC (CT) Panjagutta Division Order No. 847 in Appeal No. BV/76/2014-15 dated 19.12.14
 - 3) Application in Form APP 406, dated 08.01.15 filed by the dealer
 - 3) Hearing Notice in CCT's Ref No. LIII(2)/4/2015, dated 17.01.2015
 - 4) JC Order No.30/2015 dated 31.01.2015

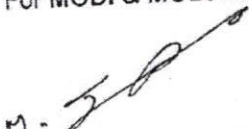
As per the JC order No. 30/2015 received on 3rd February 2015 through CTO M.Road Circle, in his proceedings cited above, we are enclosing Cheque No. 996697 dated 09.02.2015 for Rs. 13,22,376/- (Rupees Thirteen Lakhs Twenty Two Thousand Three Hundred and Seventy Six Only) as per the details furnished below.

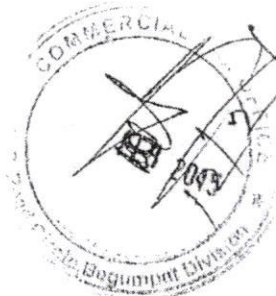
Disputed Tax	Rs. 35,26,335/-
Stay granted for 50% of the Disputed Tax	Rs. 17,63,168/-
Balance payable	Rs. 17,63,168/-
Payment made 12.5% As per letter Dated 8 th April 2013	Rs. 4,40,792/-
Balance, Now Paid	Rs. 13,22,376/-

Kindly acknowledge

Thanking you,

Yours faithfully
For **MODI & MODI CONSTRUCTIONS**


Authorised Signatory



00422000016924
MODI AND MODI CONSTRUCTIONS
HYD

HYD
ANDRA PRADESH

HDFCUSHA
HDFC BANK LIMITED
USHA KIRAN COMPLEX, S.D. ROAD
SECUNDERABAD 500 003

Statement of Account For Period: 09-Feb-2015 to 18-Feb-2015

Account Number: 00422000016924
Currency: INR

Date	Transaction Description	Chq/Ref. No	Value Date	Debit Amount	Credit Amount	Closing Balance
09-Feb-2015	FD Redeem Tax - 00424470214105/3		09-Feb-2015	143.80		123,063.60
09-Feb-2015	FD Redeem Interest - 00424470214105/3		09-Feb-2015		3,422.45	126,486.05
09-Feb-2015	FD Redeem Principal - 00424470214105/3		09-Feb-2015		100,000.00	226,486.05
09-Feb-2015	Chq Paid-INWARD TRAN-R BALARAM	000000996690	09-Feb-2015	16,770.00		209,716.05
09-Feb-2015	Chq Paid-INWARD TRAN-R BALARAM	000000996682	09-Feb-2015	8,906.00		200,810.05
10-Feb-2015	Chq Paid-MICR CTS-CH-BN REDDY	000000002093	10-Feb-2015	5,000.00		195,810.05
10-Feb-2015	FT - Dr - 03681200002144 - DONTHOJU YAG	000000996686	10-Feb-2015	1,287.00		194,523.05
10-Feb-2015	MODI & MODI CONSTRUCTIONS Dr - 00422990	000000996692	10-Feb-2015	2,195.00		192,328.05
10-Feb-2015	FD Redeem Interest - 00424470214105/3		10-Feb-2015		5,165.17	197,493.22
10-Feb-2015	FD Redeem Tax - 00424470214105/3		10-Feb-2015	218.70		197,274.52
10-Feb-2015	FD Redeem Principal - 00424470214105/3		10-Feb-2015		150,000.00	347,274.52
10-Feb-2015	FT - Dr - 00422000001120 - MODI PROPERT	000000996674	10-Feb-2015	3,421.00		343,853.52
10-Feb-2015	FD Redeem Interest - 00424470214122/3		10-Feb-2015		39,092.90	382,946.42
10-Feb-2015	FD Redeem Tax - 00424470214122/3		10-Feb-2015	1,573.70		381,372.72
10-Feb-2015	FD Redeem Principal - 00424470214122/3		10-Feb-2015		1,176,668.91	1,558,041.63
10-Feb-2015	Chq Paid-INWARD TRAN-A VIJAY KUMAR GOUD	000000996680	10-Feb-2015	1,200.00		1,556,841.63
10-Feb-2015	Chq Paid-INWARD TRAN-NILGIRI HOMES OWNE	000000996677	10-Feb-2015	22,726.00		1,534,115.63
10-Feb-2015	Chq Paid-INWARD TRAN-V RAVINDER CHRY	000000996691	10-Feb-2015	792.00		1,533,321.63
11-Feb-2015	Chq Paid-MICR CTS-CH-MD SHABUDDIN	000000996684	11-Feb-2015	7,104.00		1,526,217.63
11-Feb-2015	MC Issued - SECUNDERABAD - 004212091362	000000996699	11-Feb-2015	3,140.00		1,523,077.63
11-Feb-2015	MC Issued - SECUNDERABAD - 004212091363	000000996700	11-Feb-2015	1,840.00		1,521,237.63
11-Feb-2015	Chq Paid-INWARD TRAN-G MANNEM	000000996689	11-Feb-2015	4,595.00		1,516,642.63
11-Feb-2015	Chq Paid-INWARD TRAN-G MANNEM	000000996651	11-Feb-2015	3,357.00		1,513,285.63
11-Feb-2015	Chq Paid-INWARD TRAN-JANARDHAN PRASD	000000996687	11-Feb-2015	1,584.00		1,511,701.63

HDFC BANK LIMITED

*Closing Balance includes funds earmarked for hold and uncleared funds.

Contents of this statement will be considered correct if no error is reported within 30 days of receipt of statement.

HDFC Bank Service Tax Registration Number: M-IV/ST/BANK & OTHER SERVICES /20/2001

Registered Office Address: HDFC Bank House, Senapati Bapat Marg, Lower Parel, Mumbai - 400013.

01-Jul-2015 11:16:47

Page 1 of 1

Date	Transaction Description	Chq/Ref. No	Value Date	Debit Amount	Credit Amount	Closing Balance
12-Feb-2015	Chq Paid-MICR CTS-CH-V VENKAT RAMULU	000000996683	12-Feb-2015	2,376.00		1,509,325.63
12-Feb-2015	Chq Paid-MICR CTS-CH-VARNA	000000996678	12-Feb-2015	8,777.00		1,500,548.63
12-Feb-2015	Chq Paid-MICR CTS-CH-M SUDHARSHAN	000000996688	12-Feb-2015	891.00		1,499,657.63
12-Feb-2015	Chq Paid-MICR CTS-CH-T KRISHNA MOHAN	000000996670	12-Feb-2015	1,100.00		1,498,557.63
12-Feb-2015	Chq Paid-MICR CTS-CH-TTSL AC NO	000000996624	12-Feb-2015	504.00		1,498,053.63
12-Feb-2015	Chq Paid-MICR CTS-CH-DILPREET HARDWARE	000000996634	12-Feb-2015	378.00		1,497,675.63
12-Feb-2015	Chq Paid-MICR CTS-CH-DILPREET HARDWARE	000000996636	12-Feb-2015	189.00		1,497,486.63
12-Feb-2015	Chq Paid-INWARD TRAN-SRI PANDIT PLYWOOD	000000996608	12-Feb-2015	916.00		1,496,570.63
13-Feb-2015	Chq Paid-MICR CTS-CH-SRI RAMA PAINTS	000000996696	13-Feb-2015	3,000.00		1,493,570.63
13-Feb-2015	Chq Paid-MICR CTS-CH-MODI PROPERTIES AND	000000996681	13-Feb-2015	5,506.00		1,488,064.63
13-Feb-2015	Chq Paid-MICR CTS-CH-THE PTO MG ROAD CI	000000996693	13-Feb-2015	450.00		1,487,614.63
13-Feb-2015	Chq Paid-MICR CTS-CH-CH PRASAD	000000996685	13-Feb-2015	3,762.00		1,483,852.63
13-Feb-2015	Chq Paid-INWARD TRAN-NILGIRI HOME OWNER	000000996701	13-Feb-2015	2,500.00		1,481,352.63
14-Feb-2015	SRIKANTH JENA Dr - 50100042079049 - SRI	000000996654	14-Feb-2015	445.00		1,480,907.63
14-Feb-2015	Chq Paid-INWARD TRAN-B AND C ESTATES	000000002099	14-Feb-2015	1,883.00		1,479,024.63
16-Feb-2015	CHQ DEP - TRANSFER OW - HYDERABAD	000000007374	16-Feb-2015		10,000.00	1,489,024.63
16-Feb-2015	CHQ DEP - TRANSFER OW - HYDERABAD	000000007304	16-Feb-2015		10,000.00	1,499,024.63
16-Feb-2015	FT - Dr - 00421000148749 - SOHAM MODI H	000000996673	16-Feb-2015	8,500.00		1,490,524.63
16-Feb-2015	Chq Paid-INWARD TRAN-V RAVINDER CHARY	000000996707	16-Feb-2015	1,202.00		1,489,322.63
16-Feb-2015	Chq Paid-INWARD TRAN-R BALRAM	000000996731	16-Feb-2015	1,237.00		1,488,085.63
16-Feb-2015	Chq Paid-INWARD TRAN-NILGIRI ESTATES	000000996706	16-Feb-2015	1,553.00		1,486,532.63
16-Feb-2015	Chq Paid-INWARD TRAN-MODI HOUSING PVT L	000000996733	16-Feb-2015	7,000.00		1,479,532.63
16-Feb-2015	Chq Paid-INWARD TRAN-MODI HOUSING PVT L	000000996734	16-Feb-2015	15,000.00		1,464,532.63
16-Feb-2015	Chq Paid-INWARD TRAN-V RAVINDER CHARY	000000996726	16-Feb-2015	693.00		1,463,839.63

HDFC BANK LIMITED

*Closing Balance includes funds earmarked for hold and uncleared funds.

Contents of this statement will be considered correct if no error is reported within 30 days of receipt of statement.

HDFC Bank Service Tax Registration Number: H-IV/ST/BANK & OTHER SERVICES /20/2001

Registered Office Address: HDFC Bank House, Senapati Bapat Marg, Lower Parel, Mumbai - 400013.

Date	Transaction Description	Chq/Ref. No	Value Date	Debit Amount	Credit Amount	Closing Balance
17-Feb-2015	Chq Paid-MICR CTS-CH-CTO MG ROAD CIRLE	000000996697	17-Feb-2015	1,322,376.00		141,463.63
17-Feb-2015	Chq Paid-MICR CTS-CH-RADIANT SYSTEMS	000000002091	17-Feb-2015	528.00		140,935.63
18-Feb-2015	Chq Paid-INWARD TRAN-B AND C ESTATES	000000996703	18-Feb-2015	2,882.00		138,053.63
18-Feb-2015	Chq Paid-INWARD TRAN-K SRAVAN KUMAR	000000996702	18-Feb-2015	9,906.00		128,147.63

Statement Summary

Opening Balance	Debit Count	Credit Count	Total Debit	Total Credit	Closing Balance
123,207.40	44	8	1,489,409.20	1,494,349.43	128,147.63

End of the Statement

21/6/2015

FORM -A
[SEE REGULATION 7(2)]
**BEFORE THE TELANGANA VALUE ADDED TAX APPELLATE TRIBUNAL,
HYDERABAD**

APPEAL REGISTRATION: 145/2015

**APPELLANT: M/s. Modi & Modi Constructions, # 5-4-187/3 & 4, IIInd Floor,
Soham Mansion, M.G.Road, Secunderabad - 500 003.**

Vs.

RESPONDENT: THE STATE OF TELANGANA

THROUGH: Sri M Ramachandramurthy, CA. ✓

To

The above named appellant.

You have filed an appeal against the order of **ADC (CT), Punjagutta Division, Hyderabad, in Appeal No. BV/76/2014-15 dated: 20.03.2015** It does not comply with the provisions of the Andhra Pradesh General Sales Tax Act, 1957/A.P. Value Added Tax Act, 2005/Central Sales Tax Act, 1956 and the Rules and Regulations made there under in the following aspects:-

- 1. Bank Statement for payment of Rs.13,22,376/- to be filed.**

You are hereby rectify the defects within 30 days from the date of receipt of this notice.

**GIVEN UNDER MY HAND THE SEAL OF THE APPELLATE TRIBUNAL
(BY ORDER)**

DT: 11-06-2015

[Signature]
Secretary (I/C),
Telangana Value Added Tax Appellate Tribunal,
Hyderabad
[Signature]
11-06-2015

N.B:- The Appellant should appear in person to rectify the defects or by post.

M.RAMACHANDRA MURTHY
CHARTERED ACCOUNTANT

Flat No.303, ASHOKA SCINTILLA
H.No.3-6-520, Opp. To KFC,
Himayathnagar Main Road,
Hyderabad -500 029
Tel.:040-40248935 / 36

To
The Secretary,
Telangana VAT Appellate Tribunal.
Hyderabad

Date: June'06, 2015

Sir,

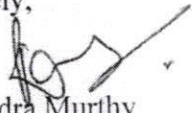
Sub: Filing of Appeal in the case of M/s. **Modi & Modi Constructions, M.G.Road, Secunderabad** - For the period Feb'2011 to Dec'2013/VAT -reg.

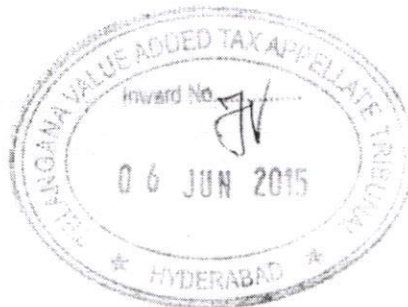
Please find enclosed herewith the following appeal papers:

1. Form -APP 401 4 copies.
2. Facts of the case and grounds of appeal 4 copies.
3. Challan bearing No.116396 dt. **06/06/2015** for Rs.2000/- towards appeal fees.
4. Order passed by Appellate Deputy Commissioner (CT), Punjagutta Division, Hyderabad, dated.20.03.2015 (in original) along with 3 xerox copies.
5. Four copies of Assessment Order in Form VAT 305 passed by the Commercial Tax Officer, M.G.Road Circle, Hyderabad, date. 31.07.2014.
6. Copy of letter relating to proof of payment of 50% disputed tax
7. Form 565 (Authorisation).

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

Thanking you,
Yours sincerely,


M.Ramachandra Murthy
Chartered Accountant.



అసలు ప్రతి / ORIGINAL

భజానా నెం. 116398 SUB-TREASURY
తెలంగాణ ప్రభుత్వము / GOVERNMENT OF TELANGANA
రాష్ట్ర ఆస్తుల పన్ను / STATE SALES TAX

భజానా చలాను నెం. 116398 TREASURY CHALLAN NO.

పెద్ద పద్దు MAJOR HEAD:	0 0 4 0	చిన్న పద్దు MINOR HEAD:	1 0 2
పన్ను వసూళ్ళు/ TAX COLLECTIONS+ U/APVAT			0 5
RECEIPTS ON TURNOVER TAX:			1 0 7
ఉప పద్దు SUBHEAD			
01 పన్నువసూళ్ళు TAX COLLECTIONS			
02 సర్ ఛార్జ్ SURCHARGE			
81 ఇతర రాబడులు OTHER RECEIPTS			
మొత్తము / Amount in Rupees			2000
అక్షరాలారూ /in words Rupees	Two Thousand only		

వర్తకుని పేరు, చిరునామా / DEALER'S NAME AND ADDRESS

M/s. Modi & Modi Constructions
Rangumj, Secunderabad

వర్తకుని
రిజిస్ట్రేషన్
నంబరు

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DEALER'S
REGISTRATION
NUMBER

దేని నిమిత్తము పైకము జమ చేయబడినది FOR WHICH THE AMOUNT IS DEPOSITED										APPEAL / fee	
ఎ	ఎఎ	ఎ1	ఎ2	ఎ3	ఎ4	ఎ5	ఎ7	రిటర్న్	వి కాలమునకు జమ చేయబడినది PAYMENT FOR THE PERIOD		
A	AA	A1	A2	A3	A4	A5	A7	RETURN	తేది/D నె/M సం. Y		
2500 2303006									నుండి FROM		
									వరకు TO		
బి	బిబి	బి1	బి2	బి3	బి4	డిమాండు DEMAND			నె/No. తేది/D		
B	BB	B1	B2	B3	B4						
పన్ను వాయిదా / TAX INSTALMENT											
జమ చేయవలసినదిగా కోరిన ప్రభుత్వాధికారి OFFICER AT WHOSE INSTANCE AMOUNT IS DEPOSITED											
5/6/15						8			భారా పద్దు తనిఖీ చేయబడినది HEAD OF ACCOUNT VERIFIED		
తేది / DATE						సంతకము SIGNATURE OF REMITTER			యస్.టి.ఓ./టి.ఓ./ S.T.O/T.O		
అక్షరాలా రూపాయలు RECEIVED RUPEES											
Two Thousand only											
ముచ్చినది.											
నగదుద్వారా/చెక్ ద్వారా/డి.డి. ద్వారా BY CASH / CHEQUE NO. / D.D. No.											
RECEIVED 16 JUN 2015 యస్.టి.ఓ. / బ్యాంకు మేనేజరు S.T.O / BANK MANAGER											

గమనిక: - (1) వర్తించనది కాబట్టివేయము. (2) ఉప పద్దులకున్న పేరు చలానులను ఉపయోగించవలెను

FORM APP 401
FORM OF APPEAL MEMORANDUM TO THE APPELLATE TRIBUNAL
[Under Section 33] [See Rule 44(1) (a)]

In the Telangana Value Added Tax Appellate Tribunal, Hyderabad

No..... of 2015....

M/s.Modi & Modi Constructions, # 5-4-187/3 & 4, IInd Floor, Soham Mansion, M.G. Road,
Secunderabad – 500 003 Appellant (s)

Versus

State of Telangana Respondent

- | | |
|---|--|
| 1. Name, address and TIN/GRN
No. of the Dealer | : M/s.Modi & Modi Constructions,
5-4-187/3 & 4, IInd Floor,
Soham Mansion, M.G. Road,
Secunderabad - 500 003.
36894097186 |
| 2. Tax period / Tax periods | : February'2011 to December'2013 /VAT |
| 3. Authority passing the original order
in dispute | : Commercial Tax Officer,
M.G. Road Circle, Hyderabad |
| 4. Appellate Deputy Commissioners of
Commercial Taxes passing the order under
Section _____ or the Deputy Commissioner
or Joint Commissioner (Commercial Taxes)
Legal, passing an order under Section _____ | : Appellate Deputy Commissioner(CT)
Punjagutta Division, Hyderabad |
| 5. Date of Communication of the order now
appealed against. | : 04/05/2015 |
| 6. Address to which notice may be sent
to the Appellant. | :M. Ramachandra Murthy,
Chartered Accountant,
Partner, N.Saibaba & Co.,
Flat No.303, Ashoka Scintilla,
D.No.3-6-520, Opp. KFC, Himayatnagar
Hyderabad
Tel.:040-40248935/36 |
| 7. Address to which notices may be
sent to the Respondent. | : State Representative before the
Telangana Value Added Tax Appellate
Tribunal, Hyderabad. |
| 8. Relief claimed in appeal | |
| (a) Taxable turnover determined by the
assessing authority passing the
assessment order disputed. | : NIL |

- (b) Taxable turnover confirmed by Appellate Deputy Commissioner of Commercial Taxes or by Deputy Commissioner or Joint Commissioner (Commercial Taxes) as the case may be. : NIL
- (c) If taxable turnover is disputed
- (i) Disputed taxable turnover : NIL
- (ii) Tax due on the disputed taxable turnover : Rs.35,26,335/-
- (d) If rate of tax is disputed
- (i) Taxable turnover involved : NIL
- (ii) Amount of tax : NIL
- e) Specify, if any, other relief claimed. : Other grounds that may be urged at the time of hearing.

Statement of facts

- 1) The appellant is a registered VAT dealer engaged in the business of construction and selling of Villas / Apartments in the name style of NILGIRI HOMES at Rampally, village, Keesara Mandal, RR District and is an assessee on the rolls of the CTO, MG Road Circle, Hyderabad (for short CTO), with TIN No 28894097186. The appellant opted to pay tax @ 1% or 1.25% under Section 4 (7) (d) of the APVAT Act, 2005 (hereinafter referred to as Act) under composition scheme.
- 2) In the course of business the appellant enters into agreement with their prospective buyers for sale of Villas / Apartments along with certain amenities. The agreement of sale which is the mother or initial agreement consists of the consideration received through sale of land, development charges of land and cost of construction of the entire bungalow. The

appellant has paid VAT @ 1% or 1.25% on the total consideration received from these three components of the agreement.

- 3) Claiming authorization of assessment from DC(CT) Begumpet Division the CTO M.G.Road Circle conducted audit under the provisions of AP VAT Act, 2005 for the period Feb'2011 to March'2013 and issued show cause notice in Form VAT 305A dated 18/03/2014 proposing tax of Rs. 87,70,117/- on the contractual receipts of Rs.2,78,24,000/- for the year 2010-11, 1,62,37,627/- for the year 2011-12 Rs.14,14,09,612/- for the year 2012-13 and Rs.4,32,41,000/- for the year 2013-14 (up to Dec'2013) under Section 4 (b) of the said Act.
- 4) The appellant has filed detailed objections before CTO against the proposed levy of tax through letter requesting the CTO to drop the proposal of levy of tax under Section 4 (7) (b), but to levy tax under Section 4 (7) (d) of the Act as they are engaged in the business of construction and selling of Villas / Apartments and opted for payment of tax under composition.
- 5) During the time of personnel hearing, the appellant has filed further objections through letters dated 17/06/2014 and reiterated its earlier request to adopt the contractual receipts as Rs. 3,50,89,600 for the year 2010-11, 3,56,86,894 for the year 2011-12 Rs.2,96,52,080/- for the year 2012-13 and Rs.93,09,604 for the year 2013-14 (up to Dec'2013) and to levy tax under Section 4 (7) (d) of the Act only.
- 6) However, the learned CTO has not accepted the request to adopt the receipts as reported in the reply to the Show Cause Notice and confirmed the proposal.

- 7) Aggrieved by the said assessment order the appellant preferred appeal before the learned Appellate Deputy Commissioner (CT) Punjagutta (for short ADC). ADC has dismissed the appeal vide order dated 20.03.2015.
- 8) Aggrieved by the said order the appellant prefers this appeal on the following grounds, amongst others:-

Grounds of Appeal

- a) The impugned order is highly illegal, arbitrary, unjustifiable and contrary to facts and law.
- b) Appellant submits that it is engaged in the business of construction and selling of Villas / Apartments at in the name style of NILGIRI HOMES at Rampally, village, Keesara Mandal, RR District and opted for payment of tax @ 1% or 1.25% under composition under Sec. 4(7) (d) of the APVAT Act. It has declared the turnover relating to construction and sale of flats in the monthly VAT returns and paid the tax on the amounts received from the customers @ 1% or 1.25%.
- c) Appellant submits that in the course of business it has in the first instance entered into agreement with its prospective buyers for sale of independent Bungalows of similar size, similar elevation, same colour scheme etc., along with certain amenities. The agreement of sale consists of the consideration received through sale of land, development charges of land and cost of construction of the Villas / Apartments. It has paid VAT @ 1% or 1.25% on the total consideration received from these three

components of the agreement. In the Advance Ruling in the case of Maytas the ruling is given as under:-

- 1) The applicant shall be eligible for composition under Section 4(7) (d) to pay tax @ 4% on 25% of the total consideration originally agreed upon whether received in composite manner or in separate portions towards land cost and construction cost.
 - 2) The applicant is not eligible to opt to pay 4% of 25% consideration received towards construction cost by excluding cost of land though it could be registered separately at any stage.
 - 3) If the property is registered only as a land through a sale deed in the second category of transactions explained by the applicant and there is no subsequent registration after completion of construction, the applicant shall ensure payment of 1% or 1.25% of total consideration received or receivable (as per initial agreement of sale) by way of demand draft in favour of CTO/ Asst. Commissioner concerned at the time of execution of sale deed before Sub- Registrar as prescribed in clause (i) of sub rule (4) of Rule 17 of APVAT Rules,2005.
- d) Appellant submits that from the above Ruling it is quite clear that if the property is registered only as a land through a sale deed and there is no subsequent registration after completion of construction the applicant shall ensure payment of 1% or 1.25% of total consideration received or receivable as per the initial agreement of sale. Appellant submits that it entered into agreement of sale with its prospective buyers where in the sale value of land, development charges of land for laying of roads, drains,

parks etc., and cost of construction are mentioned in this single document of sale agreement. Even though it entered into agreement for construction and agreement for development charges subsequently the amount mentioned in these two agreements has already been shown in the original agreement of sale and it has paid VAT @ 1% or 1.25% on the total consideration received as per the original agreement of sale. Thus the payment of tax @ 1% or 1.25% is as per the provisions of Section 4(7) (d).

e) Appellant submits that in spite of the submissions made as above in the earlier replies it is stated in the assessment order that the fact of registration of the bungalow in favour of the prospective buyer also is not substantiated by adducing the necessary documents. It was also stated that in Maytas case there existed a tripartite agreement, in that, land owner, developer, and the buyer of the land in the first instance, and subsequently for construction of a bungalow by the developer and that in the case on hand there is no such tripartite agreement. It is stated that the clarification sought for in M/s. Maytas case is not akin to the facts of the case on hand.

f) It is again submitted that appellant has initially entered into agreement of sale with the prospective buyers where in the sale value of land, development charges of land for laying of roads, drains, parks etc., and cost of construction are mentioned in this single document of sale agreement. This initial agreement of sale is the legal document which speaks about full and total consideration receivable for the sale of bungalows on which appellant has paid tax @ 4% on 25% of total consideration based on this agreement of sale, which is the 'mother agreement'. Even though

appellant entered into agreement for construction and agreement for development charges subsequently the amounts mentioned in these two agreements have already been shown in the original agreement of sale (mother or initial agreement) and appellant has paid VAT @ 1% or 1.25% on the total consideration received as per the original agreement of sale. Thus the payment of tax @ 1% or 1.25% by the appellant is strictly as per the provisions of Section 4(7) (d).

g) Appellant submits that in the case of Maytas is that in both the situations, there is 'initial agreement of sale', which is generally called 'mother agreement'. In that agreement the entire price for the sale of land as well as construction cost is mentioned. This fact has been affirmed by the authority itself in the said Ruling as follows:-

"In clause 2(a), it is specified that developer and the landowner have agreed to sell the property consisting of a finished house for a total price specified in Schedule 2 of the agreement. The specified price is found to be the total price for the land and construction cost."

h) Thus the case of Maytas is that whatever be the situation, the prospective buyer enters into an agreement for the purchase of a flat/bungalow/villa for a specified price, which includes both the value of land and construction cost. In this mother or initial agreement the full price is mentioned. As a consequence thereof, there is a sale deed for the sale of land/semi finished structure and then a construction agreement. The ACAR (Authority for Clarification and Advance Ruling) held that in a situation where the entire price is mentioned in the initial agreement, tax is payable only @ 1% or 1.25% under Section 4 (7) (d) of the Act.

i) In support of appellant's argument the dates of mother agreement and the subsequent agreements in one case are detailed as under:-

To substantiate the fact that appellant has entered into agreement of sale with the prospective buyer in the first instance showing the total value of the sale of land, construction charges and development charges the following is the dates of agreement and the amounts shown:

Agreement of sale dated 25/02/2008 in favour of Mrs. U. K. Padma Latha, Plot No.73, admeasuring 170 s. yds. with built up area of 1694 sq.ft.

Agreement of Sale dated 25/02/2008 (Mother Agreement) Rs.39,78,000 wherein the value of land of Rs. 1,70,000/-, the development charges of Rs.17,15,000/- and the cost of construction of Rs.20,93,000/- totaling to Rs. 39,78,000/- was mentioned. Thus appellant has already sold this villa for a total consideration of Rs.39,78,000/- on 25-02-2008. Subsequently, the following agreements are made.

Sale deed for sale of land dt.29/03/2008	Rs. 1,70,000
Agreement for Development charges dt.29/03/2008	Rs.17,15,000
Agreement for construction dt.29/03/2008	Rs.20,93,000

The copies of the above documents are enclosed as Annexure-I for the year 2010-11. Similarly for the years 2011-12, 2012-13 and 2013-14 the following are the sample documents.

Agreement of Sale dated 16/09/2010 (Mother Agreement) Rs.39,78,000 wherein the value of land of Rs.1,79,000/-, the development charges of Rs.14,21,000/- and the cost of construction of Rs.24,00,000/- totaling to Rs. 40,00,000/- was mentioned. Thus appellant has already sold this villa for a total consideration of Rs.40,00,000/- on 16-10-2010. Subsequently, the following agreements are made.

Sale deed for sale of land dt.03/11/2010	Rs. 1,79,000
Agreement for Development charges dt.03/11/2010	Rs.14,21,000
Agreement for construction dt.03/11/2010	Rs.24,00,000

The copies of the above documents are enclosed as Annexure-II for the year 2011-12.

Agreement of Sale dated 09/08/2012 (Mother Agreement) Rs.44,00,000/- wherein the value of land of Rs.17,60,000/- and the cost of construction of Rs.26,40,000/- totaling to Rs.44,00,000/- was mentioned. Thus appellant has already sold this villa for a total consideration of Rs.44,00,000/- on 16-10-2010. Subsequently, the following agreements are made.

Sale deed for sale of land dt.21/03/2014	}	Rs.17,60,000
With semi construction		
Agreement for construction dt.21/03/2014		Rs.26,40,000

The copies of the above documents are enclosed as Annexure-III for the year 2012-13.

Agreement of Sale dated 04-06-2013 (Mother Agreement) Rs.46,75,000/- wherein the value of land with semi construction of Rs.35,10,000/- and the cost of construction of Rs.11,65,000/- totaling to

company is based on the fact that in the tripartite agreement itself the value of the land, the value of the house are clearly mentioned either jointly or separately. But in the present case the value of the house is not mentioned at all in the original tripartite agreement. The agreement only says that the dealer company who is a developer should be necessarily appointed as contractor. No further additional status is conferred on the dealer company. The house is constructed as per a works contract agreement the purchaser of the plot as contractee entered into with the dealer company as contractor. The dealer company is therefore assessable under 4(7) (c) of the APVAT Act, but not 4(7)(d) of the said Act."

k) Appellant next submits that, The Commissioner has categorically observed that if in the agreement for sale, the value of house is also mentioned as ruled in Maytas case, then tax can be paid under clause (d). In the case before the Commissioner, the value of house is not mentioned in the initial agreement. Hence tax has been levied under clause (c) of the Act. But in this case the total value of the house is mentioned in the mother agreement which includes the land value, construction value and the development charges. Thus the facts in this case differ from the observation made.

l) Appellant is squarely covered by the Ruling in Maytas case. The agreement of sale entered into with the prospective buyer clearly shows that what is agreed to be sold is only the 'bungalow with land' for a specified price. This fact cannot be brushed aside. Appellant is squarely covered by the Mayatas Ruling and the Revision order of the Honourable Commissioner. In all cases, appellant has entered into Mother or Initial agreement, which clearly mentions the total price including the value of

land and constructed bungalow. Hence, payment of tax under clause (d) is correct and such payment cannot be faulted with. With regard to Tripartite agreement appellant submits that in Maytas case, the land is not owned by the builder and hence the owner of the land is made as a party to the construction and selling of apartments agreement, where as in this case appellant is the owner of the land and hence it has directly entered into an agreement with the prospective buyers of the bungalow without a third person. In view of the above appellant submits that the ruling given in the case of Maytas is squarely applicable to this case and appellant is liable to pay composition tax of 1% or 1.25% only on the total value of the agreement which includes the value of land transferred. It is reiterated that appellant has in the business of construction and selling of apartments/buildings, the class of VAT dealer to which the benefit of composition of tax under Section 4 (7) (d) of the Act.

m) Appellant submits that in the assessment order it was stated that as per the Advance Ruling given in the case of M/s. Nobel Properties, Banjara Hills dated 15/09/2012, it was clarified that agreement for construction of villa on the land sold by the builder to the buyer will fall under Sec. 4(7)(b) of APVAT Act taxable @ 4% on the total consideration received. Appellant submits that this part of advance ruling is not applicable to this case as appellant enters into initial agreement for sale of villa/apartment along with land for a specific amount where as in the above advance ruling there is no initial agreement as in this case.

n) Appellant submits that, In the said Advance Ruling, the clarification sought was whether 'construction and selling of villa along with land in a single deed' will fall under Sec. 4(7) (d) of the APVAT Act. At Para A it was

clarified that ' *only first type of transaction, i.e, construction and selling of villas along with land in a single deed will fall under section 4(7)(d) of the APVAT Act, 2005, if the dealer engaged in construction and selling of residential apartments, houses, buildings or commercial complexes opts to pay tax by way of composition under section 4(7)(d) of the APVAT Act, 2005 if not, the transaction will fall under section 4(7) (a) of the APVAT Act, 2005*'. Appellant submits that as per clarification given in the second para B above appellant is rightly eligible for payment of tax @ 1% or 1.25% on the total consideration under section 4(7) (d) of the Act as it has entered into one single agreement for the sale of Villa along with land.

- o) Appellant submits that as per Rule 17 (4) (i) of the APVAT Rules, the VAT dealer executing the construction and selling of residential apartment, houses, buildings or commercial complexes and opts to pay tax by way of composition shall pay an amount equivalent to 1% or 1.25% of the total consideration received or receivable or the market value fixed for the purpose of stamp duty, whichever is higher. Appellant submits that they have opted for payment of tax under Section 4 (7) (d) of the Act and filed the VAT 200 returns by disclosing the turnovers of registration values of the villas and paid the tax @1%/ 1.25% as applicable in the respective years. The appellant has declared the following Turnovers.

Year	Turnover
2010-11	Rs. 3, 50,89,600/-
2011-12	Rs. 3,56,86,894/-
2012-13	Rs. 2,96,52,080/-
2013-14 (upto 12/13)	Rs. 93,09,604/-

Rs.46,75,000/- was mentioned. Thus appellant has already sold this villa for a total consideration of Rs.46,75,000 on 04-06-2013. Subsequently, the following agreements are made.

Sale deed for sale of land with
semi construction dt.28/09/2013



Rs.35,10,000

Agreement for construction dt.28/09/2013

Rs.11,65,000

The copies of the above documents are enclosed as Annexure-IV for the year 2013-14.

- j) Appellant submits that in the Revision order No.LV (1)/464/2009 dated 29.6.2011 passed by the Honourable Commissioner in the case of Ambience Properties Limited, Hyderabad, it has been observed as follows:-
- "One more crucial factor that clinches the status of the dealer company as nothing more than the contractor for the construction of the house, is that in the original tripartite agreement the value of the house is not mentioned. It is only the value of the land that finds place in that agreement. The deed for the sale of land subsequently registered also conforms to that value. The value of the house is mentioned only in the construction agreement between the dealer company and the purchaser of the plot. In the construction agreement the name of the original land owner does not appear. It is therefore unambiguously proved that the legal status of the dealer company is that of a contractor only for construction but not that of a contractor for construction and sale of apartments or residential houses specified under section 4(7)(d) of the APVAT Act. There is no element of sale in the house. There is no sale deed for the house and in the sale deed for the house site the value of the house is not included for payment of stamp duty. It should be noted at this juncture that the Advance Ruling in Maytas case cited by the dealer

A statement showing the month wise turnovers disclosed in the VAT returns along with the payment particulars for the above four years is enclosed as Annexure-IX . It is submitted that when a specific request is made to the ADC to adopt the turnovers while passing the orders, Honourable ADC has not discussed on this aspect in the appeal order.

p) Appellant also submits that against the VAT payments of Rs.2,78,000/-, Rs.3,17,313/-, Rs. 17,26,198/- and 5,74,264/- for the years 2010-11, 2011-12, 2012-13 and 2013-14 (upto December) they are given tax credit of Rs. 2,58,930/-, Rs. 15,54,042/- and Rs. 3,30,514/- respectively. The tax payment details are also given in the Annexure at the time of filing appeal before Honourable ADC, but Honourable ADC has not considered this ground while passing the orders.

q) Appellant submits that Honourable ADC has failed to appreciate the facts of the case and misunderstood the nature of transaction and relied upon the Advance Ruling in the case of M/s. Madhu Collections (Ref No. A.R. Com/66/2011, dated 16-10-2012) which is not relevant to the present context. It is submitted that the facts in Madhu collections Advance Ruling are entirely different. In that case there is no initial agreement. The Ruling does not at all speak of any such initial agreement to sell fully completed flat for a total consideration. This is the major difference. Case of the appellant is not on par with Madhu collections case. The Honourable ADC has completely ignored the initial or mother agreement. Whereas in Maytas Ruling, importance has been attached only to such initial agreement.

r) Appellant submits that Honorable ADC has not properly appreciated the facts of the case and dismissed the appeal.

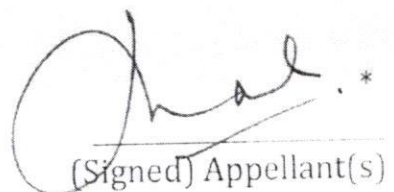
s) In any case, appellant submits that recent decision of Honorable High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh in the case of **Omega Shelters (P) Limited (W.P No. 11528 of 2013)** settled this long pending issue once for all. It has been held therein as follows:-

"If dealers engaged in the construction and sale of residential apartments, houses, buildings or commercial complexes exercise the option, and comply with the conditions stipulated in Section 4(7)(d) and Rule 17(4), they cannot be denied the benefit of composition there under for the construction made by them, for the very same person, after execution of a registered deed for the sale of a semi-finished structure. Denial of the benefits of the composition scheme under Section 4(7)(d) to such dealers, for the post-sale construction made in terms of the initial agreement, is illegal and is contrary to the provisions of the AP VAT Act and the Rules made there under."

t) Appellant submits that the from the above decision it is clear that as long the appellant is complying with the condition stipulated in Section 4(7)(d) and rule 17(4) the benefit of composition cannot be denied if the post sale construction is made in terms of initial agreement. It is submitted that the appellant has entered into agreement of sale which is the mother agreement and which consists of the consideration received through sale of land, development charges of land and cost of construction of the bungalow. The appellant has paid VAT @ 1%/1.25% on the total

consideration received from these three components of the initial agreement according to Section 4(7)(d) and Rule 17(4). Appellant therefore submits that the decision in case of Omega Shelters is applicable to appellant's case. The action of CTO and ADC in allowing levy of tax under Section 4(7)(b) is illegal and against the decision of the Honorable High Court. Further appellant prays this Honorable tribunal to consider the tax payment made by the appellant.

u) In view of the above grounds and other grounds that may be urged at the time of hearing the appellant prays set aside the order of the learned ADC as illegal and allow the appeal.

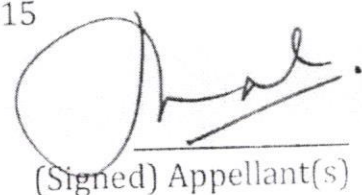

(Signed) Appellant(s)

(Signed) Authorised representative, if any

VERIFICATION

I, _____ the appellant(s) do hereby declare that what is stated above is true to the best of my / our knowledge and belief.

Verified today the ____ day of May'2015


(Signed) Appellant(s)

(Signed) Authorised representative, if any