

OFFICE OF THE COMMISSIONER OF COMMERCIAL TAXES: ODISHA, CUTTACKNo. 5341 /CT
III(I)38/09Dt. 27/03/2014**CIRCULAR*****Sub: Provisional assessment under Central Sales Tax (O) Rules, 1957.***

It has come to the notice of the undersigned that provisional assessment under Rule 12(1)(b) of CST (O) Rules, 1957 has been invoked by the assessing authority for a month /quarter, if the dealers are unable to file declaration forms. Demands are raised and the dealer can file an appeal only after depositing 20% of tax demanded. Invariably subsequent submission of declaration forms before the appeal forum results in reduction of the demand resulting refund.

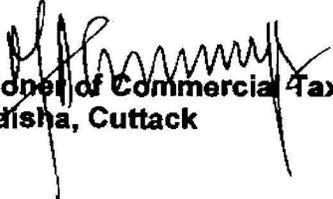
It may be mentioned that provisional assessment under Rule 12(1) (b) in CST (O) Rules is contemplated in the rules to ensure submission of declaration form (s) (C, F, E, I, EII and H etc.) in support of the claims of exemptions, deductions and /or concessions. While raising demand for non-submission of declaration forms, due care and caution is to be exercised on the part of assessing authorities to ensure that it has not been resorted to as a matter of routine and for temporary gain of revenue.

On the other hand, after provisional assessments, there may be audit assessment or escapement assessment for a larger period which may include part tax periods covered under the provisional assessment. It leads to a complicated situation if the tax period(s) covered under the provisional assessment are not discussed in the audit or escape assessment. There may be a situation in which the same turnover may be assessed twice or thrice.

It is therefore prudent on the part of the assessing authority to resort to provisional assessment in proper cases if so requires considering nature and activity of the particular business entity.

It is a reasonable proposition to say that when a dealer is chosen for provisional assessment, it may be assessed for a complete financial year after lapse of statutory time prescribed for filing of declarations under Rule 7A of the CST (O) Rules, 1957. This is not to say that the stipulated period for filing of declaration form(s) being three months after the end of the quarter, in each and every case after lapse of three months, assessment under Rule 12(1) (b) of CST (O) Rules, 1957 will be made. The proviso to clause (b) of Rule 12(1) also provides that the assessing authority for sufficient cause may permit such further time to the dealer for furnishing the required declaration form(s)/certificate(s). Steps are now being taken to capture the particulars of declaration form(s) or certificate(s) to be submitted by the dealer in the system and this will ensure system based scrutiny and throw up cases where 'C' Forms have not been submitted.

To reiterate, the provisional assessment under Rule 12(1) (b) of CST (O) Rules, 1957 may be made in selective cases covering a period of one year or multiple years, after giving sufficient time to collect the required form(s)/certificate(s). Assessment for some month(s) or quarter(s) should be avoided. The provisional assessments if made are to be discussed in the audit assessment/escaped assessment for the same period and for the same turnover and accordingly the turnover covered under provisional assessment are to be allowed set off to avoid double assessment.


Commissioner of Commercial Taxes
Odisha, Cuttack