

Office of the Commissioner of Sales Tax
8th floor, New Wing, Vikrikar Bhavan,
Mazgaon, Mumbai – 400010

INTERNAL CIRCULAR

(u/s 10 (10) of the MVAT Act)

No. ACST (VAT- 3)/Assessment/Guidelines/77/2017/B- 441 Mumbai Dt- 10/08/2017
Internal Circular No. 17A of 2017.

Sub: - Guidelines regarding passing of assessment orders.

Ref: - 1. Maharashtra Act no. 31 of 2017.

2. Internal circular 1A of 2014 dated 04/01/2014.

3. Internal circular no 14 A of 2016 dated 21st Dec 2016.

A. Background: It has come to notice of this office that despite instructions issued from time to time, some of the orders are not passed in a judicious manner. Also, with introduction of subsection (6A) to section 26 of the MVAT Act, now appeals cannot be filed unless and until the fixed part payment is made. Against this background, it is all the more imperative that the assessing officers are expected to pass judicious orders because at the appellate stage there is now no discretion in deciding quantum of part payment. In the circulars referred above, proper guidelines have been given to the officers regarding the procedure to be followed as also the care to be taken while passing orders. However, it is seen that the circular instructions are not followed properly. The improprieties which are noticed are as follows:

1. A proper appreciation of the records/documents made available by the dealer is not done. The assessment orders are passed without taking cognizance of the records submitted by the dealer and the order passed does not reflect that the records/documents are considered while passing the order.
2. In the assessment order, when the supporting evidence/ document is produced by the dealer, the same is not reflected in the proceeding sheet. In this regard, it is directed that the name /signature of the representative attending the proceedings shall be noted in the proceeding sheet along with the list of documents submitted by him.
3. It is also seen that disallowances in assessment orders are done without assigning any reason for it nor is the relevant provision under which the disallowance done is quoted. In such a case, neither the dealer nor the appellate authority are able to understand as to why certain claims are disallowed. This should be avoided.
4. Some of the incomes or liabilities disclosed in the Balance Sheet are sometimes added to the taxable turnover without any basis and evidence.
5. The proper hearing is not given to the dealer in many cases. For example, while passing orders levying penalty, neither is the proper notice given nor is the concerned section under which penalty levied, quoted. Disallowances are also made without properly hearing the dealer. Also, adequate time is not given to him to produce the evidence.

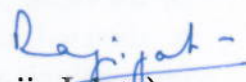
6. It is also seen that despite the data already being available on Mahavikas, extra evidence in the form of copies of the challan/s, return/s, audit report/s, is unnecessarily called for from the dealer. Also, disallowances are done over and above the electronic data available. For eg -Mismatches enhanced over and above the mismatch report given by Mahavikas without assigning any proper reason for the same.
7. It is seen that in matters of classification issues, products are classified under the residual entry without considering the other relevant entries, or without giving reasons for classifying the product in the residual entry.
8. Circular guidelines were issued through circular 14A of 2016 dt 21.12.2016 explaining in detail the procedure in passing ex parte orders. They are to be strictly followed and any deviation from them will be taken seriously.
9. Circular guidelines are also issued through Trade Circular 8T of 2015 dt 16.6.2015 in which it is instructed that all correspondence and letters be accepted by officers. It is reiterated that the said instructions be also followed scrupulously.

B. Supervisory officers are also directed to take a review of subordinate assessing officers from time to time and verify whether the instructions referred to above are followed in a proper manner. Also, supervisory officers are directed that they should take a service cell meeting of their nodal divisions once a month in order to address the issue of improper orders.

C. In the event the proposed net tax liability deviates more than 50 percentage points as compared to dealer's disclosed net tax liability then, the assessing authority shall submit the assessment file to the immediate supervisory authority for verifying procedural aspects. The supervisory authority shall dispose off such reference within a period of 7 days and shall maintain its proper record.

D. It is hereby informed that if any officer is found to be passing orders without following the procedures laid down in the circulars referred above as well as the present one, then appropriate disciplinary proceedings would be initiated or action under Section 12 of the MVAT Act 2002 will be taken.

All the departmental officers are directed to follow the above instructions scrupulously.

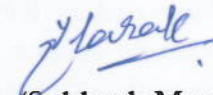

(Rajiv Jalota)

Commissioner of Sales Tax
Maharashtra State, Mumbai.

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- A. Copy forwarded with complements for information to:-
 1. The Deputy Secretary Finance Department, Mantralaya, Mumbai.
 2. The Senior Accounts officer, Sales Tax Revenue Audit, Mumbai and Nagpur.
- B. Copy to the Joint Commissioner of State Tax (Mahavikas) with request to upload this circular on Employee corner of the departmental website.


(Subhash Morale)

Additional Commissioner of Sales Tax (Vat-3),
Maharashtra State, Mumbai.