

Office of the
Commissioner of Sales Tax,
8th floor, Vikrikar Bhavan,
Mazgaon, Mumbai-400010.

TRADE CIRCULAR

To,

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No. VAT/MMB-2015/47/2016-17/ADM-8 dated 1st October 2016.

Trade Cir. No. 31T of 2016

Subject : Extension of time limit under Settlement Act, 2016 and clarification on certain issues.

Ref. : (1) The Maharashtra Settlement of Arrears in Disputes Act, 2016. (Act No. XVI of 2016)
(2) Trade Circular No. 10T of 2016 dated 3rd May 2016
(3) Trade Circular No. 10(A)T of 2016 dated 3rd May 2016.
(4) Trade Circular No. 19T of 2016 dated 30th June 2016.
(5) Trade Circular No. 20T of 2016 dated 19th July 2016.
(6) Trade Circular No. 21T of 2016 dated 24th August 2016.
(7) Trade Circular No. 24T of 2016 dated 3rd September 2016.
(8) The Maharashtra Ordinance No. XXIII of 2016 dated 17th September 2016.
(9) The Maharashtra Ordinance No. XXIV of 2016 dated 30th September 2016.

Gentlemen/Sir/Madam,

1. The Maharashtra Settlement of Arrears in Disputes Act, 2016 (hereinafter referred to as "Settlement Act") has come into force with effect from 26th April 2016. So as to avail the benefits under the Settlement Act, the applicant was required to fulfill obligations such as submission of appeal, its withdrawal, payment of requisite amount and submission of application in Form-1 on or before 30th September 2016.
2. Now, the Maharashtra Ordinance No. XXIV of 2016 is promulgated on 30th September 2016. **Thus for the purposes of Settlement Act time limit is extended from 30th September 2016 to 15th November 2016. All the stakeholders are requested to take note of it.**

3. Queries have been received in respect of the non-consideration of amount paid before the date of assessment order and instruction for submission of Audit Report where penalty order under section 61(2) of the MVAT Act is passed. With regards to this following instructions are issued:

(1) Procedure to be followed so as to give credit of the Amount paid prior to Assessment Order:

(a) In Trade Circular 20T of 2016 (FAQ-29) and Trade Circular 21T of 2016 (FAQ-42),-

(i) it was clarified that on fulfillment of the conditions given therein the Appellate authority or the Nodal Officer was directed to give the credit of the amount paid prior to the assessment.

(ii) it was also directed that if the credit has not been given by the appellate authority then same should be given by the Nodal Officer.

(iii) the concerned officer shall ensure that the credit of the said Chalan (amount of which credit has not been given earlier) has not been given in any other order.

(b) However, despite above clarification queries have received from the Nodal Officers as well as Trade stating therein that the different officers are following different methods. So as to streamline the procedure following guidelines are issued:

(i) It is, reiterated that if the Credit for the amount paid prior to assessment, is not given by the appellate authority then the Nodal Officer, shall take this into account and should reduce the demand to the extent of the credit not given in the AO. He shall also give consequential effect to the levy of the interest under section 30(3).

(ii) Further, the Nodal Officer, should take into account the due date for the payment of the amount for which the credit was not been given and the date of said payment (for which credit was not given). On verification, if it is found that the payment, for which credit was not given, is due as per

return and attracts interest under section 30(2) then said interest shall also be levied.

(iii) The Nodal Officer shall consider all these aspects at the time of determination of the requisite amount and extent of the waiver towards interest.

(iv) It may be noted that against interest under section 30(2) and 30(4) for period 2010-11 and 2011-12 Settlement Act do not provide any waiver.

(c) Thus after consideration of aforesaid factual aspects the Nodal Officer shall on proceeding sheet calculate the revised demand in respect of tax, interest and penalty imposed if, any.

(d) Needless to state that as the reduction is on account of amount paid prior to the date of assessment order hence it will not hit by the period of limitation as provided under section 24 of the MVAT Act.

(2) Relaxation of condition to submit Audit Report in Form-704 in case of imposition of penalty under section 61(2) of the MVAT Act:

(a) It may be recalled that with regards to the cases where penalty order under section 61(2) has been passed for failure to file the Audit Report within the prescribed time limit or non-submission of said Report, clarification was given vide Trade Circular 20T of 2016 (FAQ-33). Further clarification was given in Para 3(3) of the Trade Circular 24T of 2016.

(b) It was stated that in the circumstances,

(i) where the penalty order under section 61(2) for the reason that the dealer has not filed the Audit Report in Form-704 (even after penalty order has been passed) and dealer has preferred the appeal and

(ii) where dealer has also made request for withdrawal of appeal

then the penalty so levied shall not be waived unless the dealer files the Audit Report in Form-704.

- (c) In order to facilitate this, the dealer was allowed to submit the Audit Report for periods under Settlement on or before 31st October 2016.
- (d) On this aspect queries are received from the Trade and Associations. Same are examined. On this backdrop, it is now decided to relax the condition for submission of Audit Report in respect of the periods under Settlement Act.
- (e) In other words, it is now made clear that so as to avail the benefits towards the penalty imposed under section 61(2), the applicant will not be required to submit the Audit Report. Therefore, all the concerned officers are directed not to insist on submission of Audit Report. All other conditions with regards withdrawal of the appeal and submission of application in Form-1 remains unchanged.
4. All the authorities are directed to follow these instructions scrupulously.

Yours faithfully,



(Rajiv Jalota)

Commissioner of Sales Tax,
Maharashtra State, Mumbai.

No. VAT/MMB-2015/47/2016-17/ADM-8 dated 1st October 2016.

Trade Circular No. 31 of 2016.



(D.M. Thorat)

Joint Commissioner of Sales Tax,
(HQ)-1, Maharashtra State, Mumbai.

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