

**OFFICE OF THE COMMISSIONER OF COMMERCIAL TAXES,
ODISHA, CUTTACK**

Letter No. ⁴³⁹⁸...../CT
VII (Rev&EIU) 01/2015

Dated. ¹³⁻³⁻¹⁵.....

To,

The Joint Commissioners of Commercial Taxes in charge of Ranges.

Sub: Tax audit of dealers for the year 2015-16.

**Ref: 1. Letter No-1115/CT Dtd.22/01/2015-Regarding pre audit visit preparation.
2. Letter No-4012/CT, Dtd.11/03/2015-Regarding enhancing transparency and quality of audit process.**

Sir,

In exercise of the powers conferred by sub-section (1) of Section 41 of the Odisha Value Added Tax Act, 2004, the undersigned has selected 2925 number of dealers for tax audit to be conducted during the year 2015-16. The same dealers are also selected for tax audit under sub-section (1) of Section 9B of the Orissa Entry Tax Act, 1999 and U/r 10(1) of the CST(O) Rules, 1957. The list of dealers selected for tax audit is sent herewith to the respective ranges in both hard and soft copies.

For smooth conduct of audit, some general procedures are mentioned below which should be followed by all concerned.

1.AUDIT- GENERAL INTENT: Under VAT regime regular annual assessment has been replaced by self assessment. By this, responsibility is fixed upon the dealer for assessing his/her tax liability. On the other hand immense responsibility has been put on the audit team in detection of non-compliance, procedural irregularities and leakage of revenue due to deliberate action or ignorance on the part of the dealer. At the same time, it is required that the Audit team should keep in mind the prevalent trade practices, the economic realities as also, industry and business environment in which the dealer operates. The objective of tax audit which is undertaken in selective cases is to encourage voluntary tax compliance and to put a check on evasion of taxes. The audit should also be educative. The audit team should apprise the dealer of the provisions of law, latest amendments and their implications. The audit team is expected to take a balanced, scrupulous and rational approach while conducting audit. The audit team should not visit a dealer with a pre-conceived notion of finding flaws with the dealer. The audit team is required to carry out the duties in a transparent manner with utmost sincerity and integrity.

2.SELECTION PROCEDURE: The audit selection for 2015-16 has been made by observing certain principles. In case of LTU dealers, 258 dealers who were not audited during last 2 years have been selected for audit. Besides, 2667 number of non-LTU dealers have been selected basing upon 08 parameters/criteria. The lists of parameters/criteria adopted for such audit selection are provided at Annexure-A & B.

The audit list is prepared on selective basis from the dealers who have not been audited during last two years. In case, names/TINs of the dealers selected are found to be incorrect or the names of the dealers already audited during last two years are found in the list, the same may be brought to the notice of the undersigned within one month of receipt of this letter. The soft copy in excel sheet mentioning the details of parameters for selection of non-LTU dealers is sent by email. Each parameter can be viewed by clicking over the hyper-link on the excel sheet.

3.PERIOD OF AUDIT: Audit of the selected dealers should cover the period of two financial years i.e. tax period from April, 2013 to March, 2015. For larger dealers with turnover of more than Rs 1 crore , submission of CA report under Sec 65 of the OVAT Act is mandatory. Therefore, as far as feasible, the audit programme for the year should be so scheduled that audit notice in such cases is issued after the last date of submission of the CA audit report. On the basis of the findings of the audit, if it is felt expedient to conduct audit for the years prior to the period of audit, permission of the C.C.T.(O) may be obtained in writing stating the reasons thereof. In case of works contractors, the audit period should cover five years.

4.AUDIT FUNCTIONALISATION: While selecting dealers for tax audit for the year 2015-16, the availability of the officers in the ranges has been duly considered. Therefore, audit should be completed against all the dealers selected. In order to achieve that an LTU audit team may be assigned with 12-16 dealers in a year and a non-LTU audit team may be assigned with 5-6 dealers for audit in a month. DCCTs and ACCTs may be assigned with audit of LTU dealers. Dealers with turnover above Rs 50 crores should be assigned to very competent officers.

5.AUDIT TO BE COMPLETED WITHIN THE FINANCIAL YEAR 2015-16: The audit programme should be drawn up in consultation with Deputy/ Assistant Commissioners in charge of circles. The audit of the selected dealers should ordinarily be completed and AVR's submitted by 31-03-2016. The concerned JCCT should ensure that all the dealers selected for audit for the year 2015-16 are audited within the financial year. The JCCT should review the progress on monthly basis to ensure that audit is done as per schedule. **Any non-compliance in this matter will be viewed seriously.**

6.PREPARATORY WORK: Upon assignment of audit, the auditors must do comprehensive preparation before their visit to the units. This should be done on the basis of the information available in the office. After e-filing of returns and issue of e-waybills and e-statutory forms, sufficient data is available electronically. All such information should be reviewed along with any previous audit and assessment reports as well as other information such as chartered accountant audit report etc. so that the audit party can generate a dealer profile and also have an understanding of the dealer's activities and past record. To facilitate the same the Pre Audit Dealer Profile should be generated from VATIS and a pre audit Dealer Profile analysis report has to be uploaded in VATIS by the audit team head. Detailed instructions for the same are given in letter under reference No1115/CT Dated.22/01/2015.

7.PUBLIC DEALING AND TRANSPARENCY: The objective of the Commercial Tax Department is to collect correct amount of taxes levied under various statutes in a cost effective, responsive, fair and transparent manner and also to maintain public confidence in the system of tax collection. This should be reflected in the audit team's

conduct and attitude. The audit team should follow the principles laid down in Tax Payer Charter while interacting with the dealers.

- i. A copy of the statement of the dealer recorded by the officer in course of any proceeding should be provided to the dealer on the spot. For this purpose, a carbon copy should be created at the time of recording of the statement.
- ii. Once an audit notice is issued in Form VAT-301, it should be ensured that the audit team reaches the premises of the dealer at the time and date indicated in the notice.
- iii. If the documents have been submitted by the dealer previously either manually or electronically, the dealer should not ordinarily be asked to submit the document again.

8.AUDIT AT DEALERS' PREMISES: Audit must be undertaken effectively at the dealer's premises. Only under exceptional circumstances where the dealer fails to produce any account, record or document in course of the audit, the officer in charge of the audit by issuing notice in Form VAT-302 may instruct the dealer to produce such accounts, records and documents in the office on the date and time specified in that notice.

9.DRAFT AVR TO BE PROVIDED TO THE DEALER: The audit process should be transparent so that all the findings are intimated to the dealer and fair and adequate opportunity is provided to give his explanation before an objection is finalized and consequential action is initiated. After completion of audit verification, the audit team is required to prepare a draft audit visit report mentioning all the irregularities noticed in the books of accounts of the dealer .A copy of the draft audit visit report will be provided to the dealer with proper acknowledgement and his responses, which should be obtained in a written form, should be dealt with in the final audit report. Copy of the draft audit report and the written response of the dealer should be submitted along with the final AVR. Details of the process to be followed are given vide letter under reference No4012/CT Dated.11/03/2015.

10.MANDATORY ENTRY IN VATIS MODULE: All the officers are mandatorily required to use the VATIS audit module. The details of audit teams should be entered in the VATIS audit module. In the event of any change of the audit team, you are required to enter the changes in the VATIS audit module. If, you are going to change the head of the audit team in the middle of the year, in the event of transfer of the officer or for some other reason, you should see that the team has completed the audit of the dealers for which they have initiated the process and submitted the audit visit reports. It is very important to ensure that audit reports are submitted immediately after audits are completed so that flow of audit assessment is maintained throughout the year.

11.QUALITY OF AUDIT REPORTS: (a) The objective of audit verification is to perform verification activities and document them in order to obtain and record audit evidence. It is important that in an audit, the objections that are raised are technically correct and stand up against scrutiny or challenge. Law being open to interpretation, it may be difficult to test the technical correctness of all objections. However, it should be correct to the extent that any professional auditor, working with and having access to the same

research material would likely come to the same conclusion. It also means that the auditor must demonstrate, in writing, the research and reasoning used to base his/her application of legislation, policies and jurisprudence.

- i. The audit must be technically correct or supported as per following standards:
 - The VAT Act & Rules, CST Act & Rules, Entry Tax Act & Rules, jurisprudence and other applicable acts, regulations and directives are applied properly.
 - All objections should be technically correct and relevant.
 - Amounts of tax detected should be quantified, supported and fully explained in the audit report.
- ii. The audit report should be supported by documentation, which includes reports and correspondences which are complete, accurate and of professional quality. The Audit report should have the following attributes:
 - Be clear, concise, legible, organized, indexed, and cross-referenced;
 - Disclose the techniques used in the examination of each significant item;
 - Support the conclusions reached and cover all queries raised; and
 - Include audit evidence (e.g., copy of a financial statement, an invoice, a contract, a bank statement, a job-work agreement, etc.) to support the objection raised.
 - Link results to supporting documents e.g. the objections identified must agree with the summary of audit results or statement of audit objections and the audit report.
 - Audit reports need to be clear and disclose all material and relevant information.

(b) In order to enable the audit team to carry out the audit in a structured and professional manner a revised audit checklist has been communicated to you vide letter under reference no 1115/CT Dated 22/01/2015. This should be adhered to while carrying out the audit.

12.AUDIT REVIEW AND WORKSHOPS: To improve the quality of reports, workshops should be organized on quarterly basis at the range level taking all the team heads of the audit teams to exchange the findings of the audit visit reports. The officers should make presentation on audit reports in which there is involvement of substantial amount of revenue or there is question of subtle point of law or where the reports are well written and comprehensive. The report should cover different types of dealers like textiles, automobiles, jewellery, mining, medicines, iron & steel, marbles, edible oil, works contractors and dealers having transactions under CST Act like export, import, branch transfer, sale in transit, high sea sale and also big corporate dealers.

13.COORDINATION BETWEEN DIFFERENT WINGS OF C.T. DEPARTMENT: At times it is seen that due to lack of coordination between the enforcement, vigilance and the territorial wings, even while audit u/s 41 of the OVAT Act is initiated/ scheduled or in process, reports are submitted after surprise visits and inspections by the different wings for assessment. Visits by different wings of the same department cause undue harassment to the dealer and should be avoided at all costs. After publication of the list

Compendium of Circulars

of dealers to be audited during the financial year 2015-16 along with the period of audit, the enforcement and vigilance wing may be informed of the list and they should not carry out parallel visits and submit evasion reports for assessment. Any credible actionable information which is available with them obtained either from their review or from other sources should be provided to the concerned JCCT and circle in charge, so that the same can be provided to the audit team to take appropriate action.

Yours faithfully,


Commissioner of Commercial Taxes

Risk Profile of Dealer (Period of Study 01/10/2013 to 30/09/2014)

Sl. No.	Category	Points	Basis / Limit of taxable turnover or tax taken to categorises the parameters
I	Business Constitution (Any one)	10	
	(i) Partnership	6	Dealers having TTO of Rs. 10 lakh + for 01/10/2013 to 30/09/2014
	(ii) Proprietorship	6	
	Newly Registered (last one year)	4	
II	(excluding Manufacturers)	15	
	(i) Iron Ore OR		Dealers having TTO of Rs. 10 lakh + for 01/10/2013 to 30/09/2014
	(ii) Marble, Granites, Tiles and Sanitary Ware OR		
	(iii) Glass, Automotive Spare Parts OR		
	(iv) Iron rods, Iron sheets, sand, metal and bricks		
III	Compliance Behaviour (i)+(ii)+(iii)	15	
	(i) Non- filer (any one of the sub parts)	10	Liabe by 30-09-2014 excluding Cancelled dealers by 01/04/2013
	i(a) Non-filer for last one year with waybill transaction of Rs 2.00 Lakh+		Liabe by 30-09-2014 excluding Cancelled dealers by 01/04/2013
	i(b) Non-Filers for last 1 year with purchase from/sold to registered dealers for Rs. 2.00 lakh+		Liabe by 30-09-2014 excluding Cancelled dealers by 01/04/2013 Non filer under OVAT having purchase from/sold to registered dealers for Rs. 2.00 lakh+ from SI 57 of other dealers
	OR		
	(ii) Nil-Filers (any one of the sub parts)	10	Liabe by 30-09-2014 excluding Cancelled dealers by 01/04/2013
	ii(a) Nil-filer for last one year with waybill transaction of Rs 2.00 Lakh+		do
	ii(b) Nil-Filers for last 1 year with purchase from/sold to registered dealers for Rs. 2.00 lakh+		1. Purchase from SI 7+8A(v)+9A(vii)+9B(i,ii) 2. Sale from SI 41 of VAT return
	(iii) Newly Registered	5	
IV	ITC Mismatch (i)+(ii)+(iii)	40	
	(i) ITC of Rs. 50,000 + claimed being purchased from cancelled dealers, non-filers, nil-filers, suspended dealers and dealers having invalid TIN	20	Excluded PSU selling dealers
	(ii) ITC accrual increased in Revised return	5	ITC accrual of increased Rs. 2000+ in Revised return for
	(iii) Decreased taxable sales and tax payment in Revised Return	5	Decreased taxable sales of Rs. 2000+ and tax payment of Rs. 2000+ in Revised Return
	(iv) ITC of Rs. 50000 + having mismatch with the Registered dealers	10	Excluded PSU selling dealers
V	Turnover Ratios (i)+(ii)+(iii)+(iv)	20	
	(i) Total Sales/Total Purchase <1	5	Total Sales/Total Purchase <1 relating to the dealers who have Taxable sale of Rs. 10 lakh +
	(ii) Output Tax/Input Tax<1	5	Output Tax/Input Tax<1 relating to the dealers whoes output tax is Rs. 50000 +
	(iii) Sales @ 13.5%/Purchase @ 13.5% <1	5	Sales @ 13.5%/Purchase @ 13.5% <1 relating to the dealers who have Taxable sale of Rs. 10 lakh +
	(iv) Intrastate Purchase/Total Purchase > 0.8 and Interstate Sales/Total Sales > 0.8	5	
	Total	100	