

OFFICE OF THE COMMISSIONER OF COMMERCIAL TAXES, ODISHA,
CUTTACK

No. 455 /CT Dt: 07.07.2017

REV-24/8/2016-REV-CCT

CIRCULAR

Sub: In the matter of refund of Entry Tax on account of sale in course of export out of the territory of India

Section 35(4) of the OET Act provides for refund of Entry Tax on account of sale in course of export out of the territory of India as provided U/s 5(1) of the CST Act whereas Rule 30(3) of the OET Rules prescribes the detailed procedure for such refund. Section 35(4)(a) of the OET Act reads as follows:

"35 (4) (a) Where any return filed under this Act shows any amount to be refundable to a dealer on account of sale in course of export out of the territory of India or, on account of claim of deductions or exemptions provided under this Act, the dealer may make an application in such form to the assessing authority for refund in such manner and in such form as may be prescribed.

Provided that the burden of proving that any scheduled goods were sold in the course of export out of the territory of India shall be on the registered dealer."

It has come to my notice that while some assessing officers are allowing the claim of refund of Entry Tax on account of sale in course of export, some other officers are not allowing the same on the ground that there is no provision in the Return in Form E-3 to show the claim of refund of Entry Tax on account of sale in course of export out of the territory of India. In this connection, it is to be kept in mind that designing a format is purely a procedural matter and therefore provisions contained or not contained in a Return format cannot override the substantive provision of the Act. Hence, it is hereby clarified that all such refund applications, if made in the prescribed format E-37 correctly and completely, have to be audited and the refund application has to be disposed of in accordance with Section 35(4) of the Act read with Rule 30(3) of the said Rules.



For timely disposal of refund applications, it is further directed that:

- (a) Assessing authorities shall refer the case of refund to tax audit within 15 days of receipt of refund application.
- (b) The tax audit shall be completed within 30 days subject to the proviso to Section 35(4)(b) of the OET Act.
- (c) After completion of the tax audit, if the refund claimed is found to be correct and supported by required evidences, the assessing authority shall sanction the claim of refund within a period of 90 days from the date of receipt of the refund application as per Section 35(5) of the OET Act.
- (d) If the tax audit results in assessment, the refund claimed shall be subject to the result of such assessment.
- (e) If refund is not granted within a period of 90 days from the date of receipt of the refund application subject to the provisions of Section 35(4)(b) and Rule 30(3)(e), simple interest at the rate prescribed U/s 35 of the OET Act shall be attracted for the delayed period.


**Commissioner of Commercial Taxes
Odisha, Cuttack**

Memo No 456 /CT,

Dated 07.07.2017

Copy forwarded to JCCTs of all Territorial Ranges, DCCTs/ACCTs in-charge of Circles and CTOs in charge of Assessment Units for information and necessary action.


**Commissioner of Commercial Taxes
Odisha, Cuttack**

Memo
Dated 457 /

No 07.07.2017CT,

Copy to all Special CCTs/ Addl.CCTs working in CT Organization for information.


**Commissioner of Commercial Taxes
Odisha, Cuttack**