

TRADE CIRCULAR FOR VAT APPEALS

Office of the,
Commissioner of State Tax,
GST Bhavan, Mazgaon,
Mumbai-400010

TRADE CIRCULAR

To,

No. CCO/SAP Appeals/2019-20/B-50 Mumbai dated 30/11/ 2019

(Trade Cir.55 T of 2019)

SUB. : Go Live of SAP based filing of Appeal Applications under MVAT and CST Act.

Read : 1) Maharashtra Act No XXXI of 2017 dated 15TH April 2017.

2) Trade Circular 11 T of 2017 dated 20TH April 2017.

Gentleman,

Background:

The dealers who desire to file Appeal application against the orders passed by the Assessing Authorities under various Acts, apply manually to the Appropriate Authorities. These Appeal Applications are then decided by the Appellate Authorities as per the provisions of the Act.

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The manual filing of Appeal Applications, as mentioned above, is being replaced by the online automated filing of the Appeal Applications under VAT and CST Act. After the Go Live of Assessment Module, Appeal Module is being rolled out. This circular lays down the present scope of Appeal Module with available functionalities. Further instructions will be separately issued as and when new functionalities are rolled out. The Appeal filing and further processes has numerous facets and varies from case to case. The Appeal process is triggered from filing of Appeal Application but can be ended by multiple ways like Summary Rejection, Appeal Dismissal, Remand Back, Appeal Withdrawal, Appeal Order etc. As the Appeal Module is being rolled out on new SAP system, there are many new functionalities and procedures available to the dealer under the Module.

The applicant who files the Appeal Applications can pay the Appeal Fees along with applicable Part Payment and other payments through the payment gateway while filing the application only. Once all the mandatory fields of the Appeal Applications are filled and payment is made accordingly, applicant Appeal case will be created automatically on system only and Appeal Applications will be automatically allotted to the designated Appellate Officer. The list of designated Appellate Authorities based on the desk of Assessing Officer is available on what's new section of the Department Website. The applicant can then contact to the concerned Appellate Officer for any further queries.

- 1) **Scope of Module:** As of now the Appeal Module is confined to the DC and JC Appeal only. Also, the scope of Appeal Module is with respect to Orders passed under VAT and CST Act only. As and when other functionalities will be made available including Appeal to Tribunal, Trade will be communicated accordingly.
- 2) **Allotment of Appeal Applications:** The Appeal Applications will be auto allocated based on the desk of Assessing Officer as provided in Appeal Application. The same list is available on Department Website.
- 3) **Online Applications:** Following are the Applications under Appeal that are available to be filed online;
 - i. Appeal Application Form 310 under VAT
 - ii. Appeal Application Form IX(B) under CST

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- iii. Application for Stay Form 311
 - iv. Delay Condo nation Application
 - v. Appeal Withdrawal Application
 - vi. Restoration Application against Summary Rejection of Appeal
 - vii. Restoration Application against Appeal Dismissal
 - viii. Miscellaneous Appeal Application
- 4) **Online Orders:** Following are the various Orders under Appeal the Appellate Officer can issue online;
- i. Interim Stay cum Part Payment Order
 - ii. Final Stay Order Form 312
 - iii. System Generated Final Stay Order
 - iv. Delay Condo nation Order
 - v. Summary Rejection of Appeal
 - vi. Appeal Dismissal Order
 - vii. Restoration of Appeal Order
 - viii. Appeal Remand Back Order
 - ix. Appeal Withdrawal Order
 - x. Additional Part Payment Order
 - xi. Stay Continuation Order Form 319
 - xii. Stay Vacation Order Form 319
 - xiii. Form 311 Rejection/ No Stay Order
 - xiv. Appeal Order

All these orders issued by the Appellate Authorities are available to the dealer on Dealer Portal for view and further actions and also will be sent to his registered mail ID as an attachment.

- 5) **How the dealer will Log in and fill Appeal Application online:** The dealer will log in to the dealer portal for the purpose of filing of Appeal Application. There are following three ways through which the dealer can file Appeal.
- a. Appeal against the Assessment Order which are passed on SAP System: If the Assessment Order is passed on SAP System, the dealer can view the Order on dealer portal. The same

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Order is also sent to the dealer to his registered mail ID. The Assessment Order which is passed on SAP System is bar coded. The number printed on bar is the Order ID of the Assessment Order. The dealer if knows the Order ID against which Appeal is to be filed, can enter the same in a tab provided and can search the order. He can also enter various criteria like Assessment period, Act etc and then can search the order if he does not know the Order ID. In either case, if the Order is available in the system (If the Assessment Order is passed on SAP), the Assessment Order in PDF format will be displayed to the dealer against which the dealer can file the Appeal. In such cases, the Assessment Order data will auto populate in the "As per Order" of the Appeal Application against which applicant dealer can enter the data in "As per dealer" column. The system will then automatically calculate the Disputed and Undisputed Dues. It is needless to mention that this option is to be used in any Assessment Order which is passed on SAP System whether the Order is resulted into dues or refund.

- b. Appeal against the Assessment Order which is not passed on SAP System: If the Assessment order is not passed in the SAP system, the dealer has to enter the search parameters like Act, Order/Document type, period etc and can search the Recovery dues available in the system for that order. The line items of the Assessment Order dues if available in the Recovery Module, will be displayed. The dealer then can identify the line item as per the Assessment Dues against which Appeal is preferred and click on the document number to open the Appeal Application. The dealer can then enter the information in the Application in both "As per Order" column and "As per dealer" column. The system will then automatically calculate the Disputed and Undisputed Dues. There are some mandatory fields which the dealer needs to fill in order to save the Application. The system will then automatically calculate the disputed and undisputed amounts based on information filled by the dealer. Please note that if the Assessment Order dues are not displayed in this option, the Applicant dealer can contact to the Nodal Officer for migration of the Order dues in Recovery Module. Also, it is to be noted that if the Assessment Order against which Appeal is to be filed has resulted in Refund and the same has not been passed on SAP System, no Order dues will be displayed by this search option. In such cases, the dealer can file Appeal by enabling as per (C) below option.
- c. Appeal against the Miscellaneous Orders: This option enables the dealer to file the Appeal against the Assessment Orders which have resulted into refund and not passed on SAP System

and also against the Miscellaneous Orders like Registration Cancellation Order. In order to file the Appeal against Miscellaneous Orders, the dealer after filling the values in Search criteria, can directly click on Open/ Miscellaneous Appeal Application tab and file the Appeal. In some cases, even if no Assessment Order is passed on SAP system and no Assessment Order Dues are displayed from recovery, the applicant dealer can directly click on Open/ Miscellaneous Appeal Application tab to open the Appeal Application. The dealer can then fill the mandatory fields as per the Application and file the Application.

- 6) **Types of Stay offered and calculation of Payment:** Before the issuance of Notification No XXXI dated 15TH April, 2017, there was no mandatory part payment for filing of Appeal Application. The dealer could file the Appeal Application only by paying the requisite Appeal Fees. Subsequently, the Appellate Officer used to issue Ad-Interim Stay, Interim Stay cum Part Payment Order and then Final Stay Order. After the issuance of the above Notification, the applicant dealer has to pay mandatory part payment and then only can file the Appeal Application. Therefore, on receipt of the Appeal application, the Appellate Officer can directly issue the Final Stay Order on verification of Appeal Application and payment proofs.

In the Appeal Module, the stay offered to the dealer will also be based on the date of Assessment Order against which Appeal is preferred and Act under which Assessment Order is passed.

- a. **VAT:** For the order which are passed under the VAT Act, the type of Stay available to the dealer depends on the date of Assessment Order for which Appeal is preferred. After the introduction of online filing of Appeal application on Appeal Module, apart from AD interim and Final Stay, the facility of System Generated Final Stay (Auto stay) has been made available to the dealer. For the purpose of filing Appeal Application along with request for Final Stay, the applicant dealer needs to pay the 10% of the "Disputed Amount" (Of only Tax) in addition to the fees applicable for such appeal applications. For the purpose of filing Appeal Application and request of the System Generated Final Stay (Auto Stay), the applicant will have to pay all the undisputed amount (Including tax, interest, and penalty) and 10% of the "Disputed Amount" (Of only Tax) in addition to the fees applicable for such appeals application. All these disputed and undisputed amounts will be system calculated based on the figures filled up by the applicant dealer and type of stay desired by the dealer. If the

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applicant does not pay the "Undisputed Amount" (if any), then the facility to obtain "System Generated Final Stay" will not be available and the applicant will have to obtain the Final Stay from the appellate authority on merit by paying 10% of disputed amount only which can also be issued online by respective Appellate Authority. Following Table-1 shows the options of stay available to the dealer while filing online application based on date of Assessment Order passed;

Table - 1

Date of Assessment Order passed	Ad Interim Stay	Final stay	System generated Final Stay
On or After 15/4/2017	N.A	Applicable	Applicable
Other than above	Applicable	N.A	N.A

For the purpose of obtaining various Stay from the Appellate Officer the dealer will have to pay following amount as Part payment/payment.

Final Stay: 10% of tax quantum of disputed amount + Appeal fees

System Generated Final Stay: 10% of tax quantum of disputed amount + 100% of tax, interest, penalty or any other amount of undisputed amount+ Appeal fees

Ad- Interim Stay: Appeal fees.

- b. **CST:** For the orders which are passed under the CST Act, the type of Stay available to the dealer depends on the date of Assessment Order for which Appeal is preferred. The option of System Generated Final Stay is not available in the CST Appeals due to the fact that the fixation of part payment in CST Appeals involves verification of documents and reasons of tax liability in Assessment Order. This is because in CST Appeals, the condition of Appeal against the orders wherein the dues have arisen due to non-submission of CST declarations has been incorporated. The dealer is supposed to give the figures of differential liability on account of

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pending declarations at the time of passing of Assessment Order and of the differential liability reduced due to declarations received after passing the Assessment Order till the date of filing of Appeal Application. The system will then automatically calculate the requisite amount of part payment and appeal fees based on the information submitted by the dealer. Hence, in CST Appeals the dealer can opt for Final Stay by paying the requisite amounts (including Appeal fees). The Appellate Authority on receiving of the said Appeal can verify the status of declarations as submitted by dealer after attendance in Appeal Application and can take proper decision on the said Application.

Following Table shows the options of stay available to the dealer while filing online application based on date of Assessment Order passed;

Date of Assessment Order passed	Ad Interim Stay	Final stay	System generated Final Stay
On or After 15/4/2017	N.A	Applicable	N.A
Other than above	Applicable	N.A	N.A

For the purpose of obtaining various Stay from the Appellate Officer the dealer will have to pay following amount as Part payment/payment. The amount to be paid depends on the reason of dues raised in Assessment Order (Whether due to the pending declarations or other reasons or both)

Final Stay: 10% of tax quantum of disputed amount (For dues other than pending declarations) + 100% of tax quantum of differential disputed amount (For dues of pending declarations) + Appeal fees

Ad- Interim Stay: Appeal fees.

It is to be noted that the requisite payments calculated by system are based on the figures filled by the dealer in Appeal Application. The Appellate Officer can take the decision of Summary

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Rejection or Appeal Dismissal or as he may deem fit if any information is incorrectly or falsely given or for any other reasons.

- 7) **Integration of Payment gateway with Appeal Application:** The Government of Maharashtra issued a Notification on 15TH April 2017 regarding Appeal filing procedure. In pursuance to the said Notification, MSTD also issued the Trade Circular No 11 T of 2017 dated 20th April 2017. The provision of remand back of Assessment case by the first Appellate Authority and mandatory part payment while filing the Appeal was introduced vide the said Notification. It mentions that for the Assessment Orders which are passed on or after 15/4/2017, the dealer can file the Appeal only after making the part payment of 10% of the disputed amount and if the disputed amount is pertains to pending declarations, then 100%-part payment of differential amount is to be paid as per the status of pending declarations on the date of filing of Appeal. To summarize, it means that for the Assessment Orders passed on or after 15/4/2017, the dealer cannot file the Appeal unless he pays the fixed percentage of part payment. The first Appellate Authority would not have any discretion for fixing the part payment amount for admission of Appeal in such cases. Therefore, as per the said provision, the dealer has to pay the requisite amount and Appeal Fees while filing the Appeal Application only. Facility is provided to the dealer to pay the said amounts through the payment gateways immediately on saving the Appeal Application online. The system will automatically calculate the amount to be paid based on the date of Assessment Order, disputed and undisputed amount as filled by the dealer and type of stay desired by the dealer. The dealer can change the disputed amount and type of stay desired any time before making the required payment. The required payment to be made will automatically change accordingly. Once dealer opts to pay the required payment and routed to the payment gateway, then he cannot alter the Appeal Application saved. Once Appeal Application is saved and payment is made accordingly, Appeal case is created which will then be automatically allotted by system to the concerned Appellate Officer for further verification. It is to be noted that Appeal case is created only after successful payment of requisite amount. Unless the payment is not successfully made, no Appeal case is created. Dealer needs to follow the instructions for payment as given for payment purpose from time to time by the departmental circulars. Also, applicant dealers should note that submission of Appeal Application does not mean in any way acceptance of claims of the applicant dealer. Once the Appeal Application is allotted to the Appellate Officer, he will verify the

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correctness of information given by the applicant dealer and will further take decision regarding the processing of Appeal Application.

- 8) **Processing of Appeal Application by the Appellate Authorities:** Once the Appeal Application is allotted to the concerned Appellate Authority, he can further process the said application as he may deem fit. It is to be noted that introduction of online filing of Appeal Application and further processing, does not in any way changed the powers conferred to the Appellate Officers by the statute. Only difference is that the Appellate Officer can process the Appeal Application online and can issue orders online. The dealer will receive the hearing alerts on mail. The dealer can also receive the orders passed by Appellate Officer on dealer portal and also as an attachment to the registered mail ID. Hence, dealers are requested to update their mail ID in their registration records.
- 9) **Recovery of dues in Appeal:** The Stay if given by the Appellate Officer is always with respect to Disputed Dues. The undisputed dues are always available for recovery and Nodal Officers can initiate recovery action for recovery of Undisputed Dues if not paid by the dealer. If by virtue of the Order passed by the Appellate Officer, if any stay is not extended or vacated, then such disputed dues will also be open for recovery from the dealer. Hence, applicant dealer should take utmost care for the proper filing of Appeal Application and timely compliance during the Appeal hearings also.
- 10) **Cases where Recovery kept in Abeyance u/s 23(8) and tax paid after Assessment:** The cases where the Assessment Order dues are kept in abeyance u/s 23(8) by the Assessing Officer or where the dealer has paid any amount after passing of the Assessment Order but before filing of Appeal Application, in such cases, the dealer is required to file the Appeal Application physically to the Appellate Officer. The Appellate Officer after admission of the Application on due verification and part payment, require to create the case in Appeal Module through case creation functionality of Appeal Utility. Further processing of such cases can be done in Appeal Module like any other case. The dealers are require to file online Appeal Application under VAT and CST Act other than above scenarios.
- 11) **User Manual:** - The dealer can access the "User Manual for Online Filing of Appeal Application" in the section Manuals and Procedures on Departments Website for further

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detailed stepwise procedure. It is needless to mention that the online submission of Appeal Application does not mean that the claims of the dealer are accepted. The Appeal Applications received online shall be decided by the Appellate Officer as per the provisions of law. For the orders which are passed under any Act other than VAT and CST, the dealer will have to continue the existing process of filing Appeal.

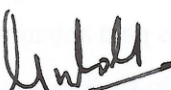
This circular cannot be made of legal interpretation of provisions of law, as it is clarifactory in nature. If any member of the trade has any doubt, he may refer the matter to the jurisdictional Joint Commissioners for further clarification.

You are requested to bring the contents of this circular to the notice of all the members of your association.


(Rajiv Jalota)

Commissioner of State Tax,
Maharashtra State, Mumbai

Copy forwarded to: Joint Commissioner of State Tax (MAHAVIKAS) with a request to upload this circular and User Manual on Departments Website.


(G V Bilolikar)

Chief Coordinating Officer,

(Returns, Recovery, Appeals and SCPT) and

Joint Commissioner of State Tax, Maharashtra State, Mumbai

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