

AO 43298

GOVERNMENT OF TELANGANA
COMMERCIAL TAXES DEPARTMENT

FORM: VAT 305

ASSESSMENT OF VALUE ADDED TAX

[See Rule 25(5)]

Tax Office Address:
Asst. Commissioner (CT) Int. LTU,
O/o The Deputy Commissioner(CT),
Begumpet Division, 6 th floor,
Pavani Prestige, Ameerpet, Hyd - 500 016

Date	Month	Year
06	09	2018

TIN	3	6	1	0	4	9	0	7	1	5	6
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Name : M/s. B & C Estates
Address : 5-4-187/3 & 4, 2 nd floor, Soham Mansion, MG Road, Secunderabad

Sub:- T.VAT Act 2005- M/s.B & C Estates, VAT Audit for the tax period Sept 2013 to June 2017 - Notice in VAT 304 issued - Records produced - Show cause notice Issued and served - Objections called for - Objections filed - Personal hearing attended - Final assessment orders Passed - Reg.

- Ref:-
- 1) This office notice issued in Form VAT 304 dt:2-2-2018
 - 2) Records produced by the dealers on 6-2-2018 and 9-3-2018.
 - 3) DC (CT) Begumpet Divn, Authorisation for Assessment Issued Vide ADM 1C No.2018031205804085189002, dt. 12-3-2018
 - 4) This office show cause notice in form VAT 305 A dt. 12-03-2018 Served on 13-3-2018.
 - 5) Reminder notice for not filing objections vide dt. 21-03-2018 served on 22-03-2018.
 - 5) Personal hearing notice issued on dt. 27-03-2018 served on 27-03-2018
 - 6) Reply dt. 16-05-2018 filed on 18-05-2018
 - 7) Personal hearing notice issued on dt. 10-05-2018 served on 11-05-2018
 - 8) Personal hearing appeared on 28-06-2018

M/s. B & C Estates.5-4-187/3 & 4, 2nd floor, Soham Mansion, MG Road, Secunderabad are registered dealers under the TVAT Act 2005 bearing TIN No. 36104907156 and assesses on the rolls of CTO MG Road Circle, Begumpet Division. They have registered as works contractors engaged in execution of works contract in constructions and selling of residential apartments w.e.f. 1-9-2013, and filed monthly VAT returns in form VAT 200 disclosing the sales turnovers till June 2017.

Authorisation for Audit and conducting Audit:

The Dy. Commissioner (CT) Begumpet authorized Asst. Commissioner (CT) LTU Begumpet Divn, to conduct VAT audit. Accordingly a notice in form VAT 304 dt. 2-2-2018 was issued and served on the dealers. In response to the notice issued, Company authorized person Sri. Jaya Prakash, has produced the records for the VAT period 2013-14(Sept 2013) to 2017-18 (upto June 2017). The records produced were verified with reference to the turnovers reported in VAT returns.

They have produced following records as under:

1. Income Tax returns for the year 2013-14 to 2016-17
2. Details of Form 250 filed
3. Statement of total receipts from the flats purchasers from 2013-14 to 2017-18(upto June 2017) quarter wise report.

FINDINGS OF THE AUDIT

The records produced were verified with reference to the turnovers reported in VAT returns during the tax period from 2013-14(Sept 2013) to 2017-18 (upto June 2017). On verification of the records, the following discrepancies were identified. The details are as under:

1. They dealers have executed works to M/s Vibrant Facades, for Rs. 29,76,550. On verification it is found that they have filed form VAT 250, but the turnovers are not reported in VAT returns. Therefore, it is proposed to levy tax @ 5% on the sales turnovers of Rs. 2976550. Tax Rs. 1,48,827 proposed to levy .

On verification of records, it is observed that the dealers engaged in execution of works contract in constructions and selling of residential apartments and reported sale of flats under section 4 (7)(d) of VAT Act 2005.

Further, it is observed that they have received Rs. 79,06,40,186 from the flats purchasers during tax period 2013-14 to 2017-18 (upto June 2017) but declared Rs.52,26,20,960 in VAT returns. The Rule 17 (4) amended vide GO Ms.No. 124 Revenue (CT-II) Dept dt. 30-6-2017. According to the G.O the clauses of (e) and (i) of Sub-rule 4 of Rule 17 of VAT Rules omitted. This implies that the dealers are liable to pay tax @ 1.25% on the consideration received or receivable. Therefore, it is proposed to assess them and levy tax @ 1.25% on the total amounts received as under:

Year	Total amount received as per books of a/cs	Turnovers declared in VAT returns	Diff. turnovers	Diff. tax proposed to levy
2013-14	7025000	0	7025000	87813
2014-15	49263072	0	49263072	615788
2015-16	243169916	156483251	86686665	1083583
2016-17	406029770	303269604	102760166	1284502
2017-18 (1-4-2017 to 30-6-2017)	85152428	62868105	22284323	278554
Total	790640186	522620960	268019226	3350240

Further, as seen from the records, it is noticed that they have declared sales turnovers in the VAT returns Rs. 52,26,20960 during the tax period 2013-14 to 2017-18 (upto June 2017), but not paid correct taxes due thereon.

Sales t.o. declared Rs. 522620960 tax payable @ 1.25% =	Rs. 65,32,762
(-) tax paid	Rs. 27,91,495

Balance un-paid tax proposed to levy	Rs. 37,41,267

In view of the above, their assessment for the tax period 2013-14 to 2017-18 (upto June 2017) is proposed to assess them and levy the tax as discussed under provisions of the TVAT Act, after obtaining authorization for assessment from the Deputy Commissioner (CT) Begumpet division vide ref. 3rd cited, as under:

Tax proposed to levy on sales t.o. not declared and tax not paid	Rs. 1,48,827
Tax proposed to levy on amount received but not declared	Rs. 33,50,240
Tax proposed to levy on sales t.o. declared but tax not paid	Rs. 37,41,267

Total tax proposed to levy	Rs. 72,40,334

Accordingly a notice in form VAT 305 A dt. 12-3-2018 was issued and served on the dealers on 13-03-2018. Subsequently, reminder notice dt.21-3-2018 was issued for filing of objections within the stipulated time. Further, personal hearing notice dt. 27-03-2018 was also issued as the dealers have not opted to file objections. In response to the personal hearing notice, they have filed reply dt. 16-05-2018 as under:

“we submit that we are in receipt of the notice of assessment of VAT in form VAT 305 A dated 12.3.2018 issued under the provisions of the T VAT Act 2005 (for short Act) for the period from Apr 13 to June 17 proposing to demand tax of Rs. 72,40,334. We request to kindly consider our objections on the following grounds:-

We are registered VAT dealer on the rolls of the CTO MG Road Circle, Hyderabad. We have commenced business with effect from 18-8-2014. We are engaged in the business of constructing and selling residential flats. It has been observed in the notice that we have not opted to pay tax under composition scheme and that therefore we have to pay tax under Section 4 (7)(d) of the Act read with Rule 17(1)(g) of the VAT Rules. GO Ms. No. 124 Revenue dated 30.6.2017 has also been mentioned by stating that we have to pay tax on the consideration received.

At the outset we submit that computation for arriving at the above tax due has not been mentioned in the notice. Be that as it may, we submit that at the time of commencement of business, we had filed form VAT 250 through online to CTO MG Road Circle opting for composition under Section 4 (7) (d) of the Act. We have paid VAT @ 1.25% at the time of registration of villas.

During the period of assessment we declared sale consideration in P & L as per GO Ms. No. 124 Revenue (CT-II) Dept dt. 30th June 2017. According to the G.O. the clauses of (e) and (i) sub-rule of 4 of Rule 17 of VAT Act 2005 obtained. This impact VAT calculation given as per P & L statement given below:

2015-16	Rs. 16,34,76,916
2016-17	Rs. 36,35,71,303
2017-18(upto 30 th June 2017)	Rs. 8,51,52,428
Total	Rs. 61,20,00,647

LESS:

VAT Paid and turnovers declared in VAT returns	Rs. 42,96,71,400
Diff. Tax Due on	Rs. 18,23,29,247
Tax Rate @ 1.25%	Rs. 22,79,116

We request to kindly consider these objections and reduce the proposed levy from Rs. 72,40,334 to 22,79,116/-.

We also request to afford us an opportunity of personal hearing before conclusion of the proceedings. “

The dealers have filed above reply dt. 16-5-2018 was filed in this office on 18-5-2018. On their request personal hearing notice dt.10-05-2018 was issued and served on 11-05-2018. In response Sri Sambhashiva Rao, Sr.Manager Accounts and Sri Rajender, Manager Accounts have appeared on 28-6-2018 and reiterated the contents filed vide their reply dt. 16-5-2018 and also reiterated to pay the differential tax on sales turnovers between P & L statements and VAT returns.

As seen from the above reply dt. 16-5-2018 and personal hearing on 28-6-2018, they have no objection to levy differential tax Rs. 22,79,116=00 on sales turnovers declared in VAT returns and P & L account statement. They have not filed any objections on differential tax proposed between total receipts from the customers Rs. **79,06,40,186=00** and the turnovers declared in VAT returns **Rs. 42,96,71,400=00**. They have also submitted copies of agreements entered with clients / flat purchasers and amounts received details and also details of registrations done upto June 2017. According to their books of accounts they have received total amount Rs. 79,06,40,186=00 from 2013-14 upto June 2017. They have registered 110 flats up to 30-06-2017 and submitted details of tax paid @ 1.25% i.e. Rs. 53,70,893=00 at the time of registrations of flats to the sub-registrar on a sales turnovers of Rs. 42,96,71,400=00.

The dealers have filed objection in response to the proposed levy of Rs. 1,48,827=00 basing on the form VAT 250 filed dt. 9-8-2016 vide Form No. 201608099795. They have contended that there was neither such agreement entered nor executed such work in this firm. This may be the erroneous work of our Accountant and requested to withdraw the proposed levy of tax. The contention of the dealers is verified with their books of accounts and found no such transactions in the regular books of accounts. Therefore, the proposed tax of Rs. 1,48,827=00 is withdrawn.

In view of the above documentary evidences, out of total receipt of Rs. **79,06,40,186=00** they have declared **Rs. 42,96,71,400=00** in VAT returns. Therefore, they are liable to pay differential tax **Rs. 45,12,109=00** on the remaining receipts of Rs. **36,09,68,786=00**.

Further, they have enclosed a separate sheet to the reply filed vide letter dt. 16-5-2018 that the details of 110 flats sold in the entire project upto 30-06-2017 for cost of Rs. 429671400=00 and tax Rs. 53,70,893=00 @ 1.25% paid at sub-registrar office, Malkanjigiri, Ranga Reddy Dist. Further, they have submitted details of cheque No. And date of tax payments at the time of flat registrations. The same is sent for cross verification to the CTO M G Road circle.

In view of the above, their assessment is completed for the tax period from 1-9-2013 to 30-6-2017 by levying following taxes as under:

Total amount received from 1-9-2013 to 30-6-2017	Rs.79,06,40,186	tax @1.25%	Rs. 98,83,002
(-) Flats registered and tax paid at Sub-registrar office upto 30-06-2017	Rs.42,96,71,400	tax@1.25%	Rs. 53,70,893
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Tax levied on differential turnovers of	Rs. 36,09,68,786	tax @1.25%=Rs.	45,12,109
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Total tax levied			Rs. 45,12,109

From the foregoing it indicates that the dealer has committed an offence under the provision of APVAT Act, 2005 and the penalty proceeding as per the provisions of APVAT Act will be issued separately.

*A The amount of Rs. 45,12,109=00 shall be paid within 30 days of receipt of this order. Failure to make the payment will result in recovery proceedings under the AP VAT Act 2005.

THE PAYMENT OF THE AMOUNT SPECIFIED AT 'A' ABOVE MUST BE MADE TOGETHER WITH DUPLICATE COPY OF THIS ORDER AND PAYMENT BOXES ON THAT COPY COMPLETED.

An Appeal against this order can be filed before the Appellate Deputy Commissioner Panjagutta within 30 days of receipt of this order.


Assistant Commissioner (CT), LTU
Begumpet Division, Hyd.

To:
M/s. B & C Estates
5-4-187/3 & 4, 2nd floor,
Soham Mansion, MG Road, Secunderabad