Read : Application for determination dt.24.01.2013 by M/s. Shree Constructions holder of TIN-27200931523V.

Heard: Nobody attended.

PROCEEDINGS

(under section-56(1) of the MVAT Act, 2002 read with rule-64(3)(d) of the MVAT Rules, 2005)

No.DDQ-11/2013/Adm-6/10/B- 8 **Mumbai, dt:** 28/11/2014

M/s. Shree Constructions ('the applicant') carrying on business at 60, Shivchhaya, Erandvana, Pune-411 004, had requested determination of the following questions:

1. *"Whether the applicant is dealer with in the meaning of Sec. 2(8) & liable to registration by virtue of entering to agreement for sale of tenement while the same were under construction on the ground that, it tantamount to transferring property in goods while in the execution of works contract? (Sec. 56(1)(b)*
2. *Whether the said transaction is a sale under the works contract within the meaning of Sec. 2(24) of the MVAT Act, & if so then how is the sale price determined U/R 58 read with Rule 58 (1A), of MVAT Rules, 2005, especially in view of the fact that, a very significant proportion of the construction of the said building was completed by the time the contract was entered into?*
3. *Stamp duty and Vat is recoverable by state Government. In the Impugned transaction Stamp Duty has been paid amounting to Rs.1,99,000/-; if Vat is liable to pay in this transaction whether amount paid by way of stamp duty can be adjusted or set off against the payment of Vat?"*

02. By letter dated 03.11.2014 the applicant was duly and properly apprised of the steps taken by the Sales Tax Department, Maharashtra State, to adequately clarify such and other issues as are involved in the present proceedings. The applicant was also apprised of the Hon.Bombay High Court and the Hon.Supreme Court judgements on the issues involved. A view was expressed therein that the determination proceedings may not be required in view of inherent provisions, abundant clarification and rulings of the Hon.Courts. However, the applicant was also requested to attend for a hearing in the matter on Thursday, the 27th November 2014 in the event that the view as expressed was not acceptable. It was duly cautioned that in the event of failure to attend the hearing, it would be presumed that the applicant has nothing to say in the matter and the application would be liable to be rejected summarily in terms of rule-64(3) of the Maharashtra Value Added Tax Rules, 2005.

03. The applicant has failed to attend on the aforesaid date either in person or through his authorized representative. In view thereof, it is inferred that the applicant has nothing to say in the matter and that the view as expressed is acceptable to him. The application, therefore, requires to be rejected summarily.

ORDER

(under section-56(1) of the MVAT Act, 2002 read with rule-64(3)(d) of the MVAT Rules, 2005)

No.DDQ-11/2013/Adm-6/10/B- 8 **Mumbai, dt:** 28/11/2014

For reasons as discussed in the body of the order, the application for determination dt24.01.2013 is rejected summarily.

(DR. NITIN KAREER)
COMMISSIONER OF SALES TAX,
MAHARASHTRA STATE, MUMBAI.