

15299
20.10.2017

OFFICE OF THE COMMISSIONER OF COMMERCIAL TAXES
ODISHA, CUTTACK

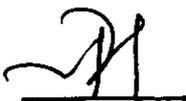
CIRCULAR

Sub: **In the matter of carry forward of excess TDS / ITC beyond assessment period**

During scrutiny of assessment orders giving rise to refund, it is being observed that where excess ITC/ TDS was carried forward to tax periods subsequent to the period of assessment, refund has been granted wrongly without taking into consideration the carried forward amount. This results in the dealer getting double benefit of the said TDS / ITC amount. In such cases, while calculating the tax paid during the period under assessment, the Assessing Officer should have verified the carried forward amount (either as TDS or ITC) to the subsequent tax period and deducted the same while allowing refund for the assessment period. In case such deduction is not made, this will lead to double benefit to the extent of the carried forward amount to the assessee. In this regard, it had been instructed earlier, vide Circular No 6717/CT Dt 01.05.2017, to set right the mistake committed either by way of rectification of orders U/s 81 of the OVAT Act or by way of re-assessment.

But it has come to the notice of the undersigned that in some cases the assessing officers, instead of adhering to the instructions so issued, have allowed the dealer to file revised return for the subsequent tax period and allowed the refund so granted earlier, which is against the provision of Section 33(5) of the OVAT Act as it does not permit revision of return after receipt of audit visit notice. In such cases, even though the returns so revised pertain to a period subsequent to the period of assessment, the amount which is revised in such return is the closing balance of ITC/ TDS of the return pertaining to the audit / assessment period and is as such cannot be revised.

Therefore, if any refund has already been granted without complying to the instructions given, the assessing officer in such cases is directed to suggest to the Addl.CCT (Appeal) of the concerned Zone to consider for initiation of suo-motu revision.


20.10.17
Commissioner of Commercial Taxes
Government of Odisha, Cuttack

Memo No 15295 /CT,
Rev-24/8/2016-Rev.CCT

Dated 20.10.2017

Copy forwarded to JCCTs (All Territorial Ranges) and DCCTs/ACCTs (All Circles) for information and necessary action.

**Commissioner of Commercial Taxes
Government of Odisha, Cuttack**

Memo No 15296 /CT,

Dated 20.10.17

Copy forwarded to all 1st appellate authorities of C.T. Organization for information and necessary action.

**Commissioner of Commercial Taxes
Government of Odisha, Cuttack**

Memo No 15297 /CT,

Dated 20.10.17

Copy forwarded to all Special Commissioner/Additional Commissioner of C.T. Organization for information and necessary action.

**Commissioner of Commercial Taxes
Government of Odisha, Cuttack**

Memo No 15298 /CT,

Dated 20.10.17

Copy to JCCT (Law), CT Head Office, Cuttack for information. He is requested to give a copy of this Circular to the Standing Counsels of CT Organization for information.

**Commissioner of Commercial Taxes
Government of Odisha, Cuttack**