

January 28, 2010

To: **ALL CONSTITUENT MEMBERS OF EICMA**

Dear Sir/Madam,

Subject: **Submission Date of VAT Returns Electronically**
Assessment of Tax For Late Filing of Return, Outstanding Net Tax & Interest
Assessment of Tax For Late Submission of CST Declaration Forms

We are pleased to attach here below text of notifications & circulars with reference to following Changes made in the VAT & CST Act & rules.

Govt. of W.B. – Finance Department – Revenue – Notification No. 1924-F.T. Dt. 09.12.09

The following amendment has been made in the W.B. Value Added Rules, 2005 –

The Commissioner may, from amongst registered dealers who are required to furnish returns Quarterly, select such dealers on such consideration as he may deem fit & proper, for transmitting Data in the return, electronically.

The dealer so selected will be informed, in writing, about such selection by the Commissioner and the name of the dealer so selected shall be displayed in the web site, www.wbcomtax.gov.in, of the Commercial Tax Directorate.

Every dealer who has been selected shall furnish the return quarterly in appropriate Form within the next English Calendar month from the date of expiry of each quarter –

- a) Firstly by way of transmitting the data in the return in the appropriate Form, either under digital signature or without any digital signature electronically.
- b) Secondly, by way of furnishing the said return in paper form

Where –

- a) the data in return form has been electronically transmitted within the prescribed date, such return and such return in paper form has been furnished within 15 days from the expiry of the English Calendar month in which such return is due to be furnished, the date of transmitting the date in the return electronically through the web site shall be date of furnishing such return:
- b) the data in the return has been transmitted electronically within the prescribed date of furnishing such return but such return in paper form has been submitted after fifteen days from the expiry of the English Calendar month in which such return is due to be furnished, the date when such return in paper form is furnished , shall be deemed to be the date of furnishing such return:
- c) the data in the return has been submitted electronically after the prescribed date, the date when such return in paper form is furnished shall be deemed to be the date of furnishing such returns.

The above rules come in effect from 1st. April 2009.

Directorate of Commercial Taxes – Government of W.B. – Trade Circular No. 12/2009
Dated 09.12.09 – Applicable W.E.F. 01.04.2009

A dealer is required to pay late fees not exceeding rupees two thousand, for each month or part thereof of delay in furnishing returns under the Vat Act, 2003, the appropriate assessing authority is required to determine the late fee amount payable.

There are instances where a dealer has submitted return without payment of late fees in spite of delay in filing return, moreover there have been instances where a dealer has submitted the return without payment of net tax & interest payable according to the return.

The authority upon detection of such cases is required to issue a notice in Form 20 upon the dealer directing the dealer to pay the amount of late fees, net tax & interest as applicable & produce the receipted copy of challan within the date as specified in the notice.

The appropriate authority need not initiate proceedings for assessment of net tax etc. payable by dealer if the dealers makes the payment within the stipulated period mentioned in the notice & submits the challan copy even after the date specified in the notice.

Assessment proceeding already initiated will be dropped if payment is made upon receipt of notice.

The notice in form 20 will not be issued to any dealer after expiry of four months from the day on which a return has been furnished. In such cases the dealer on being informed in writing is required to make the payment to avoid assessment proceedings.

The circular is effective from 1st. Day of December, 2009.

Directorate of Commercial Taxes – Government of W.B. – Trade Circular No. 13/2009
Dated 14.12.2009 W.E.F. 01.12.2009

The CST rules required dealers to furnish declaration in Form C or F or certificate in Form E-I or E-II to the assessing authority within 3 months from the end of the period to which the declaration/certificate relates or within such further time as may be allowed by the authority, failing which assessment proceedings were initiated.

Now, for the period 2007-08, if the declarations are not submitted as required above, a letter may be sent to the dealers giving time of not more than 21 days to either furnish the residual forms or to produce challans showing payment of differential tax with interest to avoid assessment or drop assessments already initiated.

However, the guideline is not applicable in following cases –

1. Cases where Tax under CST Act, 56' has not been paid monthly but quarterly
2. Cases where sales are shown to have been made u/s. 8(6) or 5(3) of the CST Act 56'.
3. Cases where Central Sales or Stock Transfer to outside states were disallowed in earlier years for being fictitious or not supported by necessary transport documents.
4. Cases where there are certain adverse findings by the authorities in regard to tax liability under the W.B Vat or CST Act.
5. Cases where refund under the VAT Act has been claimed by the dealer
6. Cases where a dealer has claimed refund of CST in return after adjustment OF ITC.

For Eastern India Corrugated Box Manufacturers' Association

R.G. Agarwala
Chairman, Excise & Taxation

Enclosed – Copies of Notification & Trade Circulars as referred above

The
Kolkata Gazette

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PART I—Orders and Notifications by the Governor of West Bengal, the High Court, Government Treasury, etc.

GOVERNMENT OF WEST BENGAL
FINANCE DEPARTMENT
REVENUE

NOTIFICATION

No. 1924-F.T.- the 9th December, 2009.— In exercise of the power conferred by section 114 of the West Bengal Value Added Tax Act, 2003 (West Ben. Act XXXVII of 2003), the Governor is pleased hereby to make the following amendments in the West Bengal Value Added Tax Rules, 2005, as subsequently amended (hereinafter referred to as the said rules):—

Amendments

In the said rules, —

(1) in CHAPTER VIII, in PART I, —

(a) in rule 34, —

- (i) in sub-rule (1), in the proviso, for the words, figures and brackets “under sub-section (1) of section 118,” *substitute* the words, figures, letters and brackets “under sub-section (1) of section 118, other than those who are selected for electronically transmitting data in the return in Form 14D under sub-rule (1) of rule 34A,”;
- (ii) in sub-rule (2), —
 - (A) for the words, figures and brackets “sub-section (4) of section 18,” *substitute* the words, figures, letters and brackets “sub-section (4) of section 18, other than those who are selected for transmitting data in the return in Form 15 electronically under sub-rule (1) of rule 34AA,”;
 - (B) for the words and figures “Form No. 15”, *substitute* the word and figures “Form 15”;
 - (C) in the first proviso, for the words and figures “Form No. 15” *substitute* the word and figures “Form 15” and for the words and figures “Form No. 14”, *substitute* the word and figures “Form 14”;

- (b) in rule 34A,—
- (i) in the marginal note, for the word and figure “Form 14”, *substitute* the words, figures and letter “Form 14 or Form 14D”;
 - (ii) in sub-rule (1), for the word and figures “Form 14”, occurring in two places, *substitute* the words, figures and letter “Form 14 or Form 14D”;
 - (iii) in sub-rule (3), —
 - (A) for the words and figures “shall furnish the return quarterly in Form 14”, *substitute* the words, figures and letter “shall furnish the return quarterly in Form 14 or Form 14D”;
 - (B) in clause (a), for the words and figures “the data in the return in Form 14, either under digital signature or without any digital signature electronically to such web site”, *substitute* the words, figures and letter “the data in the return in Form 14 or Form 14D, either under digital signature or without any digital signature electronically through such web site”;
 - (C) in clause (b), for the words and figures “Secondly, by way of furnishing the return in Form 14 in paper form to the appropriate assessing authority”, *substitute* the words, figures and letter “secondly, by way of furnishing the said return in Form 14 or Form 14D in paper form”;
 - (iv) in sub-rule (4), —
 - (A) in clause (a), —
 - (I) for the word and figures “Form 14”, occurring in two places, *substitute* the words, figures and letters “Form 14 or Form 14D”; and
 - (II) for the words “to the said web site”, *substitute* the words “through the said web site”;
 - (B) in clause (b), for the word and figures “Form 14”, occurring in three places, *substitute* the words, figures and letter “Form 14 or Form 14D”;
 - (C) in clause (c), for the word and figures “Form 14”, occurring in two places, *substitute* the words, figures and letter “Form 14 or Form 14D”;
- (c) after rule 34A, *insert* the following rule:—

“34AA. Selection of dealers for electronically transmitting data in the return in Form 15 and manner in which quarterly returns to be furnished by dealers so selected.— (1) The Commissioner may, from amongst the registered dealers who are required under sub-rule (2) of rule 34 to furnish returns quarterly in Form 15, select such dealers on such consideration as he may deem fit and proper, for transmitting data in the return in Form 15, electronically.

(2) The dealers so selected shall be informed, in writing, about such selection by the Commissioner and the names of the dealers so selected shall be displayed in the web site, *www.wbcomtax.gov.in.*, of the Commercial Taxes Directorate.

(3) Every dealer who has been selected under sub-rule (1), shall furnish the return quarterly in Form 15 within the next English Calendar month from the date of expiry of each quarter to the appropriate assessing authority —

- (a) firstly, by way of transmitting the data in the return in Form 15, either under digital signature or without any digital signature electronically through such web site as mentioned in sub-rule (2), in respect of the return period during which such selection is made and in respect of subsequent return periods until he is left out of such selection by the Commissioner; and

- (b) secondly, by way of furnishing the said return in Form 15 in paper form:

Provided that the provisions of the first proviso to sub-rule (2) of rule 34 shall apply in furnishing return under this rule and the dealer who has been selected under sub-rule (1) shall, notwithstanding anything contained in clause (a) of sub-rule (3), be deemed to have been left out of such selection from the period for which he is not eligible to furnish return in Form 15 under the said proviso.

- (4) Where —

- (a) the data in the return in Form 15 has been electronically transmitted within the prescribed date for furnishing such return and such return in Form 15 in paper form has been furnished within fifteen days from the expiry of the English Calendar month in which such return is due to be furnished, the date of transmitting the data in the return electronically through the said web site shall be the date of furnishing such return;
- (b) the data in the return in Form 15 has been transmitted electronically within the prescribed date of furnishing such return but such return in Form 15 in paper form is furnished after fifteen days from the expiry of the English Calendar month in which such return is due to be furnished, the date when such return in Form 15 in paper form is furnished, shall be deemed to be the date of furnishing such return;
- (c) the data in the return in Form 15 has been transmitted electronically after the prescribed date of furnishing such return, the date when such return in Form 15 in paper form is furnished shall be deemed to be the date of furnishing such return.

(5) The provisions of sub-rule (3), and sub-rule (4), of rule 34 shall, *mutatis mutandis*, apply in the manner of furnishing returns under this rule.”.

2. This notification shall be deemed to have come into force with effect from the 1st day of April, 2009.

By order of the Governor,

N. C. BASAK,
Dy. Secy. to the Govt. of West Bengal.

GOVERNMENT OF WEST BENGAL
DIRECTORATE OF COMMERCIAL TAXES
14, BELIAGHATA ROAD, KOLKATA – 700015.

TRADE CIRCULAR NO. 12/2009

Dated: 09.12.2009

Sub: Assessment of tax under sub-section (1) of section 46 of the
West Bengal Value Added Tax Act, 2003.

In terms of amendment made in sub-section (2) of section 32 of the West Bengal Value Added Tax Act, 2003 (hereinafter referred to as “the Act”) a dealer is required to pay late fee of such sum, not exceeding rupees two thousand, as prescribed in the West Bengal Value Added Tax Rules, 2005 (hereinafter referred to as “the said rules”) for each month or part thereof of delay in furnishing a return. Again, in accordance with the provisions of section 53A and rule 68A and 68B of the said rules, the appropriate assessing authority is required to determine the amount of late fee payable by a dealer who is liable to pay late fee.

There are instances where a dealer has submitted return without payment of late fee in spite of being liable to pay such late fee. There are instances also where a return has been furnished without payment of net tax and interest, payable according to such return.

A question has come up as to whether the appropriate assessing authority will proceed to assess a dealer under sub-section (1) of section 46 of the Act where he has furnished return without payment of net tax, late fee or interest, payable according to such return. Such cases of default are usually detected at the time of making scrutiny of returns. The authority, referred to in rule 52, upon detection of such cases, is required to issue a notice in Form 20 upon the dealer directing him to make payment of the amount comprising the net tax and late fee in deficit along with interest payable under sub-section (1) or sub-section (3) of section 33, or both and to produce receipted copy of challan in proof of payment within the date specified in such notice. Where the dealer complies with such direction made in such notice and furnishes proof of such compliance even after the date specified in the notice in Form 20, the appropriate assessing authority need not initiate proceedings for assessment of net tax payable by the dealer. In case, any assessment proceedings have already been initiated on the above grounds, such proceedings may be dropped as if the registered dealer was not assessable on the ground of non-payment of tax, interest and late fee according to the return furnished by such dealer, provided that dealer, upon receipt of such notice, makes payment of the net tax and late fee in deficit and also interest.

Again, as per the provision of sub-section (3) of section 41, the notice in Form 20 shall not be issued to any dealer after the expiry of four months from the day on which a return has been furnished. Even where the said deficit in payment of net tax, interest and late fee is discovered after the expiry of four months from the day on which a return has been furnished and the dealer makes the payment of net tax and late fee in deficit and also interest upon being informed in writing by the appropriate assessing authority of such deficit, the appropriate assessing authority will not initiate proceedings for assessment of the case. In case, any assessment proceedings have already been initiated on the above grounds, such proceedings may be dropped as if the registered dealer was not assessable on the ground of non-payment of tax, interest and late fee according to the return furnished by such dealer, provided that dealer, upon receipt of such notice, makes payment of the net tax and late fee in deficit and also interest.

In order to avoid unnecessary assessment, the above instructions are issued as a future guideline for the assessing officers in making assessment under sub-section (1) of Section 46 of the Act in the cases where the dealer has furnished return but full amount of net tax, interest and late fee payable according to such return has been paid after the due date of furnishing such return and where the appropriate assessing authority is satisfied that the return so furnished by the registered dealer is correct and complete. In other words, this guideline will not be applicable in respect of clause (a), (c), (d), (e), (ea), (eb), (f), (h) and (i), of sub-section (1) of Section 46 of the Act.

This Circular shall be deemed to have come into effect from 1st day of December, 2009.

(H. K. DWIVEDI)
Commissioner, Commercial Taxes, W.B.

Copy forwarded for information and necessary action to:

- 1) the Principal Secretary, Finance (Revenue) Department, Government of W.B.
- 2)Special Commissioner, Commercial Taxes, W.B./
Additional Commissioner, Commercial Taxes, W.B
- 3) the Special Officer, Bureau of Investigation.
- 4) the Sr. Joint Commissioner, Commercial Taxes, (HQ)
- 5)Sr. Joint Commissioner, Commercial Taxes,
.....Circle/Range/Central Section/.....
- 6)Joint Commissioner, Commercial Taxes
.....Circle/Charge
- 7) the Public Relations Officer, Directorate of Commercial Taxes, W.B.
- 8) Trade Bodies.....
- 9) website “www.wbcomtax.gov.in”

for Commissioner,
Commercial Taxes,W.B

TRADE CIRCULAR NO. 13/2009

Dated: 14.12.2009

Sub: Assessment of tax under sub-section (2) of section 9 of Central Sales Tax Act, 1956 read with section 46 of the West Bengal Value Added Tax Act, 2003.

In terms of Rule 12(7) of the CST (Registration & Turnover) Rules, 1957 the dealers are required to furnish declaration in form C or F or certificate in form E-I or E-II to the assessing authority within 3 months from the end of the period to which the declaration or the certificate relates or within such further time as may be allowed by the assessing authority. It is seen that in many cases, the dealers are not furnishing such declaration or certificate within the stipulated time. This has resulted in initiating assessment cases for every year. Ultimately when the matter reaches the appellate or revisional stage, most of such dealers produce the declaration or certificate and the claims are naturally being allowed in such forums.

In order to overcome this problem, it is hereby ordered that the assessing officer for the purpose of assessment under the CST Act, '56 for the period 2007 – 08 should ensure if all these documents have been furnished before them or not and if those are not furnished by the dealers, a letter may be sent to the dealers giving them not more than 21 days' time to either furnish the residual forms or to produce challans showing payment of tax on the differential amounts along with interest in which case the assessment may not be proceeded with and if initiated, will be dropped forthwith. Such notices must be sent by the assessing officers latest by 31.01.2010.

However, this guideline is not applicable to the following cases :

1. Cases where Tax under CST Act, '56 has not been paid monthly but Quarterly.
2. Cases where sales are shown to have been made u/s. 8(6) or 5(3) of the CST Act, '56.
2. Cases where central sales or stock transfer to outside states were disallowed to any dealer in earlier years on the ground that such central sales or stock transfer were either fictitious or not supported by necessary transport documents.
3. Cases where there are certain adverse findings by Central Section, Bureau of Investigation, VAT Audit, Verification Cell or any other authority relating to a particular dealer in regard to tax liability under the WB VAT Act, or CST Act.
4. Cases where refund under VAT Act has been claimed by a dealer.
5. Cases where a dealer has claimed refund of CST in return after adjustment of ITC.

(H. K. DWIVEDI)
Commissioner, Commercial Taxes, W.B.

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Additional Commissioner, Commercial Taxes, W.B
- 3) the Special Officer, Bureau of Investigation.
- 4) the Sr. Joint Commissioner, Commercial Taxes, (HQ)
- 5)Sr. Joint Commissioner, Commercial Taxes,
.....Circle/Range/Central Section/.....
- 6)Joint Commissioner, Commercial Taxes
.....Circle/Charge
- 7) the Public Relations Officer, Directorate of Commercial Taxes, W.B.
- 8) Trade Bodies.....
- 9) website “www.wbcomtax.gov.in”

for Commissioner,
Commercial Taxes,W.B