

C I R C U L A R

Sub: In the matter of determination of measure of tax under Odisha Entry Tax Act and Odisha VAT Act in case of Manufacturers.

It has been brought to the notice of the undersigned that there is ambiguity with regard to determining the measure of tax while auditing a manufacturing dealer under Odisha Entry Tax Act and Odisha VAT Act. This arises due to definitions of 'Purchase value' under the OET Act and 'Sale price' under the OVAT Act. The interpretations vary across the state and leads to unnecessary harassment of the dealer and also needless litigation.

Entry Tax is leviable on entry of the scheduled goods into a local area for consumption, use or sale therein on purchase value. *Section 26 of the Entry Tax Act provides that the manufacturer shall collect Entry Tax in the respect of sale of its finished product effected by it to a buying dealer or customer and pay the tax so collected into the Government Treasury.* Section 3 of the Act stipulates collection of entry tax on the purchase value of the goods brought into the local area. Section 26 of the Act stipulates that the manufacturers shall collect the tax on value of its finished goods, which is the purchase value of the buyer. Purchase value under Entry Tax Act is defined in Section 2(j) which is as follows:

"PURCHASE VALUE" means the value of scheduled goods are ascertained from original invoice or bill and includes insurance charges, excise duties, countervailing charges, sales tax, value added tax or, as the case may be, turnover tax transport charges, freight charges and all other charges incidental to the purchase of such goods:"

As it is defined, purchase value under Entry Tax Act includes VAT paid on the goods. It implies that Entry Tax is to be collected on purchase value which also includes VAT.

Value Added Tax is leviable on the Sale price. Sale price as defined under VAT Act includes Entry Tax paid on the goods. Sale price is defined in Section 2(46) of Odisha VAT Act and the explanation appended to the definition is as follows:

"SALE PRICE" means the amount of valuable consideration received or receivable by a dealer as consideration for the sale of any goods less any sum allowed as cash discount or trade discount at the time of delivery or before delivery of such goods but inclusive of any sum charged for

anything done by the dealer in respect of the goods at the time of or before delivery thereof and the expression 'PURCHASE PRICE' shall be construed accordingly;

Explanations.-

- (a)
- (b)
- (c)
- (d) Any amount of duties, charges, taxes levied or leviable under any Act (other than tax levied or leviable under this Act) in respect of such goods shall be included in the sale price."

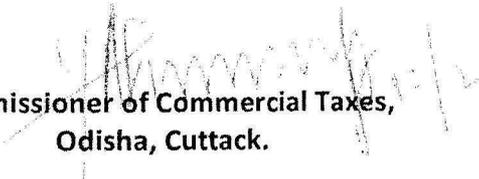
The confusion arises when a manufacturer sells finished products. He has to collect both VAT and Entry Tax on the goods from the buyers. The moot point is whether he shall collect Entry Tax on the sale value of the goods inclusive of VAT paid or he will first charge Entry Tax and then collect VAT. Obviously, the dealer has to take recourse to one of the above. It is observed that in cases when a dealer collects first Entry Tax and then VAT, the officers auditing or assessing the dealer under Entry Tax Act points it out as a discrepancy as 'Purchase Value' includes VAT, and imposes penalty. On the other hand, the officer auditing or assessing under VAT Act, if he finds out the dealer has first charged VAT and then Entry Tax, treats it as a violation as 'Sale price' includes entry tax. In case different views are taken under different Acts, the dealer is unnecessarily put to inconvenience.

Odisha Entry Tax Act and Odisha VAT Act are independent of each other, one is not above the other, and both the Acts are administered by Commercial Tax Department. It may be seen that in either scenario i.e. first VAT is charged and then Entry Tax or vice-versa, the amount of tax collected under both the Acts taken together shall be same or from the viewpoint of the State is a revenue neutral situation. Clearly the manufacturer has to choose one of the options, he cannot collect taxes in two separate ways.

In view of the above, it is instructed that in subject cases, VAT or Entry Tax charged in either way should not be treated as discrepancy and penalty should not be imposed. To ensure uniformity across the State, it is impressed upon all that in the case of levy of entry tax by a manufacturer on finished products, VAT should be charged first on value

Compendium of Circulars

of the finished product and then Entry Tax should be collected. If in cases Entry Tax is charged first, and there after VAT is collected, no objections should be raised. All such pending cases may be disposed off as per these instructions.


**Commissioner of Commercial Taxes,
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