G.N.G. SHANKAR
Advocate & Tax Consultant

Flat No.303, ASHOKA SCINTILLA
H.No.3-6-520, Opp. To Malabar,
Himayathnagar Main Road,
Hyderabad -500 029
Tel.:040-402478935 / 36

To,
The Appellate Dy. Commissioner (CT)
Punjagutta Division,
Hyderabad.

Sir,

Sub:- Filing the appeal in the case of M/s. **Serene Constructions LLP., Hyderabad.**
For the Period April 2015 to June 2017/VAT

*****

Please find enclosed herewith the following appeal papers:

1. Form –APP 400 2 copies.
2. Grounds of Appeal 2 copies.
3. Challan No. 6400167306 for Rs.1000/- towards appeal fee.
4. AO order no.255 dt.24/02/2024, passed by Assistant Commissioner (ST) M.G.Road – S.D.Road Circle, Begumpet Division, Hyderabad, Telangana.
5. Letter relating to the proof of payment 12.5% Disputed Tax.
6. Vakalatnama

Thanking you
Yours sincerely

GNG Shankar
Advocate &Tax Consultant

Office of the Appellate Dy Commissioner (CT)
20 APR 2024
Panjagutta Divn.

Print e- Receipt for e-PAYMENT

ACT : VAT

CTD Transaction ID :

(OR)

Challan Number : 6400167306

Get e-Receipt

CTD Transaction ID :	36240418335823
Type of TAX :	VAT
TIN :	36570317033
Name of the Firm :	SERENE CONSTRUCTIONS LLP
Tax Purpose :	Appeal Fee before ADC
Tax Period :	Apr,2015-Jun,2017
Amount :	1000
Head of Account :	0040001020005000000NVN
Bank Name :	SBI
Bank Acknowledgement Number :	IK0CSLTWT5
Challan Number :	6400167306
Bank Status :	SUCCESS
Date Of Payment :	18-04-2024

FORM APP 400

FORM OF APPEAL UNDER SECTION 31

[See Rule 38(2)(a)]

1.	Appeal Office Address	: The Appellate Joint Commissioner (ST) Punjagutta Division, Hyderabad
2.	TIN/GRN	: 36570317033
3.	Name & Address	: M/s. Serene Constructions LLP 5-4-187, 3&4, 2nd Floor, Soham Mansion, M.G. Road, Secunderabad.
4.	I wish to appeal the following decision / assessment received from the tax office on	: 24/02/2024
5.	Date of filing of appeal	: /2024
6.	Reasons for delay (if applicable enclose a separate sheet	: Not Applicable
7.	Tax Period / Tax Periods	: April'2015 to June'2017/VAT
8.	Tax Office decision / assessment Order No. Date.	: Revised assessment order no.255 dt.24/02/2024 passed by Assistant Commissioner (ST) M.G. Road –S.D. Road Circle, Begumpet Division, Hyderabad
9.	Grounds of the appeal (use separate sheet if space is insufficient	: Separately Enclosed
10.	If turnover is disputed	
	a) Disputed turnover	: **NIL**
	b) Tax on the disputed turnover	: **Rs.5,58,808/-**
	If rate of tax is disputed	
	a) Turnover involved	: NIL
	b) Amount of tax disputed	: NIL
11.	12.5% of the above disputed tax paid	: Rs.69,851 (Letter enclosed)

Note: Any other relief claimed : Other grounds that may be urged at the time of hearing.

SERENE CONSTRUCTIONS SEC'BAD

M. S

(The payment particulars are to be enclosed if ready paid along with the reasons on Form APP 400A)

12. Payment Details:

a) Challan / Instrument No.	:	
b) Date	:	
c) Bank / Treasury	:	------
d) Branch Code	:	------
e) Amount	:	____

TOTAL	:	

Declaration:

I, ____ hereby declare that the information provided on this form to the best of my knowledge is true and accurate.

SERENE CONSTRUCTIONS SEC'BAD

*

M. J. B

Signature of the Appellant & Stamp

M. J. B

Date of declaration :

Name :
Designation :

Please Note: A false declaration is an offence.

******

M/s. SERENE CONSTRUCTIONS LLP

5-4-187/3 & 4, II Floor, Soham Mansion, M.G. Road, Secunderabad – 500 003.

Tax Period: 2015-16 and 2016-17 /VAT

Statement of Facts: -

1) The appellant is a registered VAT dealer engaged in the business of construction and selling of flats and is an assessee on the rolls of the Commercial Tax Officer, (Presently re-designated as Assistant Commissioner(ST)) M.G. Road-S.D. Road Circle, Hyderabad, with TIN 36570317033. The appellant opted to pay tax @ 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 appellant entered into a Memorandum of Understanding (MOU) with Modi Farm House (Hyderabad) LLP (for short MFHLLP) on 31-05-2015 as vendor or owner of land for the construction of the cottage/villa on the farm land. The appellant has paid VAT @ 5% on the only one villa sold for Rs. 7,99,926/-.

3) Upon authorization given by the Deputy Commissioner (CT), Begumpet Division, the Deputy Commercial Tax Officer, Bowenpally Circle, Begumpet Division (for short DCTO) has conducted VAT audit of the appellant for the tax periods from 2015-16 and 2016-17 and issued Notice of Assessment of VAT in Form VAT 305A dated 16/02/2018 proposing levy of tax of Rs. 5,58,808/-under Section 4 (7) (a) of the Act read with Rule 17 (h) on the total receipts as per P & L account after allowing 30% towards standard deduction.

4) The appellant has filed detailed objections before DCTO against the proposed levy of tax by letter dated 22/02/2018 and reiterated the same in personal hearing on 27/03/2018. Without properly considering the objections raised by the appellant, the learned DCTO has completed the assessment proceedings in Form VAT 305 dated 08/05/2018 confirming the proposed levy of tax of Rs. 5,58,808/-.

5) Aggrieved by such assessment order, appellant filed 1st round appeal before this Honourable Authority. On a consideration of the grounds and the documents, this Honourable authority has remanded the appeal vide order No.2412 dated 28/12/2020. As per the direction of the appellate authority, the learned AC passed the consequential order

M. J

SERENE CONSTRUCTIONS SEC'BAD

No.17545 dated 13/07/2022 raising the very same demand of **Rs.5,58,808/-.**

6) Aggrieved by such consequential order, appellant also filed 2nd round appeal before this Honourable Authority. On a consideration of the grounds and the documents, this Honourable authority has set aside the said consequential order and remanded the matter with specific directions to the assessing authority vide order No.142 dated 14/03/2023.

7) On such remand, the jurisdictional authority ie., the Assistant Commissioner (ST)(FAC), M.G. Road-S.D. Road Circle, Begumpet Division (for short AC) issued pre revision Show cause notice dated 11/09/2023 to produce books of accounts to pass revised assessment order. However without giving sufficient time, the learned AC passed the Revised assessment order No.255 dated 24/02/2024 raising the very same demand of **Rs.5,58,808/-.**

8) Aggrieved by such revised assessment order, appellant prefers this appeal on the following grounds, amongst others:-

<u>Grounds of Appeal</u>:

a. The impugned order is ex-facie illegal, arbitrary, improper and unjustifiable and is passed against the principles of natural justice and hence the same is liable to be set aside.

b. It is submitted that the learned AC is not justified in passing the impugned order in haste without providing sufficient opportunity. It is submitted that the learned ADC has set aside the assessment order and has remanded the issue back to the assessing authority to pass consequential orders.

c. It is submitted that as per Section 37 of the TVAT Act, the assessing authority is having time of 3 years to pass the Revised assessment order in order to give effect to the order passed by the learned Appellate Deputy Commissioner. It is submitted that the learned ADC has passed the appeal order on 14.03.2023 and the assessing

M. S

SERENE CONSTRUCTIONS SEC'BAD

authority is having time up to 13.03.2026 to pass the Revised assessment order.

d. It is true that the learned AC has issued notice for production of documents, however, due to illness of the concerned accounts head who is looking about the VAT issues, the appellant is not able to provide the relevant data to the learned AC. However, the learned AC without giving sufficient further time to the appellant has passed the impugned order with the very same demand. It is submitted that the appellant is having all the information that is required to complete the assessment and this information is already produced before this Honourable AJC.

e. The appellant therefore submits that the impugned order is liable to be set aside on the principles of natural justice. In any case appellant submits that they are having strong case on merits.

f. Without prejudice to the above submissions the appellant submits as under.

g. It is submitted that the impugned order is highhanded and non-speaking beyond a point. It has been passed in clear violation of principles of natural justice, in as much as the learned authority has refused to look into the letter of objections as nothing has been discussed by him.

h. It is sad that the learned authority has not at all considered single objection. The impugned order has been passed only for the purpose of harassing a genuine dealer and nothing else, in the humble submission of the appellant.

i. Appellant submits that the appellant as developer entered into a Memorandum of Understanding (MoU) with Modi Farm House (Hyderabad) LLP (for short MFHLLP) on 31-05-2015 as vendor or owner of land for the construction of the cottage/villa on the farm land admeasuring about 1000 Sq. ft. as per the specifications of Annexure-C to the MOU. Coy of MoU is filed as **Annexure-1.** The appellant has declared a turnover of Rs. 7,20,000 and 2,88,000/- towards 5% turnover in Form VAT 200 returns filed by the appellant during the years 2015-16 and 2016-17 respectively.

SERENE CONSTRUCTIONS SEC'BAD

j. The appellant has also Joint Development Agreement cum General Power of Attorney dated 23-12-2016 with the owners of land to develop the housing project on the Scheduled project and agreement of sale with the owners of land dated 01-02-2017 for sale of the to the prospective purchasers. Xerox copies of the Joint Development agreement dated 23-12-2016 and agreement of sale of flats dated 01-02-2017 are filed as Annexures-3 and 4 respectively. From this tripartite agreement the appellant is the developer of the project and sellers of the villas/flats to the purchasers.

k. In pursuance of this MOU appellant has received advances of Rs. 7,20,000/- and Rs. 47,85,500/-including Rs. 7,20,00 of 2015-16 and Rs. 2,88,000 of 2016-17 from MFHLLP during the years 2015-16 and 2016-17 respectively and recorded the same in the P &L Account of the appellant for the said two years. In the notice the advance amount received during the year was proposed to be assessed under Section 4 (7) (a) of the VAT act after allowing standard deduction of 30% read with Rule 17 (h) of the Act and levying tax @14.5% on the balance amount as taxable turnover as the appellant not file Form VAT 250. Appellant has completed only one villa and sold the same for Rs. 7,99,920/-vide invoice no. SCLLP/1/2015-16 dated 19-02-2016 including VAT of Rs. 36,000/- @ 5% to M/s Dr. Tejal Modi & Mr. Soham Modi, Jubilee Hills, Hyderabad as purchaser which is collected and paid along with returns.

l. Appellant submits that it is the subcontractor to the main contractor i.e. MFHLLP and intended to opt to pay tax under Section 4 (7) (b) of the Act by way of composition @5% on the total amount received or receivable towards the execution of works contract. In view of payment of tax under this sub-section appellant has charged VAT 5% only on the invoice and paid the same. Appellant has recorded all the purchases and paid tax @5% only on the invoice raised on the sale of villa as intended to pay tax under Section 4 (7) (b) only.

SERENE CONSTRUCTIONS SEC'BAD

M. [signature]

m. In the assessment order the assessing authority confirmed the proposal of levy of tax on the receipts as per P & L account for the years 2015-16 and 2016-17 after deducting 30% towards standard deduction under Section 4 (7) (a) read with Rule 17 (h) of the Act as the appellant could not file Form VAT 250 for levy of tax under Section 4 (7) (b). Appellant submits that it has maintained all books of account and the turnovers were extracted by the learned DCTO from the P & L account of the appellant. This proves that the appellant has maintained all books of account in which case the learned DCTO ought to have assessed the turnover under Section 4 (7) (a) of the Act by levying tax on the value of goods at the time of incorporation at the rates applicable to the goods under the Act by allowing eligible input tax credit to the extent of 75% of the tax paid on the goods purchased as per Rule 17 (1) (b). Appellant submits that the assessment order passed by the DCTO on standard method under Rule 17 (1) (g) is highly illegal and is therefore liable to be set aside.

n. In view of the above grounds and other grounds that may be urged at the time of hearing the appellant prays the Appellate Authority to set aside the assessment order as illegal and allow the appeal.

SERENE CONSTRUCTIONS SEC'BAD

M. I

(APPELLANT)

FORM APP 406

APPLICATION FOR STAY OF COLLECTION OF DISPUTED TAX

[Under Section 31(2) & 33(6)] [See Rule 39(1)]

01. Appeal Office Address:
To,
The Appellate Joint Commissioner (ST)
Punjagutta Division, Hyderabad

Date	Month	Year
	04	2024

02	TIN	36570317033

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

04.	Tax period	April'2015 to June'2017/VAT
05.	Authority passing the order or proceeding disputed.	Revised assessment order no.255 dt.24/02/2024 passed by Assistant Commissioner (ST), M.G. Road- S.D. Road Circle, Begumpet Divison, Hyderabad.
06	Date on which the order or proceeding was Communicated.	24/02/2024
07.	(1) (a) Tax assessed	Rs.5,58,808/-
	(b) Tax disputed	Rs.5,58,808/-
	(2) Penalty / Interest disputed	NIL
08	Amount for which stay is being sought	Rs.5,58,808/-
09.	Address to which the communications may be sent to the applicant.	M/s. Serene Constructions LLP 5-4-187, 3&4, 2nd Floor, Soham Mansion, M.G. Road, Secunderabad.

SERENE CONSTRUCTIONS SEC'BAD

* M. J.

Signature of the Dealer(s)

Signature of the Authorised Representatives if any

10. GROUNDS OF STAY

1.) Substantial question of facts and law that may arise in the appeal.

2.) The appellant will be hard hit if it is called upon to pay this heavy amount of tax pending disposal of the appeal.

3.) The grounds that are stated in the main appeal may kindly be read as grounds of this appeal.

4.) The appellant has already paid 12.5% of disputed tax for the purpose of admission of the appeal and hence it is requested grant stay on the balance disputed tax till the disposal of the appeal.

5.) In this regard the appellant relied on the latest decision of the Hon'ble Supreme Court in a case wherein the Hon'ble Court dismissed the SLP filed against the order of the Hon'ble High Court of Andhra Pradesh & Telangana in the case of Deputy Commercial Tax Officer-I, Bhavanipuram Circle, Vijayawada Vs. Sri Dedeepriya Paints in Diary No.11711 of 2019 dt.22/04/2019.

The Honourable High Court of Andhra Pradesh & Telangana in its decision in WP No.20922 of 2018 dated 22.06.2018 in the case of Sri Dedeepriya Paints Vs Deputy Commercial Tax Officer-I, Bhavanipuram Circle, Vijayawada held as follows:-

"When the petitioner concern already paid 12.5% of the disputed tax amount for the purpose of maintaining an appeal as required by law, it would be wholly unjust for the tax authorities to demand the balance of the disputed tax amount notwithstanding the pendency of the appeal".

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

" 4. Counsel for the petitioner relies upon the order of the Division Bench of this court in Sri Dedeepriya Pains Vs. Deputy Commercial Tax Officer – I wherein a similar action on the part of the Department in proposing to collect the balance disputed tax through 12.5% of the disputed tax amount was already deposited with the Department pending appeal before the Appellate Deputy Commissioner fell for consideration. In that case, this court held that once the assesse had already paid 12.5% of the disputed tax amount for the purpose of maintaining an appeal as required by law, it would be wholly unjust for the tax authorities to demand the balance of the disputed tax amount notwithstanding the pendency of appeal.

5. This above order was later confirmed by the Supreme Court in SLP (CIVIL)Diary No.11711 of 2019 on 22.04.2019.

6. The special Government Pleader for Commercial Taxes appearing for respondents does not dispute **the principle laid down** in these cases.

7. Since the petitioner had already paid 12.5% or more of the disputed tax pending appeals before the Appellate Deputy Commissioner and the

Telangana VAT Appellate Tribunal, we are of the considered opinion that the respondents are not justified in refusing to grant the petitioner stay of collection of the balance disputed tax and issuing Garnishee orders to the Petitioner's banker for recover of the balance disputed tax".

Copy of the High Court order mentioned above is attached herewith

Hence it is just and necessary that the Appellate Joint Commissioner (ST) may be pleased to grant stay of collection of the disputed tax of Rs.5,58,808/- pending disposal of the appeal.

VERIFICATION

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

Verified today the _______ day of April'2024

SERENE CONSTRUCTIONS SEC'BAD

M. J

Signature of the Dealer(s)

Signature of the Authorised Representatives if any

FORM APP 400A

DECLARATION

[See under Section 31(1)] [Rule38 (2)(d)]

TIN / GRN	36570317033

Date	Month	Year
	04	2024

From	To
M/s. Serene Constructions LLP 5-4-187, 3&4, 2nd Floor, Soham Mansion, M.G. Road, Secunderabad.	The Appellate Joint Commissioner (ST) Punjagutta Division, Nampally, Hyderabad

I ________________________ S/o, ________________________ appellant named in the appeal preferred herein as M/s. Serene Constructions LLP, M.G. Road, Secunderabad (Dealer/Firm Name) with TIN/GRN: 36570317033 hereby declare that

* the tax admitted to be due, or of such instalments as have been granted and the payment of 12.5% of the difference of tax assessed by the authority have been paid, for the relevant tax period in respect of which the appeal is preferred, the details of which are given below.

* no arrears are due from me for the relevant tax period for which appeal is preferred due to the reasons:

12.5% Disputed Tax:Rs.69,851/- (Letter Enclosed)

Total Tax Paid:	
a) Cheque/DD particulars	Number_______ Date____________ Bank ____________________ Branch: ______________________________
b) Cash Particulars:	Receipt No:__________________Date: _______________
c) Challan particulars:	Challan No: _________________ Date_________________ Name of the Treasury ______________________________

SERENE CONSTRUCTIONS SEC'BAD

* M. S

Signature

Status and relationship to the dealer

(* Strike off which is not applicable)

BEFORE THE HONOURABLE APPELLATE JOINT COMMISSIONER (ST),
PUNJAGUTTA DIVISION, HYDERABAD

Petition to condone the delay in filing the Appeal

Assessment years: April'2015 to June'2017/VAT

PETITIONER: M/s. Serene Constructions LLP
5-4-187, 3&4, 2nd Floor,
Soham Mansion, M.G. Road,
Secunderabad.

The appellant submits that it is an assessee on the rolls of the Assistant Commissioner (ST) M.G. Road-S.D. Road Circle, Hyderabad with TIN 36570317033. The AC(ST) passed the Revised assessment order for the tax period from April'2015 to June'2017 under the TVAT Act vide his order dated 24/02/2024. The said order was received by the appellant on 24/02/2024. The Appellant has to file the appeal against the said order within 30 days from the date of receipt of the order i.e. 25/03/2024 and he has filed the appeal on /04/2024 with a delay of _ days, but for the following reasons and circumstances.

The appellant submits that the person who looks after the tax matters of the company is busy with Financial year closing and he has not taken appropriate action before due date. Thus there is delay in filing the appeal. The delay in filing the appeal is not at all intentional but solely due to the aforesaid reasons. Thus there is delay of ___ days in filing the appeal. The appellant prays to condone the delay of ____ days and admit the appeal.

SERENE CONSTRUCTIONS SEC'BAD

APPELLANT

5-4-187/3&4, II floor, MG Road,
Secunderabad – 500 003.
Phone: +91-40-66335551

SERENE CONSTRUCTIONS

To,
The Appellate Joint Commissioner (ST),
Punjagutta Division, Hyderabad.

Sir,

Sub: TVAT Act, 2005 - Appeal filed in the case of M/s. Serene Constructions LLP Secunderabad - For the tax period April'2015 to June'2017 - Proof of payment 12.5% disputed tax paid - Reg.

Ref: Revised assessment order no.255 dt.24/02/2024 passed by the Assistant Commissioner (ST), M.G. Road- S.D. Road Circle, Hyderabad.

*****

We submit that aggrieved by the Revised assessment order no.255 dt.24/02/2024 passed by the Assistant Commissioner (ST), M.G. Road- S.D. Road Circle, Hyderabad for the tax period April'2015 to June'2017 under the TVAT Act, 2005, we are filing appeal before your Hon'ble Authority. For admission of appeal, we have to pay 12.5% of the disputed tax as under:-

Tax disputed in the appeal	Rs.5,58,808/-
12.5% disputed tax	Rs.69,851/-

We submit that aggrieved by the assessment order in Form VAT 305 dt.08/05/2018 passed by the Deputy Commercial Tax Officer, Bowenpally Circle, Hyderabad for the years 2015-16 and 2016-17 we have filed first round of appeal before this Hon'ble ADC (CT), Punjagutta Division, Hyderabad by paying Rs.69,851/- towards 12.5% of the disputed tax. This Honourable ADC remanded the appeal vide order No.2412 dated 28/12/2020. We submit as per the direction of the ADC, the Assistant Commissioner(ST) passed the consequential order dated 13/07/2022 levying same tax of Rs.5,58,808/-. Against the said order we have also filed appeal before your Hon'ble Authority . The ADC vide order No.142 dt.14/03/2023 has remanded the appeal.

We submit that consequent on the remand the Assistant Commissioner(ST) passed the present Revised assessment order dated 24/02/2024 levying same tax of Rs.5,58,808/-. Against the said order we are filing the appeal. As per the revised order we have already paid the 12.5% of the disputed tax amount and we need not pay anything now.

In view of the above submissions we request to kindly admit the appeal.

Yours truly,

for Serene Constructions ~~LLP~~

SERENE CONSTRUCTIONS SEC'BAD

Encl.: As Above

BEFORE THE HON'BLE APPELLATE JOINT COMMISSIONER (ST), PUNJAGUTTA DIVISION, HYDERABAD

No. 2024

AGAINST

Revised Assessment order No.255 dt.20-02-2024
On the file of the

M/s. Serene Constructions LLP, 5-4-187, 3&4, 2nd Floor, Soham Mansion, M.G. Road, Secunderabad.
.... Appellant

Versus

The Assistant Commissioner (ST), M.G. Road- S.D. Road Circle, Begumpet Division, Hyderabad
... Respondent

I, ______________________________________ of the Appellant in the above appeal/petition do hereby appoint and retain

G.N.G. Shankar, Advocate

Advocates of the High Court to appear for me /us in the above appeal/petition and to conduct and prosecute (or defend) the same and all proceedings that may be taken in respect of any application connected with the same or any decree or order passed therein, including all applications for return of documents or the receipt of any moneys that may be payable to me/us in the said appeal/petition and also to appear in all applications for review of judgment.

* M. J. B.

SERENE CONSTRUCTIONS SEC'BAD

I certify that the contents of this Vakalat were read out and explained in (**English**) to the executants or executants who appeared perfectly to understand the same and made his/her/their signatures or marks in my presence.

Executed before me on this the _____ day of April'2024

ADVOCATE ::Hyderabad

S.R.No. District

BEFORE THE HON'BLE
APPELLATE JOINT COMMISSIONER (ST),
PUNJAGUTTA DIVISION, HYDERABAD

Appeal No.

On the file of the

Revised Assessment order
No.255 dt.24-02-2024

VAKALAT

ACCEPTED

G.N.G.Shankar

Advocate for Petitioner/Appellant

Dated

Advocate for Respondent

Address for Service of the said Advocate is at

G.N.G.Shankar
Advocate
H.No.3-6-520, Flat No.303, 'ASHOK A SCINTILLA'
Opposite to Malabar Gold Show Room
Himayatnagar Main Road, Hyderabad -500029
M.No.9391032848/ 040-40248935 & 36