

OFFICE OF THE COMMISSIONER OF COMMERCIAL TAXES
ODISHA, CUTTACK

No 18039/CT Dt: 30.11.2016
Rev-24/8/2016-Rev-CCT.

CIRCULAR

Sub: In the matter of assessment U/s 42-A of OVAT Act

Section 42-A has been inserted in the OVAT Act vide Notification no. 9848-I-Legis 5/2015- L Dt. 24.09.2015 which came into effect from 01.10.2015 vide Notification No 28080-FIN-CT1-TAX-0017-2013 Dt. 19.10.2015 of Government in Finance Department. Accordingly, it was notified vide Notification No 5430 Dt. 30.03.2016 of this office that all dealers assigned under sub rule (7) of rule 4 of the Odisha Value Added Tax Rules to the LTU constituted in the respective Range shall, from the year commencing from 1st of April 2016, be assessed U/s 42-A in lieu of audit and audit-assessment.

Doubts have arisen in some quarter as to whether the new provision of Section 42-A, which came into existence w.e.f 01.10.15, is applicable to the tax periods ending on or before 30.09.2015 or not. The fundamental principle of any tax law is that the rate of tax, interest or penalty thereon cannot be different for different assessees for the same tax period. Otherwise, it will lead to discriminatory treatment of assessees for the same tax period. **It is, therefore, clarified that the provision of Section 42-A of the OVAT Act and Rule 49-A of OVAT Rules will be applicable only to the tax periods starting on or after 01.10.2015.** Prior tax periods, i.e. tax period ending on or before 30.09.2015 will not be governed by the new provision. **In view of this clarification, this office Notification No.5430 Dt.30.03.2016 is hereby withdrawn.**

Hence, you are directed to do the following:-

- I. Where assessment proceeding u/s 42-A of the OVAT Act has been initiated, but not yet completed; it shall be dropped forthwith under intimation to the dealer. **On the other hand, audit of these dealers be taken up u/s 41 of the OVAT Act for tax periods upto 30.09.2015.**
- II. Where assessment u/s 42-A of the OVAT Act has been completed, but demand raised has not yet been paid by the dealer; the assessment be dropped forthwith by withdrawing the assessment order as well as demand

notice. **On the other hand, audit of these dealers be taken up u/s 41 of the OVAT Act for tax periods upto 30.09.2015.**

- III. Where assessment u/s 42-A of the OVAT Act has been completed and demand raised has already been paid by the dealer, the assessment be dropped forthwith by withdrawing the assessment order and demand notice. **On the other hand, audit of these dealers be taken up u/s 41 of the OVAT Act for tax periods upto 30.09.2015.** In such cases, the payment already made by the dealer as per the Demand Notice of the assessing officer shall either be adjusted against the liability of the dealer or be refunded to him, depending on the result of audit followed by the audit assessment u/s 41 & u/s 42 of the OVAT Act.

The JCCTs of Territorial Ranges are hereby directed to assign these dealers (mentioned at Para I, II & III above) to different audit teams under regular audit programme of this year u/s 41 of the OVAT Act, covering the tax periods upto 30.09.2015. Audit of such dealers must be completed by 31.03.2017 positively.

It is also hereby instructed that all processes relating to audit such as assignment of dealer, issue of Audit Notice, submission of AVR and Audit Assessment in the above-mentioned cases are to be made in manual mode, without using VATIS.

Yours faithfully



**Commissioner of Commercial Taxes
Odisha, Cuttack**