

Saswat Mishra (IAS)
Commissioner of Commercial Taxes
Odisha



Baniykar Bhawan
Old Secretariat Compound
Cuttack - 753001

No 4508 /CT

Dated 22.03.2017

To

Addl. CCTs (Appeal)
JCCTs (Territorial Ranges)
JCCTs (Appeal)
DCCTs (Appeal)

Sub: Regarding Stay of Realization of Balance Tax, Interest and Penalty during Pendency of First Appeal

Madam/Sir,

As you are aware, as per Section 77 (4) of the OVAT Act, a dealer has to pay 20% of the tax and interest, in dispute, as mandatory pre-deposit without which his first appeal cannot be entertained by the First Appellate Authority. Section 77 (5) of the Act provides that the First Appellate Authority may, on application filed by the dealer within the prescribed period, stay the realization of balance tax, interest or penalty, under dispute, either in part or in full, till disposal of the first appeal.

It is seen that the First Appellate Authorities, while disposing stay applications of dealers, generally order for payment of some more amount of tax, interest or penalty in addition to the mandatory pre-deposit. Very often the dealers approach the Commissioner, under Section 79 (2) of the Act, seeking revision of the stay order of the First Appellate Authorities. In some cases, not being satisfied with the revision order of the Commissioner, the dealers do also approach the Hon'ble High Court for a favourable order.

Therefore, in order to avoid unnecessary litigations, it is hereby advised that First Appellate Authorities, while disposing stay applications of dealers pertaining to VAT, CST and ET demands, should not insist on payment of tax, interest or penalty beyond the mandatory pre-deposit amount. Accordingly, stay applications should be disposed of quickly (grant of stay on the balance demand, as applied by the dealer, will not require any hearing) and time thus saved should rather be utilized for expeditious disposal of first appeal cases in the larger interest of revenue as well as the dealers.

This communication is purely of advisory nature.

Yours Faithfully

22.3.17
Commissioner of Commercial Taxes
Government of Odisha, Cuttack