

Circular No. 12 /2018
Audit Cell III/11727/2018

Office of the Commissioner of
Commercial Taxes, Chepauk,
Chennai - 5.

Dated 21.06.2018

CIRCULAR

Sub.: TNVAT Act, 2006 - Zero rate sales - Issue of refund of input tax credit on capital goods - Modified instructions issued - Reg.

Ref.: 1. Principal Secretary/ Commissioner of Commercial Taxes in VAT Cell/ Roc. No./ 37188/ 2011 - Circular No. 22/2011 dated 20.10.2011.
2. Principal Secretary/ Commissioner of Commercial Taxes in Circular No. 38/2014 - D5/25073/2014 dated 09.09.2014.
3. Principal Secretary/ Commissioner of Commercial Taxes in Circular No. 31/2015 - D5/25073/2014 dated 17.08.2015.
4. Principal Secretary/ Commissioner of Commercial Taxes in Circular No. 42/2015 - D5/25073/2015 dated 29.09.2015.
5. Principal Secretary/ Commissioner of Commercial Taxes in Circular No. 9/2016 - D5/36321/2015 dated 15.09.2016.

- DP (AS)
- (1) In the reference first cited, a revised circular in respect of export refunds in supersession of all earlier circulars relating to export refunds has been issued, in which it has been instructed to defer the refund claim relating to input tax credit on capital goods with respect to zero rate sales including exports in para 14 as given below:
"It is brought to the notice of the refund issuing authority that the Accountant General is objecting to issue of refund in respect of ITC on the purchase of capital goods. The Government has been addressed on this issue. Therefore, the refund claim relating to ITC on capital goods may be deferred till such time the decision of the Government is informed.
The Assessing Authority is, therefore instructed not to process and take a decision in respect of the claim of refund relating to ITC on capital goods. In the refund proceedings, they may add a clause that this portion of claim will be settled at a later date."
- (2) In this regard, the Accountant General was addressed vide this office Lr.No.Audit Cell-III/11727/2018 dated 05.06.2018 citing that as per the existing provisions of the TNVAT Act, ITC refund on Capital Goods is eligible and to take a decision on pending para on the above subject.

- (3) In this regard, the Accountant General has informed vide their letter no. AG(E&RSA)/ISR-I/ST V/Unit X/15-159/13-14/89 dated 06.06.2018 that the only para included in Para AA11 of Local Audit Report No.15-159/13-14 pertaining to the office of the Assistant Commissioner (CT) Mettupalayam Road Assessment Circle (Tvl. Doiter Engineering Exports (TIN.33772001942) raised on refund of input tax credit on capital goods with respect to zero rate sales are not being pursued further.
- (4) The relevant provisions with regard to capital goods and input tax are defined under sections 2(11),2(23) and 2(24) of TNVAT Act 2006 and the issue of refund of input tax credit on capital goods with respect to zero rated sales are dealt under Section 2(44), 18(1) ,18(2) and 18(3) of TNVAT Act 2006; the provisions have been perused and the plain reading of the relevant sections enable refund of the claim of input tax credit on capital goods with respect to zero rate sales including exports.
- (5) Therefore, the para 14 of the circular instructions issued vide reference first cited is modified to the extent that the claim of input tax credit on capital goods is also eligible for refund with respect to zero rate sales and subject to eligibility and ineligibility conditions prescribed for the claim and admissibility of input tax credit as contained in the extant provisions of section 18 and 19 of the TNVAT Act, 2006 read with rule 10 and 11 of TNVAT Rules, 2007.

Sd/- T.V.Somanathan
Commissioner of Commercial Taxes,

21/6/18

To

All Territorial Joint Commissioners(CT) including LTU
All Enforcement Joint Commissioner(CT)

Copy to:

All Additional Commissioners, O/o the CCT, Chennai - 5.

- ✓ The Joint Commissioner(Computer Systems) for hosting in intranet website.
The Director, CT Staff Training Institute
"Y" Section

// forwarded by order //


Assistant Commissioner (Audit)