

RAMACHANDRA MURTHY
CHARTERED ACCOUNTANT

Flat No.303, ASHOKA SCINTILLA
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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. Alpine Estate., Hyderabad.
- for the Period 2013-14/VAT - reg.

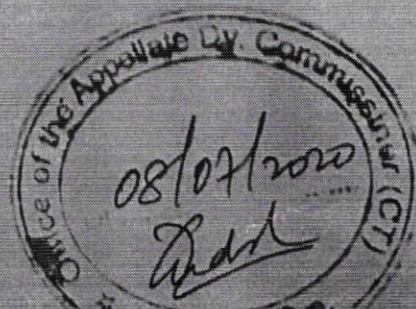
Please find enclosed herewith the following appeal papers:

1. Form -APP 400 2 copies.
2. Grounds of Appeal 2 copies.
3. Challan bearing No.2000398656 for Rs.1,000/- dt.07/7/2020 towards appeal fees.
4. A.O.No.52195 dt.31/03/2020 passed by the Assistant Commissioner (ST) MG Road - S.D.ROAD, Circle, Begumpet Division Hyderabad (in original) along with Xerox copy.
5. Copy of the letter relating to proof of payment of 12.5% disputed tax.
6. Form APP 400A
7. Form APP 406 2 copies.
8. Form -565 (Authorization).

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

Thanking you,
Yours sincerely,

M. Ramachandra Murthy,
Chartered Accountant.



FORM APP 400
FORM OF APPEAL UNDER SECTION 31
[See Rule 38(2)(a)]

1. Appeal Office Address : The Appellate Dy. Commissioner (CT)
Punjagutta Division, Hyderabad
 2. TIN/GRN : 36635086045
 3. Name & Address : M/s. Alpine Estates,
5/4/187/3&4, 2nd Floor, M.G. Road,
Secunderabad – 500 003.
 4. I wish to appeal the following decision /
assessment received from the tax office on : 08/06/2020
 5. Date of filing of appeal : 08/07/2020
 6. Reasons for delay (if applicable enclose a
separate sheet : Not Applicable
 7. Tax Period / Tax Periods : 2013-14/VAT
 8. Tax Office decision / assessment Order No. : Assessment order No.52195 (Form VAT 305)
dt.31/03/2020 passed by
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 : Rs.2,72,73,358 + 20,74,155 =Rs.2,93,47,513@ 5%
 - b) Tax on the disputed turnover : Rs.13,63,668 + 1,03,708 = **Rs.14,67,376/-**

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.1,83,422/-
- 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.

: 2000393377

b)Date

: 04-07-2020

c)Bank / Treasury

: AXIS BANK

d)Branch Code

: -----

e)Amount

: 1,83,422/-

TOTAL

: Rs. 1,83,422/-

Declaration:

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

For ALPINE ESTATES
*
Partner

Signature of the Appellant & Stamp

Date of declaration

Name : Soham Satish Modi
Designation : Managing Director

Please Note: A false declaration is an offence.

M/S. ALPINE ESTATES
M.G. Road, Secunderabad – 500 003.

TAX PERIOD: 2013-14/TVAT ACT

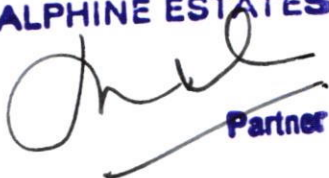
STATEMENT OF FACTS:-

- a. The appellant is a registered VAT dealer on the rolls of the CTO, MG Road Circle, Begumpet Division, Hyderabad, engaged in the business of constructing and selling apartments, villas etc. The appellant has opted for composition scheme of payment of tax as per Section 4 (7) (d) of the TVAT Act for payment of tax on the turnover relating to constructing and selling apartments.
- b. Upon receiving the authorization from the Deputy Commissioner, Begumpet Division, The Assistant Commissioner (ST), M.G.Road – S.D.Road Circle (herein referred to as 'AC') has conducted the audit of books of account of the appellant for the tax periods 2013-14 and subsequently issued a show cause notice in Form VAT 305A dated 18.3.2020 proposing therein to levy tax of Rs.14,67,376/- under the TVAT Act for the year apart from the tax that was declared and paid in the monthly VAT returns.
- c. It is claimed by the learned AC that the show cause notice was served on the appellant on 20.03.2020 inviting objections within 7 days from the date of receipt of the show cause notice.
- d. However, by claiming that no response is given to the show cause notice within the prescribed time, the learned as confirmed the proposed levy of tax of Rs.14,67,376/- vide his order in Form VAT 305 No.52195 dated 31.3.2020.
- e. Aggrieved by the said assessment order the appellant prefers the present appeal on the following grounds amongst others that may be submitted at the time of hearing of the appeal.

GROUND OF APPEAL:

1. At the outset it is submitted that the impugned assessment order is highly illegal, arbitrary and is passed against the principles of natural justice.

For ALPINE ESTATES


Partner

2. It is submitted that the appellant has produced all the relevant records, books of account in connection with the audit notice issued by the learned AC within the time allowed by him. However, the learned AC without properly understanding the nature of business conducted by the appellant and without proper appreciation of the provisions of the TVAT Act relating to the liability of the builders under the TVAT has issued a show cause notice proposing to levy huge amount of tax of Rs.14,67,376.
3. It is submitted that the appellant is in the business of constructing and selling apartments, villas etc and has opted for composition scheme under Section 4 (7) (d) of the Act for making payment of tax on the turnover relating selling of apartments/villas. It is submitted that as per Section 4 (7) (d) of the Act, the VAT dealer is liable to pay tax only on 25% of the gross amount received or receivable at the rate of 5% and the balance 75% of the gross consideration received is not liable to tax.
4. It is submitted that during the year the appellant has received total consideration of Rs.14,51,91,248/- towards constructing selling apartments/villas and accordingly paid tax of 5% on 25% of Rs.14,51,91,243/- i.e. on Rs.3,62,97,812/- amounting to Rs.18,14,891/- and claimed exemption on the 75% of the turnover of Rs.10,90,93,431/-. However, the learned AC in the show cause notice proposed to levy tax even on this exempted turnover of Rs.10,90,93,431/- by allowing 75% exemption under Section 4 (7) (d) of the Act which is highly illegal. The appellant therefore submits that learned AC has not properly considered the turnovers while issuing show cause notice and the same amount is confirmed without properly rechecking before levying tax. Hence the appellant submits that as the learned AC wrongly proposed to tax on exempted turnover under Section 4 (7) (d) of the Act, the same is liable to be set aside.
5. Rs.82,96,623/-: The appellant submits that the learned AC in the impugned order has levied tax on the above alleged turnover by claiming that there is difference between the turnover reported in monthly VAT returns and the P & L account for the year. The appellant submits that the learned AC is not justified in levying tax on this turnover without allowing sufficient time to the appellant to verify the records and make a reply. It is submitted that this turnover is not liable to tax at all as this income is not relating to sale

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of apartments/villas during the year and the appellant will produce the relevant information at the time of personal hearing.

6. It is also submitted the learned AC is also grossly failed to give sufficient opportunity to the appellant to represent its case. It is submitted that during the period the entire city of Hyderabad is under lockdown and nobody in the private employment is allowed to open the offices. The appellant is not able to file effective reply for these reasons and expecting one more notice from the learned AC for submitting the objections. However, the learned AC without even giving the opportunity of personal hearing concluded in the assessment proceedings in hasty manner and on this ground also the impugned order is liable to be set aside.
7. In view of the above grounds and the other grounds that may be urged at the time of hearing of the appeal, the appellant prays the Honourable Appellate Deputy Commissioner to set aside the impugned assessment order and allow the appeal.

For ALPHINE ESTATES


Partner
(APPELLANT)

APPLICATION FOR STAY OF COLLECTION OF DISPUTED TAX

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

Date Month Year

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

08	07	2020
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02	TIN	36635086045
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03. Name : M/s. Alpine Estates,
Address : 5/4/187/3&4, 2nd Floor,
M.G. Road, Secunderabad – 500 003.

04.	Tax period	2013-14/VAT
05.	Authority passing the order or proceeding disputed.	Assessment order no.52195(Form VAT 305) dt.31/03/2020 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.	08/06/2020
07.	(1) (a) Tax assessed (b) Tax disputed (2) Penalty / Interest disputed	Rs.14,67,376/- Rs.14,67,376/- NIL
08	Amount for which stay is being sought	Rs.14,67,376/-
09.	Address to which the communications may be sent to the applicant.	M/s. Alpine Estates, 5/4/187/3&4, 2 nd Floor, M.G. Road, Secunderabad – 500 003

For ALPINE ESTATES

Signature of the Dealer(s)
Partner

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”.

Hence it is just and necessary that the Appellate Dy. Commissioner (CT) may be pleased to grant stay of collection of the disputed tax of Rs.14,67,376/- pending disposal of the appeal.

VERIFICATION

I, Soham Satish Modi 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 July'2020

For ALPHINE ESTATES

Partner
Signature of the Dealer(s)

Signature of the Authorised Representatives if any