

## Compendium of Circulars

OFFICE OF THE COMMISSIONER OF COMMERCIAL TAXES;  
ODISHA, CUTTACK.

No. 6924 /CT, Dated 21 /04/2014.  
III (I) 38/2009

### C I R C U L A R

**Sub: In the matter of Issue of Clearance Certificate for works contractors.**

Section 99 of the Odisha Value Added Tax Act, 2004 stipulates that a dealer or a person shall not be entitled to undertake any contract with Government, Local Authority or other Corporate Body unless he obtains a certificate to the effect that he has no liability to pay tax nor he has any arrears against him. Rule 129 of Odisha Value Added Tax Rules, 2005 prescribes the manner of applying for the certificate required under section 99 and obtaining the certificate in Form VAT-612, if the applicant is a registered dealer and in Form VAT-612A, if the applicant is a dealer or a person not registered under the Act. The Finance Department in its Memo No.CTA-37/2005-31716(230)/F dated 01.07.2005 had issued instructions that no dealer should be entitled to undertake any contract with the Government, Local Authority or other Corporate Body unless he obtains a VAT Clearance Certificate in Form VAT-612 from the Assessing Authority to the effect that he has no liability to pay tax nor he has defaulted under the said Act.

In accordance with the instructions issued by Finance Department, a person or a dealer, if unregistered, had to register himself and then obtain a VAT clearance certificate in order to participate in tender. As a result, the persons or dealers registered themselves in order to participate in the tender only. The successful bidders continue to remain registered and comply with the requirements of the VAT Act. The unsuccessful bidders also continue to remain registered, but without complying with the requirements of the Act. They do not file returns. This provision not only increases unnecessarily number of registered dealers, but also increases the number of non-filers. Besides, it is a burden on the part of the intending bidders to get registered and obtain VAT clearance certificate. On the other hand, large number of registered contractors who have taken registration merely to obtain a VAT clearance certificate not only

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burdens VATIS but also imposes a burden on the Department to administer them as most of them are non-filers.

Taking into account the problems faced by both the dealers / persons intending to participate in the tender and the administration, the Finance Department in its Memo No.FIN-CTI-TAX-0004-2014-5439/F dated 25.02.2014 has issued instructions modifying the earlier instructions that *Section 99 of Odisha VAT Act,2004 is only applicable to the successful bidders / participants for execution of works with and supply of goods to Government, local authority or other corporate body but no all the bidders / participants who participate in tender. The successful bidders in tender process shall not be allowed to undertake any contract with Government, local authority or other corporate body unless they produce a VAT clearance certificate in Form VAT-612.*

In view of the aforesaid changes, the successful bidder is only required to produce VAT clearance certificate, the dealer/person after he becomes successful in the tender shall apply for registration and obtain VAT clearance certificate. The VAT clearance should be issued to an applicant within seven days.

It is therefore impressed upon all officers and Registering Authorities under OVAT Act to exercise scrutiny and may insist for production of the contract / work order, worthy of credence, when a person applies for registration as "works contractor". The applicants for such registration may be counseled at "help desk" that registration is not empty formality and there are certain obligations on the part of a dealer such as filing of timely return, breach of which may result in imposition of penalty or even prosecution.

Similarly, those who are applying for VAT clearance, in each and every case the contract / work order name of deducting authority may be insisted. It has also come to the notice of the undersigned that industries / companies are insisting for VAT registration while inviting tenders, although they do not award work to each bidder. The officers of the Circle may request the local industries / companies to do away with such preconditions to avoid unnecessary additions to the list of registered dealers of work contactors.

  
Commissioner of Commercial Taxes,  
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