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Commissioner of Sales Tax,
8th floor, Vikrikar Bhavan,
Mazgaon, Mumbai-400 010.

TRADE CIRCULAR

No. Amd-2013/1C/ADM-8
Circular No. 8 T of 2014.

Mumbai, Date : 11-03-2014

Sub :- Exemption from Late Fee u/s 20(6) of the MVAT Act
Reference: Notification dated 1st January 2014 issued under
proviso to sec. 20(6) of the MVAT Act.

Background : If a person or a dealer fails to file a return under the MVAT Act or CST ACT, within the prescribed time, then such a person or dealer is required to pay late fee of Rs. 5000, before uploading such a return. [Sec. 20(6)]. This late fee is applicable for all the late returns, which are uploaded on or after 1st August 2012. This late fee is non appealable and no authority has powers to reduce or remit the late fee. Several representations had been received from the trade organizations, dealers and practitioners that in certain situations, the dealer could not upload the returns, due to some technical issues. In view of this, an enabling provision has been made in section 20(6) [Proviso added by Mah. Act No. VIII of 2013 dated the 20th April 2013 w.e.f. 1.5.2013] empowering the State Government to issue notification for exempting the whole or any part of the late fee payable by such class or classes of dealers, for such period or periods, either prospectively or retrospectively. In pursuance of these powers, the State Government has issued a notification on 1st January 2014 (No. VAT 1513/C.R. 124/Taxation-1).

This notification specifies the classes of dealers and returns eligible for exemption from payment of late fee and the conditions attached thereto.

2. The different contingencies, mentioned in the notification, in which the late fee would be exempted, are explained as follows::

1. New registration case:

- a. **Dealers, eligible for exemption:** The following classes of dealers would be eligible for the late fee exemption:

- i. Dealers, who have applied late for registration.
- ii. Dealers, who had applied for registration in time but the registration was granted late either due to pre-RC visit, non compliance of documentary requirements by dealer or for any reason whatsoever.
- iii. Newly registered dealers, whose status was not shown as "Active" on the web site.

- b. Late returns eligible for exemption: Newly registered dealer is required to file quarterly returns [MVAT Rule 18(1)]. Returns, of which due date falls at any time, upto the end of the month, in which registration is granted shall be eligible for exemption. Similarly, if the status of a newly registered dealer was not shown as "Active" on the Department's web site, then the return, of which the due date falls at any time upto the end of the month, in which the status of the dealer is shown as "Active" would be eligible for exemption.

c. Condition: The returns, mentioned above, should be filed on or before the due date for the return-period:

i. containing the date of grant of registration or

ii. containing the date on which the status of the dealer is shown as 'Active' on the Department's web site.

d. Illustration & Procedure: A Dealer had applied for registration on 27th December 2013 under Voluntary Registration Scheme and was granted registration on 15th February 2014. This dealer is required to file quarterly return for the QE 31st December 2013 on or before 21st January 2014. This dealer is liable to file e-Annexures. In this case, the payment of late fee shall be exempted if he files the said return on or before 30th June 2014, which is the due date for filing of return for the QE March 2014 for a e-Annexure filer.

Same principle would be applicable for a case, in which the registration was granted well in time but the status on the web site was not "Active" on the Department's web site.

Dealers, eligible for the exemption under this category need not apply for claiming exemption. In case, a dealer faces any problems in this regard, then he may e mail to MAHAVIKAS, at the e mail id latefee_waiver@mahavat.gov.in

2.Registration certificate restoration cases:

a. Dealers, eligible for exemption: Dealers, whose Registration Certificate has been cancelled and has been restored

subsequently by the order of the appellate authority or any court ,
are eligible for exemption from the payment of whole of the late
fee.

- b. Late returns eligible for exemption: Returns, whose due date falls
between the date of issuing of the Registration cancellation order
and date of passing the registration restoration order shall be
eligible for the late fee exemption.
- c. Condition: Such returns should have been filed on or before the
due date of the return-period, containing the date of restoration
order, passed by the appellate authority or any court.
- d. Illustration & procedure: ABC is a quarterly return filer and liable
to file audit report in form 704. His registration is cancelled by an
order dated 15th June 2014 with effect from 1st January 2014. The
dealer appeals against the cancellation order. The dealer's
registration is restored by appeal order dated 25th October 2014.
The appellate authority changes the status of the dealer in
MAHAVIKAS from "Cancelled" to "Active" immediately on the same
day. MAHAVIKAS identifies such dealer in the system and allows
him to upload the returns for QE June 2014 and QE September
2014 without late fee.

Late fee shall be exempted only if these returns are uploaded on
or before 21st January 2015. It may be noted that the exemption
shall not be admissible for the returns for QE December 2013, QE
March 2014 and December 2014.

3. Administrative relief cases:

- a. Dealers, eligible for exemption: Dealers, whose effective date of Registration has been modified, in an administrative relief proceeding are eligible for exemption from the payment of whole of the late fee for periods stated hereunder.

The Joint Commissioner of Sales Tax (Registration) in Mumbai and Joint Commissioner of Sales Tax (VAT Adm) in respect of rest of Maharashtra are authorized to grant administrative relief in case of late registration.

- b. Late returns eligible for exemption: Returns, for which the due date falls between the 1st April of the year, in which the dealer became liable for registration and the date of effect of the Registration Certificate, as it stood before the grant of administrative relief shall be eligible for the late fee exemption.
- c. Conditions: To be eligible for this exemption, such Return shall be filed on or before the date, intimated by the authority empowered to grant administrative relief.
- d. Illustration & procedure: A dealer became liable for registration wef 10-4-2014 on account of exceeding the turnover limits u/s 3(4) but he applies late on 10th August 2014. The registration is granted on 31st October 2014 wef 10th August 2014. This dealer is liable to file returns for the quarter ending (QE) June 2014 and QE September 2014. The dealer applies for administrative relief to the respective Joint Commissioner of Sales Tax(JC). The JC intimates by e mail to the dealer asking him to upload the return for the QE June 2014 and QE September 2014 by a particular

date. The cc of this e mail shall be marked to MAHAVIKAS at e mail id latefee_waiver@mahavat.gov.in .Normally, such date shall not be earlier than one month from the end of the month, in which e mail has been sent to the dealer. MAHAVIKAS shall remove the late fee validation of this dealer for these returns. Dealer shall be able to upload the said returns without late fee only during such stipulated period.

4. Technical issue cases:

(1) Dealers, eligible for exemption: The dealers, who cannot upload the returns, due to technical difficulties of the automation system of the Sales Tax Department of Maharashtra would be eligible for the exemption. The exemption covered by this category is applicable only in case of technical difficulties or constraints, relating to MAHAVIKAS. The reasons such as non-working of the dealer's computer, failure of internet connection, power failure at dealer's office etc. shall not be considered as technical difficulties for the purpose of claiming exemption.

a. Late returns eligible for exemption: Return, whose due date falls during the period, when the technical difficulties of the automation system of the Sales Tax Department of Maharashtra existed, would be eligible for exemption from payment of whole of the late fee.

b. Conditions:

i. Dealer shall intimate Mahavikas by e mail that he is not able to file a return due to the technical difficulties of Mahavikas upto the due date for filing of such return. Such

intimation should be given immediately on or before the expiry of the due date for the respective return.

ii. Mahavikas should be satisfied that the dealer could not file the returns due to the technical difficulties of Mahavikas.

iii. Dealer should file returns on or before the date intimated to him by Mahavikas by e mail.

c. Illustration & procedure: A dealer has been granted registration on 10th March 2014, but the dealer's status on the web site was not "Active" till 30th April 2014. This dealer e mails MAHAVIKAS on the e mail id latefee_waiver@mahavat.gov.in detailing the technical difficulties and also attaches evidence, if any, in support thereof. MAHAVIKAS confirms the technical difficulties cited by the dealer. On being satisfied about the genuineness of the technical difficulties, an e mail is sent to the dealer providing for a date, by which the dealer should upload the said return. The dealer shall be able to upload the said return, without late fee, during the period specified in the e mail.

In case the problem is general in nature, then an announcement shall be made on the web site giving details.

5. Death cases:

a. Dealers, eligible for exemption: Dealer, which is a proprietary concern, and whose proprietor dies would be eligible for exemption. As per provisions of section 18, a dealer is required to intimate about closure of business to the registering authority within 60 days by applying in Form 103.

- b. Late returns eligible for exemption: Return, of which due date falls on or immediately after date of the death of the proprietor would be eligible for exemption from the payment of whole of the late fee.
- c. Conditions:
- i. Return should have been filed within one year, from the end of the period of return, during which the proprietor dies.
 - ii. The legal heir of the deceased proprietor should have filed an application in form 103, before uploading the return, specified in column (c).
- d. Illustration & procedure: The proprietor of a proprietary concern, liable to file quarterly returns, expires on 10th January 2014. The legal heir files an application in Form 103, enclosing the death certificate. On receipt of such application the registering officer verifies the application and on being satisfied about the correctness it intimates MAHAVIKAS by e mail at latefee waiver@mahavat.gov.in giving the details and a cc of e mail to MAHAVIKAS. After receiving e mail from the Registration Officer, password for e-services will be reset and informed to the legal heir. MAHAVIKAS removes late fee validation of this dealer for QE December 2013 and last return for the period from 1st January 2014 to 10th January 2014, so as to enable the legal heir to upload e-returns. The legal heir shall upload the e-return within one year from the end of the period of return, during which proprietor has died. In this illustration, the

proprietor has expired on 10th January 2014. These return needs to be filed on or before 31st March 2015.

6. Past late returns cases, falling in above categories:

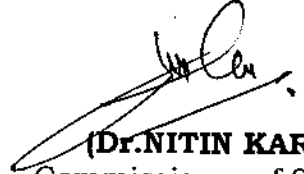
- a. Dealers, eligible for exemption: Dealers, who are covered under any of the class or classes, specified at sr. no.(1) to (5) above, during the period starting from 1st August 2012 to the date of this notification would be eligible for exemption from the payment of whole of the late fee.
- b. Late returns eligible for exemption: Returns, which were due during the period starting from 1st August 2012 to 1st January 2014 and which are filed after the date of this notification would be eligible for exemption from payment of whole of the late fee.
- c. Conditions: Returns, specified in column (c) shall be filed on or before due date, applicable for the return covering 1st January 2014, pertaining to the claimant dealer.
- d. Illustration & Procedure: A dealer was liable for registration on 1st September 2012 but had applied late on 30th September 2013. In this case, dealer is liable to file quarterly returns for the QE September 2012, December 2012, March 2013, June 2013 and September 2013. This situation would fall in category (1) of the notification and the returns eligible for late fee exemption are returns for QE September 2012 to June 2013. To claim exemption from late fee, the dealer should file all these returns on or before 30th June 2014, if liable to file e-annexure and on or before 21st April 2014, if liable to file e-704. (i.e. the respective due dates for the

return period, containing the notification date 1st January 2014). This dealer shall not be eligible to claim the late fee exemption for the return for QE September 2013.

7. Developers:

- a. Dealers, eligible for exemption: A dealer, who undertakes the construction of flats, dwellings or buildings or premises and transfers them in pursuance of an agreement along with land or interest underlying the land, would be eligible for the exemption from payment of whole of the late fee.
 - b. Late returns eligible for exemption: Returns for any of the periods starting from 20th June 2006 to 30th September 2012, as the case may be shall qualify for late fee exemption.
 - c. Conditions: In order to be eligible for exemption, the developer should have uploaded all such returns on or before 31st October 2012.
 - d. Illustration & procedure: Developers falling in this class had already been permitted to upload returns for the period starting from 20th June 2006 to 30th September 2012 on or before 31st October 2012, without late fee. The purpose of this entry in the notification is to validate the late fee exemption, already availed by the developers.
3. Earlier, it had been clarified by Trade Circulars that e-returns uploaded within 10 days from their due date would not be treated as late, provided payment of due tax is made on or before the normal due date. The said concession continues to be applicable for the illustrations given in this circular, wherever applicable.

4. It is also being clarified that in case any dealer falling under any of the above categories has already paid late fee or has adjusted late fee against the refund for any returns, then refund or adjustment of such amount shall not be permitted.
5. If member of any trade has any doubts or desires clarification, then he may e mail to MAHAVIKAS on latefee_waiver@mahavat.gov.in


(Dr. NITIN KAREER)
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Circular No. 8 T of 2014 .

Mumbai, Dt. 11-03-2014

Copy forwarded to The Joint Commissioner of Sales Tax (MAHAVIKAS) with a request to upload this Trade Circular on the Department's web site.

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