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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 : 36607622962
 3. Name & Address : M/s. Nilgiri Estates,
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 : 14/02/2025
 5. Date of filing of appeal : 13/03/2025
 6. Reasons for delay (if applicable enclose a
separate sheet : Not Applicable
 7. Tax Period / Tax Periods : July'2015 to June'2017/VAT
 8. Tax Office decision / assessment Order No. : Revised assessment order
Date. in A.O.51 dt.11/02/2025 passed by
the 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 : NIL

If rate of tax is disputed

 - a) Turnover involved : Rs.16,03,22,162-00
 - b) Amount of tax disputed : Rs.1,57,41,135-00
 11. 12.5% of the above disputed tax paid : Rs.19,67,642 (Letter enclosed)
- Note:** Any other relief claimed : Other grounds that may be urged at the
time of hearing.



**COMMERCIAL TAXES DEPARTMENT**
Government of Telangana

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(OR)

Challan Number : [Get e-Receipt](#)

CTD Transaction ID : 36250313530958

Type of TAX : VAT

TIN : 36607622962

Name of the Firm : NILGIRI ESTATES

Tax Purpose : Appeal Fee before ADC

Tax Period : Jul,2015-Jun,2017

Amount : 1000

Head of Account : 0040001020005000000NVN

Bank Name : HDFC

Bank Acknowledgement Number : Q6C1pq3Hk40X19

Challan Number : 6404509758

Bank Status : SUCCESS

Date Of Payment : 13-03-2025



COMMERCIAL TAXES DEPARTMENT
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Print e- Receipt for e-PAYMENT

ACT :

CTD Transaction ID :

(OR)

Challan Number :

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CTD Transaction ID : 36180522597005

Type of TAX : VAT

TIN : 36607622962

Name of the Firm : NILGIRI ESTATES

Tax Purpose : Disputed Tax Demand Paid before ADC (Admission)

Tax Period : Jul,2015-Jun,2017

Amount : 1967642

Head of Account : 0040001020005000000NVN

Bank Name : SBI

Bank Acknowledgement Number : CKF9579545

Challan Number : 1800332587

Bank Status : SUCCESS

Date Of Payment : 22-05-2018

FORM APP 400
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 - b) Amount of tax disputed : Rs.1,57,41,135-00
11. 12.5% of the above disputed tax paid : Rs.19,67,642 (Letter enclosed)

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

(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.


Signature of the Appellant & Stamp

Date of declaration :

Name :
Designation :

Please Note: A false declaration is an offence.

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

	03	2025
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02	TIN	36607622962
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03. Name M/s. Nilgiri Estates,
Address: 5-4-187, 3&4, 2nd Floor,
Soham Mansion, M.G. Road,
Secunderabad.

04.	Tax period	July'2015 to June'2017/VAT
05.	Authority passing the order or proceeding disputed.	Revised assessment order No.51 dt.11/02/2025 passed by Assistant Commissioner (ST) M.G. Road - S.D. Road Circle, Begumpet Division, Hyderabad.
06.	Date on which the order or proceeding was Communicated.	14/02/2025
07.	(1) (a) Tax assessed (b) Tax disputed (2) Penalty / Interest disputed	Rs.1,57,41,135/- Rs.1,57,41,135/- NIL
08.	Amount for which stay is being sought	Rs.1,57,41,135/-
09.	Address to which the communications may be sent to the applicant.	M/s. Nilgiri Estates, 5-4-187, 3&4, 2 nd Floor, Soham Mansion, M.G. Road, Secunderabad.

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 assessee 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".

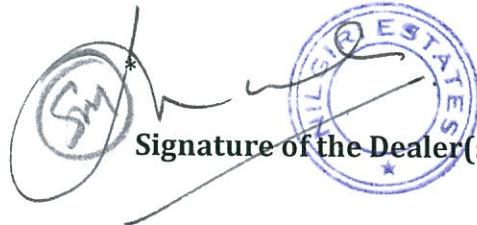
Copy of the High Court order mentioned above is attached herewith

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.1,57,41,135/- 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 March'2025

 **Signature of the Dealer(s)**

Signature of the Authorised Representatives if any

Nilgiri Estates

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

Tax Period: July, 2015 to June, 2017/VAT

Statement of Facts:-

- 1) The appellant is a registered VAT dealer engaged in the business of construction and selling of independent residential villas and is an assessee on the rolls of the CTO, MG Road Circle, Hyderabad with TIN36607622962. The appellant opted to pay tax @ 1.25% under Section 4 (7) (d) of the TVAT 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 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 villa. The appellant has paid VAT @ 1.25% on the total consideration received from these three components of the agreement.
- 3) Claiming authorization from the DC (CT), Begumpet division the CTO, Marredpally Circle (for short CTO) issued notice of assessment in Form VAT 305 A dated 07-03-2018 proposing tax of Rs.2,47,28,037/- on the contractual receipts under Section 4 (7) (a) read with Rule 17 (1) (g) of VAT Rules by allowing standard deduction during the tax period July, 2015 to June, 2017.
- 4) The appellant has filed detailed objections to the show cause notice by claiming that they are liable to tax under Section 4 (7) (d) of the Act only and not under Section 4 (7) (a) of the Act. However without properly considering the objections filed the learned CTO confirmed the proposed levy under Section 4 (7) (a) read with Rule 17(1)(g) after allowing standard deduction of 30% on a turnover of Rs. 16,03,22,162/- demanding a tax of Rs. 1,57,41,135/-.

- 5) Aggrieved by such assessment order, appellant preferred appeal before this Honourable Authority. On a consideration of the grounds and the documents, this Honourable authority has set aside the said assessment order and remanded the matter with specific directions to the assessing authority vide order No.432 dated 27/02/2019. The learned Assistant Commissioner (ST)(FAC), M.G. Road-S.D. Road Circle (for short AC) passed the consequential order No.17546 dated 13/07/2022 raising the very same demand of **Rs.1,57,41,135.**
- 6) Against the consequential order, appellant preferred appeal before this Honourable Authority. On a consideration of the grounds and the documents, this Honourable authority has set aside the said assessment order and remanded the matter with specific directions to the assessing authority vide order No.144 dated 14/03/2023.
- 7) On such remand, the jurisdictional authority ie., the Assistant Commissioner(ST), M.G. Road-S.D. Road Circle (for short AC) issued show cause notices dated 11/09/2023, 05/10/2023, 31/10/2023 and 6/11/2023 to produce books of accounts to pass consequential orders. The appellant has filed the reply vide Department acknowledgment dt.18/03/2024. However without properly considering the objections and arguments the learned AC passed the revised assessment order No.51 dated 11/02/2025 raising the very same demand of **Rs.1,57,41,135.**
- 8) Aggrieved by such re-assessment order, appellant prefers this appeal on the following grounds, amongst others:-

Grounds of Appeal:-

- a. 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 ADC.
- b. In order to give effect to the remand directions of the Appellate Deputy Commissioner (CT), the AC, ST, M.G.Road-S.D.Road Circle

has issued a show cause notice, and the appellant filed detailed objections on dt.15/03/2024, which is also acknowledged by the Department on 18/03/2024. Copy of the acknowledgement is attached herewith. However, the learned AC, without considering the letter of objections and records and also without giving the opportunity of a personal hearing, passed the re-assessment order dt.11/02/2025, which is highly illegal.

- c. The appellant reliance is placed in a decision rendered by the Honourable High Court for the State of Telangana in the case of M/s Sri Ridhie Bakers Vs The State of Telangana (W.P.No.21998 & 21976 of 2020, dated 22-12-2020, wherein the Honourable High Court observed and held as under:

"2. As regards the period from April, 2016 to March, 2017, it is the contention of petitioner that after receiving show-cause notice dt.07.06.2019 from 2nd respondent, the petitioner filed replies dt.17.06.2019, dt.21.06.2019 and also dt.03.02.2020 enclosing copies of C-Forms and E1-Forms; that petitioner had also requested for personal hearing but without providing any personal hearing to petitioner and without considering any of the replies submitted by petitioner, the impugned assessment order was passed ignoring supporting material.

3. As regards the Assessment Order dt.29.02.2020 for the period April, 2017 to June, 2017 also, the petitioner contends that it had given responses on 17.06.2019 and 21.06.2019 apart from 03.02.2020 MSR,J & TA,J wp_21998&21976_2020 enclosing C-Forms and E1-Forms and that these were also not considered by 2nd respondent; the impugned Assessment Order was passed; and that personal hearing was also not provided to petitioner by 2nd respondent for both the above tax periods.

4. Sri M. Govind Reddy, learned Special Counsel for Commercial Taxes, appearing for respondents, is unable to explain why the 2nd respondent had not adverted to the contents of the responses given by petitioner to the show-cause notices issued to it in the impugned Assessment Orders.

5. The whole purpose of issuing the show-cause notice is to invite a response from the petitioner / assessee; and when such responses have been submitted along with supporting material, it is the duty of 2nd respondent to consider the same. The 2nd respondent cannot ignore the same and pass the impugned Assessment Orders.

6. Accordingly, the Writ Petitions are allowed; the impugned A.O.No.18294 dt.29.02.2020 passed by 1st respondent for the period April, 2016 to June, 2017 under the Central Sales Tax Act, 1956 and A.O.No.18311 dt.29.02.2020 passed by 1st respondent for the period April, 2017 to June, 2017, are both set aside; the matters are remitted to 2nd respondent for fresh consideration; the 2nd respondent is directed to provide a personal hearing to petitioner and consider the responses submitted by petitioner referred to above along with supporting MSR,J & TA,J wp_21998&21976_2020 ::3:: material; and the 2nd respondent shall then pass reasoned orders and communicate the same to petitioner."

- d. The appellant submits that the learned AC ought to have given one more notice to the appellant by extending the opportunity of a personal hearing after the submission reply dt.15/03/2024 and before passing the impugned order. However, the impugned order is passed in haste. 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 a strong case on merits.
- e. Without prejudice to the above submissions the appellant submits as under.
- f. 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.
- g. 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.

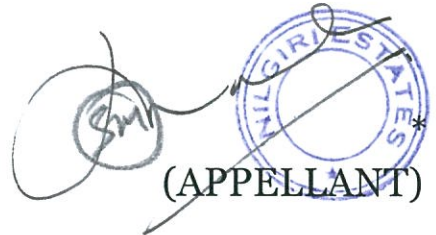
- h. Appellant submits that the learned CTO issued a notice of assessment that the appellant has not opted for composition by filing Form VAT 250 and in the absence of detailed books of account the appellant is proposed to be taxed under Section 4 (7) (a) read with Rule 17 (1) (g) by allowing standard deduction. The learned CTO has not shown computation for arriving at the tax of Rs. 2,42,33,973/- in the notice even though he has extracted the turnovers as per the returns and as per the books.
- i. In the reply submitted the appellant has clearly stated that at the time of commencement of business, it has filed form VAT 250 manually in the office of the CTO, MG Road Circle opting for composition under Section 4 (7) (d) of the Act. In the reply filed to the notice the appellant has clearly stated that the appellant could not trace out the acknowledged copy as the concerned accounts employees have left the firm and that it has paid VAT @1.25% at the time of registration of villas/flats and further that it has not claimed any Input Tax Credit in the returns filed. The appellant has also submitted that it has maintained all books of account and as such the appellant may be taxed under Section 4 (7) (a) by allowing input tax credit. Though acknowledged copy of form VAT 250 could not be traced, still the circumstantial evidence ie., paying tax @ 1.25% and non-claim of ITC, would amply prove that the appellant has opted for composition scheme.
- j. The learned CTO in the assessment order stated that onward filing of Form VAT 250 electronically was implemented since 2012 and if the appellant is ignorant of this facility, it must produce the copy of VAT 250, but it had failed to file a copy of Form VAT 250. The learned CTO proceeded to levy tax under Section 4(7) (a) under standard deduction method only on the ground that the appellant failed to file Form VAT 250.
- k. Appellant submits that when the appellant has sincerely affirmed before the learned CTO that Form VAT 250 filed

manually could not be traced, as the same was filed in the year 2015 at the time of commencement of business i.e. 01-07-2015. The learned CTO ought to have understood that the appellant ought not have paid tax @1.25% on the total receipts unless it has filed Form VAT 250 which is also evidenced by the fact that he has not claimed input tax credit. It follows from this that the learned CTO has hastily concluded assessment proceedings.

- l. In any case it is submitted that filing of Form 250 is only an intimation that the appellant intends to discharge his tax liability on the turnover relating to construction and selling of villas/apartments under composition method. All the other conditions that are required to be followed for claiming the benefit of composition scheme have been duly followed by the appellant such as non-claiming of input tax credit, paying tax @ 1.25% at the time of registration of the villas etc. The appellant therefore submits that he has opted for composition scheme for payment of VAT.
- m. It is respectfully submitted that even under the present GST period, filing of TRAN 1 is to be made online. But in the case of Hon'ble Allahabad High Court Judgment in M/s.Vihan Motors, Muzafarnagar TRAN 1 is filed manually and requested the GST department to give credit for the tax which they are eligible as per law. On refusal to give credit the dealer filed writ petition before the Honourable High Court and the Honourable High Court in Writ Tax No.774/2018 has given a direction to the respondents to process the manual claim of credit filed by the petitioner in accordance with law. The appellant therefore submits that filing of Form VAT 250 is required to be considered. Filing of form VAT 250 is only procedural in nature. Such filing can be evidenced through other means also.
- n. Without prejudice to the above contentions it is submitted that levy of tax on the appellant by following Rule 17 (1) (g) is not correct as the appellant even in reply to the show cause notice has categorically mentioned that they are maintaining

the regular books of accounts and based on the books the net tax liability has to be arrived. However the assessing authority without properly considering this plea of the appellant has passed the impugned proceedings which are therefore bad in law and are against the principles of natural justice. The appellant submits that the tax liability under the VAT Act is required to be calculated by following the procedure prescribed under Rule 19 of the TVAT Rules.

- o. In view of the above grounds and other grounds that may be urged at the time of hearing the appellant prays the Honourable Appellate Deputy Commissioner to set aside the impugned order of the learned AC as illegal and allow the appeal.


(APPELLANT)

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

Appeal No.

AGAINST

Revised assessment order No.51 dt.11/02/2025

On the file of the

M/s. Niglgiri Estate, Soham Mansion, Mahatma Gandhi Road, Secunderabad Appellant

Versus

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

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

- 1. M.Ramachandra Murthy, Advocate**
- 2. 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.

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 March'2025

ADVOCATE ::Hyderabad

District

No. OF

1) M. Ramachandra Murthy 2) G.N.G.Shankar
Advocate 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