

To The Members, EICMA (West Bengal)

U R G E N T

December 20, 2011

Dear Sir / Madam,

Re:- Deemed Assessment under VAT Act / CST Act and e-Declaration.

The Commissioner of Commercial Taxes, West Bengal issued a statement in The Telegraph dated 14 December 2011 and in other major Newspapers to the effect that an **opportunity of Deemed Assessment has been extended to dealers whose** in the Financial Years 2009-10 and 2010-11 by insertion of section 47A in the W.B.VAT Act 2003. Dealers falling under **prescribed categories**, having Turnover of up to 3.0 Crores, subject to fulfillment of certain conditions in each of the Financial Years are exempted from Filing prescribed declaration under Rule 60 A. The List of Dealers (Charge Wise) prima facie eligible for F.Y. 2010-11 is available at the following link -

http://wbcomtax.nic.in/General_Information/deemed_assessment_list_2010-11.htm

This is **an important relaxation and any dealer irrespective of turnover can avail these facility of deemed assessment for the two Financial Years** under reference. If some dealers have not received CST Declaration Form, made short/non payment of VAT/CST etc. for the Financial Years 2009-10 and 2010-11, **they are required to pay the balance Tax, Interest & Late Fees in lieu of the said Forms/Short Payment and fill up the Separate Declaration, submit it online & get acknowledgment of submission of hard copy from their charge.** It may be noted that **the last date for submitting the Declaration is 31.12.2011.**

A copy of the statement issued by CCT West Bengal regarding the facility of Deemed Assessment is enclosed for your kind attention and necessary action. Please refer to Note below on the eligibility provisions & conditions for Deemed Assessment under section 47A as below.

Yours faithfully,

Encl:- a/a.

(Mohit Bajaj)
Honorary Secretary

NOTE: Special Provision For Deemed Assessment u/s 47A:-

Section 47A and section 47AA are two new sections which have come into operation w.e.f. 01.09.2011 by virtue of Finance Act 2011. Assessments of all dealers under VAT Act have since been captured under sections 46 and 47 and 48. Dealers who are not assessed under 46 and

48 have since been deemed to have been assessed u/s. 47. The special provision for deemed assessment i.e. section 47A has just created a new category of dealers, in fact who were **not works contractors and had not enjoyed tax holiday or remission of tax or deferment of tax,** within the dealers whose assessments are required to be made either u/s. 46 or u/s. 47 of the Act as the law stands now.

Periods of assessment for consideration under this section are earmarked as 2009-10 and 2010-11 which are otherwise called eligible periods. Another important criterion is that dealer's turnover of sales must be below Rs.3 crore every year. As it is a special scheme of deemed assessment, to be made upon fulfillment of certain prescribed conditions, the dealers, who are likely to come but are not coming under this scheme for non-fulfillment of conditions, will automatically go for assessment to be made under section 46.

Some more conditions are there under this section, the result of application of which debars a dealer from coming under the scheme for the eligible periods. These are spelt out below:

- (a) Where assessment is a must under clause (aa)/(b)/(c)/(d)/(h) of section 46(1); or
- (b) Where the dealer has claimed refund of excess ITC / excess payment of tax etc; or
- (c) Where the dealer has been selected for audit; or
- (d) Where the dealer is seen to have evaded tax during past three years; or
- (e) Who has not filed returns under VAT & CST Acts for the periods even within 31.10.2011; **or,**
- (f) Who are not in possession of Forms and relevant documents in support of claim of exemption of tax of lower rate of tax, under both the Acts or of stock transfer to outside State under CST Act.

Rule 60A is created for this purpose and under this rule separate declarations, prescribed under this rule, one under VAT Act and one under CST Act are required to be submitted by all eligible dealers to their assessing authorities containing all details and enclosing all enclosures electronically within 31.12.2011. Eligible dealers are required to submit the hard copies of this declaration after being signed by any of the persons mentioned in rule 60A(3), within the same date.

Assessing authority shall issue a receipt for it in each case. Before submission of declaration, eligible dealers must have to pay:—

- i) Full amount of short payment or non-payment of net tax or interest or late fee;
- ii) The interest calculated on the amount of tax payable for non-possession or non-production of declaration forms or certificates or document in support of any claim for deduction from turnover or any claim for exemption under this Act or under CST Act;
- iii) The amount of unadjusted excess ITC carried forward in the next period which is in excess of amount admissible.

After fulfillment of above conditions a registered dealer's returns filed for the eligible periods shall be accepted as correct and complete and assessment shall be deemed to have been made u/s 47(1) on 31.12.2011. For reopening of deemed assessment, made under this section, rule 61 will apply with suitable modifications



DIRECTORATE OF COMMERCIAL TAXES
GOVERNMENT OF WEST BENGAL

FACILITY OF DEEMED ASSESSMENT

DEEMED ASSESSMENT
UNDER VALUE ADDED TAX ACT /
CENTRAL SALES TAX ACT &
e-Declaration

An opportunity of DEEMED ASSESSMENT has been extended to some category of dealers whose turnover of sales was below Rs. 3 Crore in the financial years 2009-10 and 2010-11, by insertion of Section 47A in the WBVAT Act, 2003.

If you are a dealer with turnover of sales within the limit of Rs. 3 Crore for one year or both the years and have filed all the Returns and do not have any tax, interest and late fee due for the year, you become eligible for Deemed Assessment and need not furnish any other document/Declaration. You will be deemed to have been assessed for the year.

However, if you do not fall within the above category, you are still eligible for Deemed Assessment by paying usual deficit tax, interest and late fee; and also tax and interest payable for non-possession of VAT/ CST related Declaration Forms/ Certificates. In such case, you will be required to submit a Separate Declaration electronically through a link in the Directorate's website, which will be available from 15th. December, 2011. The declaration is to be submitted within 31/12/2011.

A list of dealers prima facie eligible for Deemed Assessment for the year 2010-11 has been displayed in Directorate's website.

*For further details, please visit the website of
Commercial Taxes Directorate: www.wbcomtax.gov.in.*

COMMISSIONER, COMMERCIAL TAXES, WEST BENGAL



No. 1 in Calcutta.
No. 1 in the East.