

From

Excise and Taxation Commissioner,  
Haryana, Chandigarh.

To

1. All the Joint Excise and Taxation Commissioners (R)
2. All the Dy. Excise and Taxation Commissioners (ST)  
in the State of Haryana.

Memo No. SPL-1/ST-6  
Chandigarh, dated the 21.11.05

Subject: Assessment of VAT cases for the year 2003-04.

Reference: This office memo No. 1815/ST-6, Chandigarh dated the  
17.11.05.

Memo.

Further to the letter under reference, the issue of disposal of the following categories of cases (not selected for scrutiny) was discussed with the officers at the headquarter, namely –

- i) Cases where forms under the CST Act i.e. Form C, D, E-I, E-II, F and H are required to be furnished but have not been furnished alongwith returns or subsequent thereto;
- ii) Cases in which some of the quarterly return(s) is/are not available on record but the annual return for 2003-04 is on record raising a reasonable presumption that the quarterly return(s) was/were filed which could also be verified from the payment of tax on quarterly basis, wherever so.
- iii) Input tax on opening stock as on 1st April 2003 has been computed without taking the tax and/or profit element into account.
- iv) Input tax credit has not been reversed on pro-rata basis in respect of branch transfers/consignment sales.

v) VAT-D2 forms have not been furnished in support of claim of sales made in the course of export out of India through third parties.

After discussion, the following guidelines are given for disposal of the aforesaid categories of cases:

1. It would be necessary to issue a formal notice in form VAT-N2 (read with section 9(2) of the CST Act, where applicable) in cases where statutory forms under the CST Act (C, D, E-I, E-II, F and H) are wanting or input tax credit is to be re-computed deducting element of tax and profit included in the value of opening stock as on 1.4.2003 or is to be re-computed on pro-rata basis in case of claim of branch transfers/consignment sales resulting into raising of some demand against the assessee because the returns filed by him have not been accepted as such. It may be noted that the notice in form VAT-N2 in such cases is only for the purpose of giving opportunity for furnishing of statutory forms or for raising any objection to re-computation of input tax credit and not for the purpose of launching full scale scrutiny assessment. Such cases should be decided after taking into consideration the dealer's response, if any, by passing a summary order which would necessarily include the reason for raising the demand on account of non furnishing of statutory forms/ the re-computation of input tax credit. In case of non-furnishing of statutory forms, a period of two months, say, up to 31<sup>st</sup> Jan, 2006, should be given for production of the statutory forms failing which in deserving cases this period could further be extended by two months i.e. up to 31<sup>st</sup> March, 2006. If the forms produced are found in order, the demand raised will be rectified accordingly.

2. Cases where some quarterly return(s) is/are missing but annual return is on record, it will be reasonable to draw presumption in such cases that the quarterly return(s) has/have

been filed and the cases be decided with this presumption. The payment of tax on quarterly basis can further support this presumption.

3. Cases where VAT-D2 form has not been furnished in support of claim of indirect export out of India through third party within the State. In such cases it should suffice to ensure that the list in Form LS-4 is complete, where not, it would be in order to give an opportunity to complete the same and once complete, it should be accepted as sufficient proof of claim of indirect export out of India unless there is material on record to show otherwise.

These instructions should be followed in respect of cases for the year 2003-04 (not selected for scrutiny). These be circulated among the Assessing Authorities working under your control and should be discussed with them and it should be ensured that these are followed in letter and spirit.

(R.C.Mittal)

Addl. Excise and Taxation Commissioner (T)  
For Excise and Taxation Commissioner, Haryana

Endst. No, SPL-2/ST-6. Chandigarh, dated the

A copy of the above is forwarded to –

1. All the officers in the head office.
2. All the JETCs (A) in the State.
3. PS/ETC

for information and necessary action.

(R.C.Mittal)

Addl. Excise and Taxation Commissioner (T)  
For Excise and Taxation Commissioner, Haryana