

Office of the
Commissioner of State Tax
(GST), 8th floor, New Building,
GST Bhavan, Mazgaon,
Mumbai-400010.

TRADE CIRCULAR

To,

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No. VAT/AMD-2017/1B/ADM-8

Mumbai, dated 10/10/2018

Trade Circular No. 26 T of 2018.

Sub. : Grant of refunds of the amount deposited by way of security deposit at the time of Voluntary Registration under MVAT Act, 2002.

Ref. : (1) Trade Circular No. 34T of 2017 dated 03.08.2017.
(2) Notification No.VAT-1518/C.R.33/Taxation-1 dated 19.09.2018.

Sir/Gentlemen/Madam,

1. You are well aware that as per the provisions of proviso to sub-section (2) of section 16 of the Maharashtra Value Added Tax Act, 2002 (hereinafter referred to as "MVAT Act") every person who applies for the voluntary registration was required to make the payment of Rs. 25,000/- as a security deposit, at the time of application for registration. The security deposit so paid was not liable to be adjusted against any liability under the MVAT Act, instead, sub-section (2A) of section 16 provides for the refund of such deposit subject to the conditions, restrictions and time limit provided in the rule made in this behalf.
2. Accordingly, the rule 60A of Maharashtra Value Added Rules, 2005 (herein after referred to as "MVAT Rules") provides for the conditional refund of the said Rs. 25, 000/- paid at the time of making application for registration. The rule 60A provides following conditions on which the refund of said amount may be granted:

- (1) The application for the refund shall be made on or before the dates mentioned in the clause (a) and (b) of sub-rule (2) of rule 60A.
 - (2) The said dealer has filed all the returns due upto the date of application for refund, or upto the date of cancellation of registration certificate.
 - (3) The said dealer has paid the tax dues as per the said returns.
 - (4) With effect from the 4th May 2011, the said security deposit is not liable for adjustment against tax payable as per return or towards any other liability under MVAT Act, 2002. However, this deposit is refundable under rule 60A of the MVAT Rules, 2005 upon application made by such person or dealer and subject to conditions prescribed.
3. In view of the introduction of GST, an amendment was made to section 16 of MVAT Act, vide MAHARASHTRA ACT No. XLII OF 2017, published in the Official Gazette, on 29th May 2017, a new sub-section (6A) is inserted. Amended sub-section (6A) provides that the dealer who has not effected sale of any goods specified in Schedule A or Schedule B as amended by the aforesaid Amendment Act, during the year 2016-17, then the registration of such dealer shall deemed to be cancelled with effect from the 1st July 2017. As a result, in case of the dealers falling under aforesaid category, the registration certificates under the MVAT Act gets automatically cancelled with effect from the 1st July 2017.
 4. A Trade Circular cited at Ref. (1) above, was issued to explain the modalities and the time line within which the dealer has to make application for refund of the security deposit of Rs.25000/ paid at the time of obtaining the Voluntary Registration. After issuance of the said Trade Circular, this office has received representations stating therein hardship faced due to the deemed cancellation of MVAT registration and time required to make the application for the refund of the Rs. 25,000/- paid as security deposit. The representations so received are examined.
 5. In order to overcome and mitigate these difficulties, now, vide Notification

of the Government of Maharashtra, Finance Department No.VAT-1518/C.R. 33/Taxation -1, dated 19th September 2018, the rule 60A is amended and a new sub-rule (4) is added. The said amended sub-rule (4) read as under:-

“(4) Notwithstanding anything contained in sub-rule (2) and clause (c) of sub-rule (3), where rupees 25,000 deposited as security deposit under proviso to sub-section (2) of section 16 has not been refunded, then in such case the application for refund may be made on or before 31st March 2019 and the provisions of clause (a) and clause (b) of sub-rule (3) shall be applicable for such cases.”

6. As per the amended sub-rule (4) now, in case of a dealer where registration certificate has remained in force, or cancelled as per provision of section 16(6A) of MVAT Act, or otherwise, and where the security deposit has not been refunded due to failure to file application within time limit specified under the pre-amended rule 60A (2) of MVAT Rules, in cases such as,-
- (1) where the dealer has filed the application for refund albeit beyond the time limit specified in the sub-rule (2) of rule 60A and are pending with the registration authority (includes the assessing authority) for decision; or
 - (2) where the assessing authority has decided the application and the said application for refund is rejected on the ground of failure to file the refund application within the time limit specified in the sub-rule (2) of rule 60A and no appeal is filed against said rejection; or
 - (3) where against the rejection order made by assessing authority, the aggrieved dealer has filed the appeal and the appeal is pending at any appellate forum; or.
 - (4) where dealer could not make the application for refund due to the reason of the expiry of the time limit given in sub-rule (2) of rule 60A.
7. In the cases referred in para 6 above,-
- (1) in clause (1) above, the said authority shall now dispose the application and subject to the fulfillment of the conditions with

regards to the filing of the returns and payment of tax as per return [See sub-rule (3)], grant the refund of Rs. 25,000/- paid as security deposit.

(2) in clause (2) above, in all such cases, a fresh application or, a request letter may be taken from the said dealer. On receipt of such fresh application or request letter in this behalf the application filed earlier shall be deemed to be restored. Subject to the fulfillment of the conditions with regards to the filing of the returns and payment of tax as per return [See sub-rule (3)], grant the refund of Rs. 25,000/- paid as security deposit.

(3) in clause (3) above, in all such cases where the appeal is pending at any appellate forum, the such appellate authority, including Hon'ble Maharashtra Sales Tax Tribunal shall decide the said refund application in terms of the amended sub-rule (4) of rule 60A.

(4) in clause (4) above, where the applicant has failed to file the application for refund as required under rule 60A of the MVAT Rules, **shall on or before the 31st March 2019**, make such application for refund of the Security Deposit of Rs. 25,000/-, to the concerned Nodal Officer.

3. Administrative instructions with regards to the grant of refund of the security deposit:

(1) The concerned Nodal Officer, shall verify and ascertain the pendency of the refund applications for Rs. 25,000/-. The Nodal officer shall also identify the cases that are falling under the categories given in Para 6(1) and (2) above and take action as given in the Para 7 above.

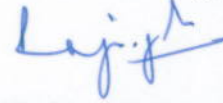
(2) The appellate authorities, shall identify the appeals that are filed against the rejection of the refund application for Rs. 25,000/- and take the action as given in Para 6(3) above.

(3) All the concerned supervisory Joint Commissioner(s) and Additional Commissioner(s) shall monitor the disposal of the said refund applications and take the periodic review of the progress made in this

behalf.

4. As a consequence to the amendment to rule 60A, the Trade Circular 34T of 2017 stands modified to the extent as aforesaid.
5. This circular cannot be made use of for legal interpretation of provisions of law, as it is clarificatory in nature. If any member of the trade has any doubt, he may refer the matter to this office for further clarification. You are requested to bring the contents of this circular to the notice of all the members of your association.

Yours faithfully,



(Rajiv Jalota)

Commissioner of State Tax,
Maharashtra State, Mumbai.

No. VAT/AMD-2017/1B/ADM-8

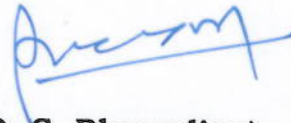
Mumbai, dated 10/10/2018

Trade Circular No. 26 T of 2018.

Copy to the Joint Commissioner of State Tax, (MAHAVIKAS) with a request to upload this Trade circular on MGSTD web-site.

Copy forwarded for information to,-

- (1) Officer on Special Duty, Finance Department, Mantralaya, Mumbai.
- (2) Accounts Officer, Sales Tax Revenue Audit, Mumbai and Nagpur.



(O. C. Bhangdiya)

Additional Commissioner of State Tax,
(VAT)-1, Maharashtra State, Mumbai.