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TRADE CIRCULAR.

**Sub: Amendments to the Maharashtra Value Added Tax
Act, 2002**

Ref: Maharashtra Tax Laws (Second Amendment and
Validation) Act, 2019. [Mah. Act No. XVI of 2019 dated 9th July
2019]

No. VAT/AMD-2019/1A/04/Adm-8/B-308
Trade Cir. 41T of 2019

Mumbai Dt: 01/08/2019.

Synopsis

- *Assessing authority can consider the refund claim, during transaction-wise assessment proceedings.*
- *Audit report in Form e-704 need not be filed, if tax liability does not exceed Rs. 25,000.*

For more details, read on...

Background:

To give effect to the announcements made, in the Additional Budget Speech, 2019, by the Hon. Finance Minister, Maharashtra, amendments have been carried out to the Maharashtra Value Added Tax Act, 2002 and the Maharashtra Profession Tax Act, 1975 by the above referred Amendment Act. The amendments to the Mah. Profession Tax Act, 1975 are being explained in a separate circular.

Amendments to the Maharashtra Value Added Tax Act, 2002 are explained as follows:

2. Adjustment of refund claimed in return, revised return & in e-704 in transaction-wise assessments u/s 23(5)- {Amendment to sec. 23}:

Background: Depending on the probability of amount of additional tax liability, cases are taken up either for transaction-wise assessment u/s 23(5) or for comprehensive assessment or may not get selected for assessment at all. Transaction-wise assessment is done u/s 23(5), in case, an authority has reason to believe that tax is evaded, or sought to be evaded or the tax liability is not disclosed correctly or excess set-off is claimed by a dealer.

A dealer, who is eligible for refund, is required to apply in Form e-501 to claim refund. At present, the dealers, who have claimed refund by filing e-501 are being assessed by the Department and admissible refund is granted to them.

There are, however, some registered dealers, who may not have filed application in e-501 by the stipulated date, even though there was refund in:

- ✓ last return of the year, or
- ✓ revised return, containing last day of the year, or
- ✓ audit report in e-704, as mentioned by the auditor.

If these dealers are selected for transaction-wise assessment u/s 23(5), then such dealers are not able to adjust such refund amount against the dues, which arise in such assessment proceedings.

Amended provision:

A proviso has now been inserted to sub-section (5) of section 23 with effect from 1st April 2005. Due to this newly inserted proviso, an assessing authority, while carrying out assessment u/s 23(5) of a registered dealer, may adjust the dues, arrived at, against the amount of refund claimed in last return of the year or in revised return containing last day of the year or against the amount of refund mentioned by an auditor in audit report in Form e-704.

Salient features of this amendment are explained as follows:

- 1) Assessing authority, can apply provisions of the amended sec. 23(5) to all the live assessment proceedings before him u/s 23(5), in respect of registered dealers.

- 2) Assessing authority shall adjust the tax liability arising out of assessment proceedings u/s 23(5) and the consequential interest and penalty, if any, against the amount of refund claimed in such last return, revised return or e-704. In case, after such adjustment, if there is net balance refund, then such net refund can be granted to the dealer. On the other hand, in case, after such adjustment, if there are net dues, then such net dues shall be payable by the dealer.
- 3) In case, the amounts of refund claimed in such return, revised return or e-704 are different, then the amount of refund, in any of these three filings, whichever is filed later, shall only be considered. It also may be noted that such return, last return or the e-704 should have been filed upto 31st March 2019. In other words, the amount of refund claimed in a return, revised return or e-704 filed after 31st March 2019 shall not be considered for the purpose of adjustment in assessment proceedings u/s 23(5).
- 4) In case, assessment order u/s 23(5) has already been passed, without considering such claim of refund and if the dealer has filed an appeal against this assessment order, then the appellate authority can also consider such claim of refund and decide the appeal. In other words, an appellate authority can apply provisions of amended section 23(5) for any of the pending appeals also, which are filed against assessment orders u/s 23(5), irrespective of the assessment period.

3. Relief from filing audit report in Form e-704 u/s 61:

{Amendment to sec. 61}

Background: A dealer, whose "turnover" in a year exceeds Rs. 1 crore is liable to file audit report in form e-704, irrespective of the tax liability. Dealers, who hold an Entitlement Certificate in respect of any Package Scheme of Incentives are also liable to file audit report in form e-704, irrespective of the turnover or tax liability.

Amended provision: In view of the above, as announced in the Additional Budget Speech, the dealers, whose tax liability in the year does not exceed Rs. 25,000 need not file audit report in form e-704 even if the turnover of such dealer exceeds Rs. 1 crore in the said year. Dealer, who holds an Entitlement Certificate in respect of any Package Scheme of Incentives, shall not be liable to file audit report in form e-704 if his tax liability in the year does not exceed Rs. 25,000. This provision shall be applicable for the audit reports to be filed for any year, from 2019-20 onwards.



(Rajiv Jalota)

Commissioner of Sales Tax,
Maharashtra State, Mumbai

No.VAT/AMD-2019/1A/04/Adm-8/B-308

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Copy forwarded to the Joint Commissioner of Sales Tax (Mahavikas) with a request to upload this Trade Circular on the Departments web-site.



(S. H. Umale)

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