

OFFICE OF THE COMMISSIONER OF COMMERCIAL TAXES: ODISHA, CUTTACK

No. 2211 /CT

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III (I) 10/05

To

The Joint Commissioner of Commercial Taxes in charge of Ranges,
The Deputy Commissioners/Assistant Commissioners of
Commercial Taxes in charge of Circles.

Sub: ***In the matter of disposal of refund application.***

Madam/Sir,

It has come to the notice of the undersigned that a number of refund applications are pending in different Circles. The assessing officers hesitate to dispose the refund applications within the period stipulated in the Act. In some cases it is also seen that the refund applications are disposed off and order have been passed to adjust refund against the future liability of the dealer.

Section 57 of the Odisha OVAT Act read with Rule 64 of Odisha VAT Rules stipulates that any refund that flows from an order shall be sanctioned to the dealer within a period of 60 days of the date of receipt of such order. No refund application is required for giving such refund to the dealers. The assessing authority shall first adjust such refund against arrears dues if any and refund the balance amount. This provision does not envisage any adjustment against future liability of the dealer.

Similarly, Section 58 of the OVAT Act read with Rule 65 of Odisha VAT Rules, in case of refund arising out of export, stipulates that application in Form VAT 320 shall be made by the dealer for refund and the assessing authority shall dispose the same within 90 days of the date of the receipt of application. After receipt of the application for refund the assessing authority shall direct for a tax audit and the audit has to be completed within one month to establish the correctness of the claim. Some officers are also referring the matter to head office although the Act itself authorises the assessing authority to cause the audit at his/ her level.

If refund is not sanctioned within the stipulated of period of 60 days or 90 days, as the case may be, the dealer is entitled to claim interest @ 8% per annum on the refundable amount in accordance with Section 59 of the Act.

Rule 66 of the OVAT Rules prescribes the procedure for allowing refund claimed on input tax credit carried forward beyond a period of 24 months. The dealer is required to apply for VAT 324 for the carried forward amount beyond 24 months for refund and the assessing authority shall refer the case for tax audit. The audit report in the instant case has to be submitted to the assessing authority within 30 days. If there is no adverse finding in the audit visit report, the assessing authority shall sanction the refund within 30 days from the date of receipt of audit visit report.

Though the provisions are clear with regard to sanction of refund, it is observed that officers are not disposing the refund applicants within the stipulated period. This dillydallying approach of the officers in sanctioning the refund claims of the dealers not only causes harassment to the tax payers, but also creates a burden of interest on the department. Further, non disposal of refund claims in time indicates a lack of professional approach in the departments.

In order to streamline and monitor the process of refunds a provision for applying for refunds online is being introduced from March 1, 2014. It is, therefore, instructed that refund claims of the dealers should be given due importance and disposed off within the stipulated period failing which action as deemed appropriate shall be initiated against the erring officers. If the Government has to pay interest on the refundable amount on account of the negligence of an officer, the concerned officer shall be held accountable.

Yours faithfully,


Commissioner of Commercial Taxes
Odisha, Cuttack