

PRESIDENT
Vimal Shah

IMMEDIATE PAST PRESIDENT
Paras Gundecha

PRESIDENT-ELECT
Dharmesh Jain

VICE PRESIDENTS
Mayur Shah
Nayan Shah
Deepak Goradia
Boman Irani

HON. SECRETARY
Nainesh Shah

HON. TREASURER
Sukhraj Nahar

CEO
S. Shahzad Hussain
I.A.S. (Retd.)

HON. JOINT SECRETARIES
Harish Patel
Ashok Mohanani
Sandeep Runwal
Bandish Ajmera

JOINT TREASURERS
Lakshman Bhagtani
Mukesh Patel

CO-ORDINATORS
Rasesh Kanakia
Jagdish Ahuja
Pujit Aggarwal
Parag Munot

COMMITTEE MEMBERS
Sujal Shroff
Rajan Bandelkar
Vikas Walawalkar
Jayesh Shah
Nayan Bheda
Sanjay Chhabria
Rajendra Chaturvedi

PAST PRESIDENT
Sunil Mantri
Pravin Doshi
Mohan Deshmukh
Mofatraj Munot
Niranjan Hiranandani
Rajni S. Ajmera
G. L. Raheja
Lalit Gandhi
Babubhai Majethia

MCHI-CREDAI UNITS

President, Thane
Shailesh Puranik

President, Kalyan-Dombivli
Johar Zojwala

President, Raigad
Rajesh Prajapati

President, Navi Mumbai
Arvind Goel

Hon. Secretary, Mira Virar City
Shailesh Sanghvi

Ref. No. MCHI/PRES/13-14/006

June 25, 2013

To,
Dr. Nitin N. Kareer (I.A.S.)
Commissioner,
Sales Tax Department
Government of Maharashtra
Mumbai - 400010

Respected Sir,

Greetings from MCHI-CREDAI

First of all let us thank you for giving us an opportunity to hear us at your office on Wednesday, June 26, 2013.

We, the Office Bearers and Members of MCHI-CREDAI would like to bring to your kind notice, that we have certain issues and apprehensions about some of the provisions of Sales Tax Act and procedure followed for the assessment for real estate developers.

As per the discussion points we would like to be heard and considered on the issues which are being enclosed herewith this letter.

With Best Regards,
For MCHI-CREDAI



Vimal Shah
President

Encl: As above

Points would like to be heard and considered

1. As per Trade Circular No. 14T dated 06.08.2012, once the developer submits his application for administrative relief alongwith compounding fee and pays taxes with returns for unregistered period, the concerned Jt. Commissioner shall pass the order granting administrative relief within two days. There will be no need to give hearing to the dealer. More than 6 months have passed but no orders have been passed for granting administrative relief. On the contrary a lot of details are being asked by Asst. Comm. Of Sales Tax - (Regn.) to grant the Admn. Relief. In all pending application the Admn. Relief may be directed to be granted forthwith as per the Circular.
2. Many Developers were visited by Asst. Commissioner (Investigation). In many cases where notices for assessment were issued by Asst. Comm. (Investigation) the further notices are received from other offices for Business Audit/ Assessment/ Issue based Audits. Thus there is an overlapping of the proceedings. The other officers be directed to transfer the pending proceeding to the concerned Asst. Comm. (Investigation).
3. In many cases where notices for assessment were issued by Asst. Comm. (Investigation) further notices are received from other offices for Issue based Audit wherein Input Tax Credit (ITC) claimed for purchases made from alleged suspicious dealers is proposed to be disallowed. Since the proceedings are pending before the Asst. Comm. (Investigation), the officers may be directed to transfer such proceedings to the Asst. Comm. (Investigation) to avoid multiplicity of the proceedings.
4. As SLP is pending in Supreme Court regarding methods to be followed (as per Act, Government has recommended Three methods under Rule 58(1) & we are going as per G.P. Method) so till decision comes the assessments proceedings to be kept in abeyance ?
5. Request be made to the Sales Tax Commissioner to make the rate of VAT for the period 20.06.2006 to 31.03.2010 at flat 1% of agreement value as also the customers during that period state that they are penalized by high rate of VAT of 5% less all set off available, the effective rate being 2% to 3% Even the customers to whom possession is given are agreeable to pay 1% of Agreement Value.

| | Our stand | Dept's stand |
|---|---|---|
| 1 | Deduction is claimed in respect of advance received before 20/06/2006 and agreement registered after 20/06/2006 | No deduction of advance received before 20/06/2006. (refr-FAQ-16) |
| 2 | We have claimed deduction of %age of work done before registration. | It is not allowed, full value of sale is taxable and full exepnses is allowed.(refr-FAQ-16) |
| 3 | Advance received before agreement - taxable on receipt basis :- (e.g. -> Rs.20000/- recd in Mar, 09 and agreement in Oct, 09) | At time of agreement, advance is taxable on execution of agreement (Rs.20000/- is taxable on month of Oct, 09) |
| 4 | Land Cost acquisition cost / Land R R rate Stamp duty / Registration Fee for land agreement Expenses related to land cost - (e.g. - Interest on loan for land /project, depvlopment charges, infrastructre charge, oter related exp.,etc) | allowed allowed not allowed |
| 5 | As per rule 58(1A) - (a) In case of normal contract - Profit on supply of labour cost and services | Profit on supply of labour cost and services are allowed as deduction along with expenses |
| | (b) In case of Developer - Profit (%) on Construction cost / or % of sale value | it not allowed |

Our Submission :-

| | Condition - I | Condition - II | Condition - III | Total |
|--|---------------|----------------|-----------------|----------------|
| Booking Date | 10/10/2005 | 5/5/2006 | 7/1/2006 | |
| Registration Date | 10/31/2005 | 6/25/2006 | 7/5/2006 | |
| Total Sale Consideration | 1000000 | 1500000 | 1500000 | 4000000 |
| Less : Advance received before 20/06/2006 | 300000 | 400000 | 0 | 700000 |
| | 700000 | 1100000 | 1500000 | 3300000 |
| Less : %age of work done | 280000 | 440000 | 600000 | 1320000 |
| Net Total Income (A) | 420000 | 660000 | 900000 | 1980000 |
| Less : - deduction | | | | |
| Land Cost :- | | | | |
| Land Cost +FSI Cost or Land cost as per R R rate | 147000 | 231000 | 315000 | 693000 |
| Interest cost + other related land cost | 16800 | 26400 | 36000 | 79200 |
| Construction Expenses | 126000 | 198000 | 270000 | 594000 |
| GP on Net total Income | 63000 | 99000 | 135000 | 297000 |
| Total deudtion (B) | 352800 | 554400 | 756000 | 1663200 |
| Net Amount payable for MVAT | 67200 | 105600 | 144000 | 316800 |

As per Department :-

| | Condition - I | Condition - II | Condition - III | Total |
|--|---------------|----------------|-----------------|----------------|
| Booking Date | 10/10/2005 | 5/5/2006 | 7/1/2006 | |
| Registration Date | 10/31/2005 | 6/25/2006 | 7/5/2006 | |
| Total Sale Consideration | 1000000 | 1500000 | 1500000 | 4000000 |
| Less : Advance received before 20/6/2006 | 300000 | 0 | 0 | 300000 |
| | 700000 | 1500000 | 1500000 | 3700000 |
| Less : %age of work done | 0 | 0 | 0 | 0 |
| Net Amount payable for MVAT | 700000 | 1500000 | 1500000 | 3700000 |
| Less : - deduction | | | | |
| Land Cost :- | | | | |
| Land Cost +FSI Cost or Land cost as per R R rate | 245000 | 525000 | 525000 | 1295000 |
| Interest cost + other related cost | 0 | 0 | 0 | 0 |
| Construction Expenses | 210000 | 450000 | 450000 | 1110000 |
| GP on Net total Income | 0 | 0 | 0 | 0 |
| Total deudtion (B) | 455000 | 975000 | 975000 | 2405000 |
| Net Amount payable for MVAT | 245000 | 525000 | 525000 | 1295000 |