

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

TRADE CIRCULAR

To,

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No.VAT/MISC-2017/20/ADM-8
Trade Cir. No. 3T of 2018

Mumbai dated 16/01/2018

**Subject : Clarification with regards to the taxation of
Natural Gas under MVAT Act.**

Ref. : (1) Finance Department Notification No. VAT-1517/
CR- 136(A)/Taxation-1 dated 24th August 2017.
(2) Trade Circular No. 39T of 2017 dated 8th
September 2017.
(3) Finance Department Notification No. VAT-1517
/CR-136(a)/Taxation-1 dated 13th October 2017.

The Maharashtra Goods and Services Tax Act, 2017 (MGST Act) was introduced with effect from 1st July 2017 and accordingly the Maharashtra Value Added Tax Act, 2002 (MVAT Act) was amended from the 1st July 2017. After the amendment to MVAT Act, the definition of the term, "goods" covers only six goods i.e. (a) petroleum crude; (b) high speed diesel; (c) motor spirit (commonly known as petrol); (d) natural gas; (e) aviation turbine fuel; and (f) liquor for human consumption. Besides, a section 16(6A) was inserted in the MVAT Act which provides for the deemed cancellation of the registration w.e.f. 1st July 2017, of the dealers who have not effected any sales of aforesaid six "goods" during the period 2016-17. Therefore, the dealers who are effecting the sales of these six goods would only remain registered dealers under the MVAT Act.

2. The Government of Maharashtra, in exercise of the powers conferred under section 9(1) of the MVAT Act had issued a Notification dated 24th August 2017 cited at Ref. (1) above. A new entry 16 was added to the Schedule "B" of the MVAT Act by the said notification, effective from 24th August 2017. The said entry B-16 provides that the

sale of Natural Gas to a registered dealer, subject to the conditions mentioned in the said notification, is entitled for a lower rate of VAT @ 3%. To avail the benefits of reduced rate i.e. at 3% the purchasing dealer was required to be certified (as per Proforma 'A') by the concerned Joint Commissioner.

3. After issuance of the aforesaid notification dated 24th August 2017, queries were received from the Trade as also from some of the Departmental Authorities, as to whether the benefits given under the notification dated 24th August 2017, are also available to the tax payer registered under the Maharashtra Goods and Services Tax Act, 2017 (hereinafter referred to as "MGST Act"). To clarify this aspect, a Trade Circular No 39T of 2017 was issued on 8th September 2017 and it was clarified that the benefits of Notification dated 24th Aug. 2017 will also be available to the taxable person registered under the MGST Act, 2017.

4. Subsequently, by notification No. VAT-1517/CR-136(a)/Taxation-1 dated 13th October, 2017, the said schedule entry B-16 was amended w.e.f. 14th October 2017. In addition to certain other amendments, an explanation is provided that the (buying manufacturer) 'registered dealer' referred in this entry shall also include 'taxable person' registered under the MGST Act.

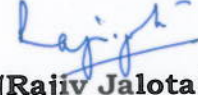
5. On the backdrop of the issuance notification(s) dated 24th August 2017 and 13th October 2017, the matter with regards to the applicability of the reduced rate of tax in respect of sales of Natural Gas to the registered dealer for use in manufacture vis-à-vis clarification given by the Trade Circular No. 39T of 2017 issued on 8th September 2017 was discussed in the Finance Department. During the discussion, the Finance Department was of the opinion that since the earlier notification issued on 24th August 2017 refers to "Sale of Natural Gas to a registered dealer" which should mean the dealer registered under the MVAT Act and not the taxable person registered under the MGST Act. Therefore, the benefits of the lower tax rate of 3% VAT as provided by the notification dated 24th August 2017 shall not be available to the taxable person registered under the MGST Act for the period 24th August 2017 to 13th October 2017.

6. Pursuant to the view of the Finance Department, it is hereby clarified that, the manufacturer buyer who was not holding registration certificate under the MVAT Act on or after 1st July 2017 either due to cancellation of said registration certificate or due the deeming provision relating to cancellation of the registration certificate under section 16(6A) of MVAT Act, shall not be entitled for the benefits of reduced rate of tax of 3% in respect of use of Natural Gas in manufacturing, for the period 24th August 2017 to 13th October 2017.

7. In view of the above, the following guidelines are issued:

- (a) For the period 24th August 2017 to 13th October 2017 the sales of Natural Gas, to manufacturers, who were not holding the registration certificate under the MVAT Act during the said period, shall be liable for VAT @ 13.5% under Schedule entry B-15..
- (b) For the period starting on or after 14th October 2017 the sales of Natural Gas, to manufacturers, whether registered under the MVAT Act or under the MGST Act, subject to the conditions given in the notification against a certificate in "Proforma A" would be entitled to avail the benefits of reduced rate of VAT @ 3%.
- (c) In view of the aforesaid circumstances, it is also necessary that the concerned Joint Commissioners, who had earlier issued certificate in "Proforma A" with effect from the 24th August 2017, issue an addenda and change the date of effect to the 14th October. 2017.
- (d) From the date of issuance of this Trade Circular, the certificate in Proforma 'A' shall be issued effective from the date of filing of the application for the said certificate.
- (e) The dealers, who have sold natural gas during the period 24th August 2017 to 13th October 2017 to manufacturers who were not holding registration certificate under the MVAT Act, applying lower rate of tax at 3% during the aforesaid period, are advised to arrange their affairs accordingly and take the necessary corrective steps at earliest.

8. In view of the above, the clarification issued vide Trade Circular No. 39 T of 2017 dated 8th September 2017 shall stand modified.



(Rajiv Jalota)

Commissioner of Sales Tax
Maharashtra State, Mumbai

No.VAT/MISC-2017/20/ADM-8

Mumbai dated 16/01/2018

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Copy forwarded for information to,-

- (1) The Joint Commissioner of State Tax, (MAHAVIKAS) with a request to upload this Trade circular on MSTD web-site.
- (2) Deputy Secretary, Finance Department, Mantralaya, Mumbai.
- (3) Accounts Officer, Sales Tax Revenue Audit, Mumbai and Nagpur.



(D. M. Thorat)

Joint Commissioner of Sales Tax,
HQ-1, Maharashtra State,
Mazgaon, Mumbai