

SUBJECT NO:13

**Sub: VUDA-ACCOUNTS- Status of Income tax in the organization-
Submitted for favour of perusal of the Board-Reg.**

AGENDA NOTE

All the UDAs were exempted from Income Tax up to 2002. After the amendment of I.T Act with effect from 1.10.2004, all the UDAs were brought under the I.T purview with effect from 2002-03. Hence, the VUDA has applied for exemption of I.T U/s 12AA of I.T Act under General Public Utility. The Commissioner of Income Tax-I, Visakhapatnam has granted exemption Vide order dated.31.07.2006 with a condition that the surplus of income, if any should be utilized for attainment of the objects and shall not be utilized for any other purpose and shall not be diverted to Government A/c for utilization otherwise. The Registration U/s 12AA was granted with retrospective effect from 1.04.2003 vide orders dated 9.11.2006 of the Commissioner of I.T -I, Visakhapatnam.

The Government has entrusted the work of auction of Government Lands to VUDA under Resource Mobilization to support State Budget and remit the sale proceeds to the Government during the years 2007-08 to 2009-10. Accordingly, the VUDA has auctioned the Government Lands and remitted the Sale proceeds to a tune of Rs.1180.00 Corers to the Government. The I.T department has levied I.T on the sale proceeds of Government lands to tune of Rs.356.41 Crores & Rs.26.19 Crores for the years 2007-08 & 2008-09 respectively on the plea that it is VUDA's income.

Further the I.T Department has cancelled the Registration U/s 12AA Vide its order dated 04.05.2012 on the ground that the assessee was engaged in commercial activity in auctioning the lands to the highest bidders which is a gross violation of its objects and also entered into Joint venture for consideration of commercial properties with top builders of the region. It reopened the IT returns from the assessment years 2005-06 onwards and levied Income Tax.

The Amounts paid to I.T department towards income tax after cancellation of 12AA Registration are as follows.

Sl No	Assessment Year	Total Demand (Revised after re-opening)	Already paid	Balance to be Paid	Remarks
1	2005-06	3,61,13,432	1,80,56,720	1,80,56,712	50% Demand Paid
2	2006-07	17,03,86,323	8,51,93,160	8,51,93,163	50% Demand Paid
3	2007-08	60,42,589	30,21,295	30,21,295	Filed a petition before CIT Appeals
4	2008-09 (Govt. lands)	356,28,06,893	77,48,00,000	278,80,06,893	25% Demand Paid
5	2009-10 (Govt. lands)	26,19,26,500	26,19,26,500	0.00	Attached & Withdrawn by I.T Dept.
6	2010-11	5,91,74,180	2,95,87,090	2,95,87,090	50% Demand Paid
7	2011-12	10,00,00,000	-----	-----	Attached by I.T dept
8	2013-14	4,00,00,000	4,00,00,000	-----	Advance tax paid
Total		423,64,49,917	121,25,84,765	292,99,07,742	

Aggrieved by the cancellation of exemption under 12AA and reopening of income tax returns for the Assessment years 2005-06 to 2009-10 and levy of income tax on sale proceeds of Government lands for the assessment year 2008-09 & 2009-10, the VUDA has approached various judicial forums.

A) The present stage of the cases filed by VUDA in the High Court and ITAT against the Demand raised by the Income tax Department are as follows.

I. High Court

Sl N	Case No.	Case details	Interim orders issued	stage of the case
1	ITTA Nos 590 & 591/2012	VUDA has filed before the High court against the orders of the ITAT,Vsp dt 09.11.2012 relating to levy of income tax on Government lands for the Assessment years 2008-09 & 2009-10		The Appeals have been admitted by the Hon'ble high court and will be finalized after the hearing

2	WP No 5657/2013	VUDA has filed the WP against the assessment order of the assessing officer for the Assessment year 2008-09	Suspension of operation of assessment order is granted	I.T Department has filed vacation stay petition and the W.P is likely to be listed for hearing
3	WP No 39087/2012	VUDA has filed the WP against the provisional attachment order dt 12.12.2012 of the I.T Department U/S 281(B) for Rs.280 Crores	High Court granted interim suspension of the attachment order vide order dt 26.02.2013 in WP MP No 49609 of 2012	Pleadings pending before high court

II I.T.A.T. Visakhapatnam Bench

SI No	Case No.	Case details	stage of the case
1		Filed by VUDA before the ITAT against the cancellation of 12A exemption by the Chief Commissioner of Income Tax	The ITAT (Special bench) has postponed the Appeal twice at the request of standing council of Income Tax department

The Government has issued GO MS No 199 Revenue (Assignment-I) department dt 20.04.2013 wherein the Government has clarified that the sale proceeds are Government receipts, but not the income of VUDA and the VUDA has acted as an agent of Government and also confirmed that the sale proceeds of lands covered in the GO have been credited to the Government Account. When discussed with Advocate Sri A.V.Raghuram about the next course of action to be taken by VUDA on the issue of the GO he has stated that as the above W.P is pending for pleadings further action is to be taken in the matter after completion of proceedings and issue of High Court orders.

B) It is also submitted that the Government of A.P has approved the Schedule Caste sub-plan and Tribal Sub Plan under Act 1 of 2013 dt.24.01.2013 Vide G.O Ms.No.51 of Finance (Expenditure SW) Department dt.11.03.2013. As per the provisions of the above Act, the VUDA has provided Budget Provision towards works under SC & ST components to a tune of Rs.23.47 Corers for the Year 2013-14. The proposal for creation of separate trust for SC & ST welfare under SC & ST Sub plan and transfer some funds to the trust to avail the benefits of income tax act is sent to Government for examination and necessary orders duly getting the opinion of Tax Consultant of VUDA who opined that two separate trusts can be created for the purpose of SCs & STs and these trusts have to be registered independently under section 12A or 10(23) before the Income Tax Authorities for claiming exemption from tax. The funds contributed by VUDA for these trusts can be claimed as Donations U/S 80 G, provided these trusts must also obtain registration form I.T Department U/S 80G.

Hence the Government has been requested vide letter Rc No 40/2013/K4 dt 11-05-2013 to consider for creation of two separate trusts for S.C & S.T components with the HODs of VUDA as trustees and to register independently before the I.T Authorities U/S 12A or 10(23). The orders of the Government in the matter are awaited.

C) Further Sri S.Ravi, Senior Advocate and Sri A.V Raghuram Advocate are appearing in the Income tax matters pending in various judicial forums.

Sri A.V.Raghuram Advocate Hyderabad was paid professional charges Rs.1.00 lakh in ITTA Nos 591 & 592 of 2012 (filed against the orders of ITAT relating to levy of Income Tax on sale of Government lands for the A.Ys 2008-09 & 2009-10), Rs.0.50 Lakhs towards professional charges in WP No 5657/2013 relating to assessment order passed by the assessing officer for A.Y 008-09 and Rs.1.50 lakhs towards 50% of professional charges out of Rs.3.00 lakhs for preparing, filing, appearance before CIT Appeals in respect of Assessment years 2005-06, 2006-07 & 2010-11.

The Board is requested to kindly approve and ratify the payment of above legal charges at "C" and the item at "A" & "B" are submitted for kind perusal.

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Sl No	Subject No	Subject	RESOLUTIONS
12	12	Engg – VUDA – Adoption of Common SoR for the year 2012-13 of AP Engineering Department of Government of AP for preparation of Engineering Estimates and to extend the same procedure annually soon after the release of new SoR for the current year hereafter – Draft subject placed before VUDA for consideration and approval - reg	The proposal is agreed with a strict condition that once a work is tendered with one particular SSR, same should not be changed till the completion of the said work
13	13	VUDA-ACCOUNTS- Status of Income tax in the organization- Submitted for favour of perusal of the Board-Reg.	Perused and ratified the payment made.
14	14	VUDA- Accounts- Sanction of Medical Aid & Discretionary Advance to Sri B.Vishnumurthy, A.O VUDA for kidney transplantation 2 nd time- Approval & Ratification- Reg.	Agreed and Ratified



CHAIRMAN, VUDA


20/12/2013