

ABSTRACT

Announcement – Commercial Taxes Department - Defining of Litigation Policy for Commercial Taxes Department - Orders –Issued.

Commercial Taxes and Registration (D1) Department

G.O.(Ms) No.10

Dated: 25.01.2016

மன்மத, தை-11

திருவள்ளூர் ஆண்டு 2047.

Read :

Principal Secretary/ Commissioner of Commercial Taxes, Letter No. Acts-Cell BB1/17991/2013, dated 12.11.2015 and 19.01.2016.

ORDER:-

While moving the Demand for grants relating to Commercial Taxes for the year 2015-16 on the floor of the Legislative Assembly on 21.9.2015 the Hon'ble Minister (Commercial Taxes and Registration) has made the following announcement:-

XXXXXXX

வணிகவரித்துறையில் அதிக அளவில் வழக்குகள் நிலுவையில் உள்ளன. தேவையற்ற வழக்குகள் தொடுப்பதைத் தடுத்து, அதிக அளவில் வருவாய் சம்பந்தப்பட்ட இனங்கள் அல்லது சட்டச் சிக்கல் உள்ளடக்கிய இனங்களில் மட்டுமே வழக்கு தொடரவும் அல்லது மேல்முறையீடு செய்யவும் வணிகவரித் துறைக்கென வரி வழக்குக் கொள்கை (Tax Litigation Policy) வரையறுக்கப்படும்.

XXXXXXX

2. In accordance with the above announcement, the Principal Secretary / Commissioner of Commercial Taxes in his letter read above has sent proposal to define the Tax Litigation Policy for Commercial Taxes to avoid frivolous appeals by the State in all appellate forums and requested the Government to issue suitable orders.

3. The Government after careful examination of the proposal of the Principal Secretary/ Commissioner of Commercial Taxes hereby order to define the Tax Litigation Policy for Commercial Taxes Department to avoid frivolous appeals by the

State in all appellate forums as follows with a direction to follow the guidelines scrupulously:-

TAX LITIGATION POLICY

OBJECTIVES

- (a) Avoid Litigation in cases where revenue impact is less than the cost of Litigation.
- (b) Prevent wastage of Court time in low revenue cases.
- (c) Enable limited manpower of this Department to focus its energies and full attention to large revenue cases.

CONDITIONS

The salient features leading towards the Litigation Policy and its relative conditions on which the same shall be formulated are as follows:-

- A monetary limit for further agitation of cases shall be formulated which shall include tax, penalty and interest involved in the dispute in the proceedings under consideration. The assessing authority shall also certify while sending proposals for not pursuing further appeal to competent authority that the revenue involved in the issue for that dealer for the whole assessment year does not exceed the monetary limit so fixed by Government.
- An appeal need not necessarily be filed if the tax effect exceeded the proposed fixation of monetary limit unless there are clear grounds for such appeals to succeed. Filing of appeal in such cases is to be decided on merits of the case and on settled principles of law.
- Adverse appeal orders relating to the following should be contested irrespective of the amount involved.
 - a) *Where the constitutional validity of the provisions of an Act or Rule is under challenge.*
 - b) *Where notification/instruction/order or circular has been held illegal or ultra-vires.*
 - c) *Where audit objection on the issue involved in a case has been accepted by the Department.*
- Wherever it is decided not to file appeal in pursuance of these instructions, which are aimed solely at reducing Government Litigation, such cases shall not have any precedent value. In such cases, the authority reviewing the appeal order should specifically record that 'even though the decision is not acceptable,

appeal is not being filed as the amount involved is less than the monetary limit prescribed by the Government'. Further, in such cases, there will be no presumption that the Department has acquiesced in the decision on the disputed issues in the case of same assessee or in case of any other assessee, if the amount involved exceeds the monetary limits. Thus, in case any prior order is being cited on facts and law, it must be checked whether such orders were accepted only on account of the monetary limit before following them in the name of judicial discipline.

- In respect of orders, where it is decided not to file appeal in pursuance of these instructions, a data base needs to be created so that the Government and Principal Secretary/ Commissioner of Commercial Taxes are made aware of the orders that are accepted herein and which should not be taken as having precedent value. The details of such orders in respect of Appellate Deputy Commissioner and Appellate Joint Commissioner are required to be furnished by the Territorial Joint Commissioners in Annexure- I (Part A and B) appended to this order, which should form part of the Monthly Statistics. The details of such orders in respect of Tamil Nadu Sales Tax Appellate Tribunal and High Court are required to be furnished by the Principal Secretary/ Commissioner of Commercial Taxes to the Government in Annexure II (Part A and B) appended to this order.

FEATURES

Subject to the above conditions, the features of Litigation Policy are as follows:-

- (i) Hereafter, the appeals under Tamil Nadu Value Added Tax Act, 2006 shall not be filed by the Commercial Taxes Department or taken on Suo Motu Revision in cases where the tax effect does not exceed the monetary limits given hereunder:-

Sl. No.	Nature of Appeal/ SuoMotu Revision	Monetary Limit of tax effect	Competent Authority
1	Suo Motu Revision by Joint Commissioner / Additional Commissioner (SMR) u/s 53 and 55 of TNVAT Act respectively.	Rs.10,000/-	JC(CT)/ADC(SMR)
2	Second Appeal under section 58 of Tamil Nadu Value Added Tax Act, 2006 before the Tamil Nadu State Appellate Tribunal.	Rs.50,000/-	JC(CT)
3	Third Appeal under Section 60 of Tamil Nadu Value Added Tax Act, 2006 before the Honourable High Court of Madras	Rs.2,00,000/-	PS/CCT
4	Appeal before the Supreme Court	Rs.4,00,000/-	PS/CCT in consultation with SGP(Taxes)

ii) However, there will be no monetary lower limit for any case where the dealer files appeal at any level. Such cases shall be contested by the Department.

4. This order issues with the concurrence of Finance Department U.O.No.279/FS/P/2016 dated 22.01.2016.

(By Order of the Governor)

MD.NASIMUDDIN
PRINCIPAL SECRETARY TO GOVERNMENT (FAC)

To

The Principal Secretary/ Commissioner of Commercial Taxes,
Chennai-5

All Additional Commissioners

(through the Principal Secretary/Commissioner of Commercial Taxes, Chennai-5)

Additional Commissioner/ Chief Executive Officer, Traders Welfare Board, Chennai -5

(through the Principal Secretary/Commissioner of Commercial Taxes, Chennai-5)

Joint Commissioner (Legal), O/o. the Principal Secretary / Commissioner of
Commercial Taxes, Chennai-5)

Joint Commissioner (Enforcement) / (Computer Systems)

(through the Principal Secretary/Commissioner of Commercial Taxes, Chennai-5)

Copy to:

All Joint Commissioners through the Principal Secretary /

Commissioner of Commercial Taxes, Chepauk, Chennai-5

The Special P.A.to Minister (Commercial Taxes and Registration), Chennai-9

Special Programme and Implementation Department, Chennai-9

Commercial Taxes and Registration (U) Department, Chennai-9

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//Forwarded by Order//


SECTION OFFICER

ANNEXURE - I

Part-A

LIST OF FIRST APPEAL ORDERS ACCEPTED ON ACCOUNT OF LOW REVENUE

Month & Year:

Sl. No.	C.T. Division Involved	Appellate Deputy Commissioner/ Appellate Joint Commissioner Order No.	Order Date	Cause Title	Issue Involved	Amount Involved	Date of Acceptance
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)

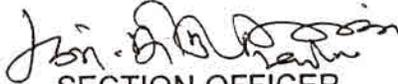
Part-B

Month & Year:

Sl. No.	C.T. Division	Appellate Deputy Commissioner/ Appellate Joint Commissioner Order No.	Order Date	Cause Title	Issue Involved	Amount Involved	Date of Acceptance	Reason for Acceptance
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

MD. NASIMUDDIN
PRINCIPAL SECRETARY TO GOVERNMENT (FAC)

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SECTION OFFICER

ANNEXURE – II

Part-A

**LIST OF TAMIL NADU SALES TAX APPELLATE TRIBUNAL & HIGH COURT ORDERS
ACCEPTED ON ACCOUNT OF LOW REVENUE**

Month & Year:

Sl. No.	C.T.Division	STAT/HC Order No.	Order Date	Cause Title	Issue Involved	Amount Involved	Date of Acceptance
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)

Part- B

Month & Year:

Sl. No.	C.T. Division	STAT/ HC Order No.	Order Date	Cause Title	Issue Involved	Amount Involved	Date of Acceptance	Reason for Acceptance
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

MD.NASIMUDDIN
PRINCIPAL SECRETARY TO GOVERNMENT (FAC)

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