

GOVERNMENT OF TELANGANA
COMMERCIAL TAXES DEPARTMENT



Office of the
ASSISTANT COMMISSIONER (ST),
M.G.Road-S.D.Road Circle,
D.No.6-3-789, 4th Floor,
Pavani Prestige Complex,
Near Bus Stop, Main Road,
Ameerpet, Hyderabad - 500 016.

TIN : 36547131584

Date : 11.09.2023

Years/Act : 4/2015 to 06/2017 (VAT)

PRE-REVISION SHOW CAUSE NOTICE UNDER VAT ACT, 2005

SUB : VAT Act, 2005 - M.G.Road-S.D.Road Circle - Begumpet Division, Hyderabad - M/s.Paramount Builders, Hyderabad (for brevity here-in-after referred to in as 'assessee') - VAT Audit-cum-Assessment for the tax periods of 04/2015 to 06/2017 conducted and completed by the STO-1, M.G.Road-S.D.Road Circle in the form of passing an Assessment Order in Form VAT-305 - Assessee preferred an appeal before the ADC (CT), Punjagutta Division, Hyderabad [for brevity here-in-after referred to in as 'appellate authority'] seeking certain relief(s) of the turnover(s) or tax(es) pre-determined/pre-assessed- Appeal disposed-off as "Remanded" back to the assessing authority with certain conclusive observations and subsequent directions - Examination made of the Appeal Order - Issue of Pre-Revision Show Cause Notice calling for certain details/ documents/ statements abd etc - Reg.

REF : 1.Proceedings of the State Tax Officer-1, M.G.Road-S.D.Road Circle in Form VAT-305 dated 05.12.2019 for the tax periods of 04/2015 to 06/2017 under TVAT Act, 2005 vide A.O.No. 47012.
2.Proceedings of the Appellate Deputy Commissioner (CT) [Presently re-designated as Appellate Joint Commissioner (ST)], Punjagutta Division, Hyderabad in Appeal No.BV/103/2019-20, dated 21.02.2022 for the tax periods of 04/2015 to 06/2017 under VAT Act, 2005 vide ADC Order No.224.

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M/s.Paramount Builders, located at H.No.5-4-187/344, 2nd Floor, Soham Mansion, Mahatma Gandhi Road, Secunderabad - 500 003 are registered dealers under the provisions of TVAT Act, 2005 and CST Act, 1956

with the TIN 36547131584 and assessee on the rolls of Commercial Tax Officer [presently re-designated as Assistant Commissioner (ST)], M.G.Road-S.D.Road Circle of Begumpet Division, Hyderabad. For the tax periods of 04/2015 to 06/2017 under the TVAT Act, 2005, the assessee was conducted Audit/Scrutiny of their books of accounts and VAT records by the State Tax Officer-1, M.G.Road-S.D.Road Circle and in the course of making verification of the VAT records/books of accounts of the assessee with that of the turnovers reported to the department for the purpose of ascertaining/evaluating the correctness and completeness of the turnovers reported by the assessee, they were passed an Assessment Order in Form VAT-305 vide reference 1st cited, with the following determinations.

A) Short payment of tax – Rs.71774-00

2015-16	Rs. 1999-00
2016-17	Rs.69775-00

	Rs.71774-00

2015-16	Output tax on Rs.15401040	Rs.192513
	Less : Tax paid	Rs.190514
	Balance	Rs.1999
2016-17	Output tax on Rs.7782000	Rs.97275
	Less : Tax paid	Rs.27500
	Balance	Rs.69775

B) Tax on under declared turnover – Rs.57131-00 (on the turnover variation between the receipts declared in Profit and Loss Account and receipts reported in Form VAT-200 Returns).

2016-17	Rs.57131-00
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C) Tax on differential turnover arrived at w.r.t. agreement sale turnover – Rs.81103-00

2015-16	Rs.34781-00
2016-17	Rs.46322-00

	Rs.81103-00

Sl.No.	Period	Sale Deed value	Estimated Agreement of sale value (adding 30% value on Sale Deed value	Difference turnover arrived	Tax levied @ 5% on 25% difference turnover
1	2015-16	9275000	12057500	2782500	34781
2	2016-17	12352500	16058250	3705750	46322
3	2017-18	0	0	0	0
		21627500	28115750	6488250	81103

The assessee having disagreed with the above assessment order appealed to the Appellate Joint Commissioner (ST), Punjagutta Division, Hyderabad seeking certain relief(s) of the pre-determined/assessed turnover(s) or tax(es). The Appellate Authority having examined the contentions raised by the appellant assessee in their grounds of appeal/(and/or) having heard the pleadings of the assessee made during the Personal Hearing /(and/or) having examined the documents/details/statutory forms so adduced against their contentions/ claims, disposed-off the appeal and passed orders vide reference 2nd cited, wherein while "REMANDING" the assessment / appeal back to the assessing authority, issued certain directions. The observation(s) so made and the resultant determinative expressions/ conclusions so arrived-at by issuing certain directions by the appellate authority in the referred appeal order are reproduced as is hereunder as a part of having more relevance and clarity on the impugned subjects/ contentious issues / claims of the assessee and in addition thereto, also in order of processing the consequential action more legitimately, appropriately and reasonably :-

//Sri M. Ramachandra Murthy, Chartered Accountant and Authorised Representative of the appellant appeared and argued the case reiterating the contentions as set-forth in the grounds of appeal and pleaded for setting-aside of the impugned order.

I have heard the Authorised Representative and gone through his contentions as well as the contents of the impugned orders. In the impugned orders, at the pre-assessment stage, the Audit Officer observed that on verification of the records and documentary evidenced by the appellant, it was noticed that there is a difference in the turnovers on which the appellant had paid tax at 5% under composition when compared such turnovers with the construction account receipts as per Profit & Loss Account. The appellant filed their objections. However, on an observation that the appellant had filed the documentary evidence on sample basis instead of in entirety, the Audit Officer not only confirmed the proposed levy of tax on account

of differential turnovers but also estimated the sale deed value by adding 30% value on such sale deed value and arrived at the differential turnovers and levied tax thereon at 5%. The Audit Officer also levied tax on the consideration received by the appellant stated to be relatable to sale of villas / flats after obtaining the Occupation Certificate and as such the same amounts sale of immovable properties on the ground that the Occupancy Certificate furnished by the appellant was not issued by the competent authority by treating the same as invalid. The Audit Officer also brought to tax certain of the tax amount towards short payment.

Such levy is assailed by the appellant stating that the turnovers reflected in the Profit & Loss Account are different from the actual sale turnovers reported in the monthly returns in as much as the turnovers reflected in the Profit & Loss account are for the purpose of Income Tax whereas the turnovers declared in the VAT returns are actual sale turnovers which are liable to tax under the TVAT Act and though these facts were brought to the notice, the Audit Officer failed to consider the same properly. It is also stated that if the Audit Officer desires the documentary evidence in entirety, nothing prevented it to direct the appellant to produce the same which the Audit Officer failed to do so which resulted in the appellant preventing from the same. The appellant now furnished the documentary evidence like copies of sale deeds etc., and expressed their readiness to produce the same as and when called for. Thus, this issue warrants examination at the Assessing Authority's end.

It is further stated that the Audit Officer is not justified in treating the Occupancy Certificate produced by the appellant as invalid in as much as such certificate issued by the Gram Panchayat Secretary and the Gram Panchayat is a local body and as such the said certificate is valid one. It is further stated that even if the Audit Officer had any doubts about the said certificate, necessary enquiries would have been made necessary enquiries with the Gram Panchayat so as to ascertain the factual situation. It is also stated that had the Audit Officer provided reasonable opportunity, the appellant would have explained the same since no such proposal was made in the show cause notice issued. This claim also needs examination at the Assessing Authority's end.

It is also stated that the Audit Officer is not justified in observing that there is a short payment of tax disregarding the fact that the appellant had already discharged their tax liability in entirety and had the Audit Officer examined the same properly, there is no such short payment would arise.

For the reasons discussed above, I feel it just and proper to remit the matter back to the territorial Assessing Authority, who shall cause examination of the issues involved herein with reference to the material already available on record with that of the documentary evidence that would be produced by the appellant and pass orders afresh in accordance with the provisions of law, after giving the appellant a reasonable opportunity to present their case. With this direction, the impugned order is set-aside on the disputed tax amounting to ₹2,10,008/- and the appeal thereon remanded.

In the end, the appeal is **REMANDED**./

In the light of the observations made and resultant directions issued expressly by the appellate authority in the course of disposing off the appeal as supra, it is as a part of giving consequential effect to the remand directions of the appellate authority in due process of law, the assessee by this proposed or subjected-to Pre-revision Show Cause Notice is hereby directed to produce the following documents/statements/details/statutory forms / evidential case details for the tax periods of 04/2013 to 06/2017 under VAT Act, 2005 for making due and proper examination of the claims of the assessee/issues under dispute with those evidence in an appropriate manner and allow necessary relief to an extent found they are eligible or to an extent found to be capable of being granted necessary relief without prejudice to the generality of the provisions.

a) A detailed clarificatory statement as regards to the precedents of the case / precedents of the point(s) at issue so under dispute-cum-covered by remand directions of the appellate authority and as well as all the relevant and appropriate corroborative and supporting evidence of the points/issues they objected.

b) In addition there-to of the details sought of the issues under dispute, the assessee is further hereby requested to produce the details of tax paid if any during the trial of case before the appellate authority/Hon'ble High Court of Judicature etc.,

Concluding this subjected-to Pre-Revision Show Cause Notice, the assessee M/s.Paramount Builders, Secunderabad are hereby requested to produce the above-mentioned documents/statutory forms/information within (15) days from the date of receipt of this Notice; failing which, necessary orders as deemed fit in accordance with the law will be passed without any further notice or communication.

NOTE : The assessee in this juncture is further informed that, if any of the above named documents/statements/statutory forms were already submitted in the tax office in the light of the remand directions of the appellate authority, a copy of acknowledgment of those submission(s) as proof of the submission may please be produced at once before the undersigned which enable this office to verify the same with the office records and allow necessary relief in accordance with law.


ASSISTANT COMMISSIONER (ST),
M.G. ROAD S.D. ROAD CIRCLE,
M.G. Road-S.D. Road Circle,
Begumpet Division, Hyderabad

To,
M/s.Paramount Builders,
located at H.No.5-4-187/344,
2nd Floor, Soham Mansion,
Mahatma Gandhi Road,
Secunderabad - 500 003.