

Circular No.5/09
D3/15100/09

Office of the Principal Secretary /
Commissioner of Commercial Taxes,
Chennai 600 005

Dated: 03.08.2009

Circular

SUB: Collection of arrears - Special drive for collection of arrears - Certain circular instructions - Issued - Regarding.

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While the cumulative arrears have been increasing for the past few years, the collection of arrears is very poor resulting in non achievement of targets of revenue collection. In spite of repeated instructions on several occasions, the Principal Secretary / Commissioner of Commercial Taxes had occasions to notice lack of effective action on the part of both the Assessing Officers and their supervisory officers on the arrear action files exceeding Rs.5000/-. Except for deferral repayment, the collection of other arrears is happening at a very slow pace and the officers are not devoting serious attention to this item of work. This is mainly due to inaction on the part of assessing officers and lack of monitoring by supervising arrears. With passage of time such arrears tend to lose quality and any value that can be associated with such arrears. In many cases, due to negligence to collect the revenue due to the Government on time, a good part of this has become irrecoverable. The officers at all levels will have to be held responsible for the present state of affairs. In view of the above, following instructions are issued.

1. Action shall be taken by the Territorial Joint Commissioners for collection of arrears in respect of cases of arrears exceeding Rs. One crore and review the performance of the Officers.
2. Action shall be taken by the Territorial Deputy Commissioners for collection of arrears in respect of cases of arrears exceeding Rs.25 lakhs and below Rs. One crore. In rest of the cases of arrears, action may be taken by the Assessing Officers concerned.
3. Effective action shall be taken for filing petitions before appropriate appellate forums to vacate stay in respect of cases involving large revenue.

4. The cases remanded by the Appellate Deputy Commissioners Sales Tax Appellate Tribunal and High Court have to be attended immediately.
5. Filing petitions before BIFR, Official Liquidator, Operating Agencies and DRT, referring to the recent judgment of Honourable Supreme Court of India in the case of Tvl. Central Bank of India versus State of Kerala and Others in Civil Appeal No.95/05 dated 27.2.2009 to claim our priority as first charge to recover arrears.
6. Scrutiny of input Tax Credit claim shall be made by the Territorial Joint Commissioners where refund given cases are more than Rs. One crore and by the Territorial Deputy Commissioners where refund given cases are more than Rs.25 lakhs and above.
7. The Territorial Joint Commissioners shall ensure completion of Street Survey and elimination of non existing cases besides monitoring the initiation and follow up of action under best judgment in stop filers' and non filers' cases by the Assessing Authorities concerned.
8. Special drive shall be undertaken to deduct tax evasion in evasion prone commodities like iron and steel, wet grinders, timber, electrical goods and medicine by Enforcement wing and cross verify the input tax claim through e-mail correspondence, phone communications etc.
9. Enforcement wing officials shall formulate the proposals in the pending D3 / D3A cases immediately and the assessing officers shall issue Notices in D3 cases immediately with necessary follow up action.
10. The Enforcement Joint Commissioners have to review and follow up the cases of Transit Pass not surrendered at Check Post.

All officers should note the following general observations which are required with reference to the arrear action files:-

(i) In respect of running concerns and concerns having movable or immovable properties within the State, no kind of excuse will be accepted if there is failure to take effective and purposeful action under the Revenue Recovery Act.

(ii) B6 / Form-U Notices to Banks where there is no fund or applications to magistrates are poor substitutes when there is scope to take action under the Revenue Recovery Act on properties for realization of the arrears. Where possibility

exists for action under Section 45 of the TNVAT Act, 2006, Form-U notices should, no doubt, be issued, but this should be in addition to proceedings under the Revenue Recovery Act in all cases of running concerns or concerns with property within the State.

(iii) In respect of concerns where the entire arrears can be recovered under R R Act, or under Section 42 of Tamil Nadu Value Added Tax Act, 2006 the officers will recover the entire arrears in a lumpsum and are not permitted to accept payments in instalments unless there is an order to that effect either from the appellate authorities or from the Government.

(iv) All 'stopped business' cases should be personally verified by the assessing officer. Treating a case as 'stopped business' has serious implications in terms of the possibility of recovery of arrears. Therefore, careful verification is called for in all such cases.

(v) In respect of each of the 'Stopped Business' cases, where the demand had accrued when the business was alive, the Joint Commissioners should send a separate report fixing the responsibility for the non-collection of the arrears when the business was alive.

(vi) Where a person or an institution against whom Form-U notice has been issued fails to discharge his / its commitment, the implications in terms of Section 45 of the Tamil Nadu Value Added Tax Act, 2006 should be explained by a notice issued by RPAD enclosing an extract of Section 45. If there is no proper response even then, the person or institution concerned should be proceeded against as permitted under Section 42 of the TNVAT Act, 2006.

(vii) There should be no delay in making collections merely because an appeal or revision petition is pending. The officers in charge of collection are not expected to take cognizance of any such appeal or revision petitions unless stay orders have been issued by the appropriate authorities.

(viii) In all cases where orders have been received from the appellate authorities or Government permitting payments in instalments, the entire amount should be collected in one lump sum promptly as contemplated in such orders if there is violation of any of the conditions governing such permission.

(ix) In collecting old arrears, immediate attention shall be given to the cases relating to the recent years (i.e. from 2002-2003 to 2008-2009).

5) All current arrears and all old arrears for the last five years, where there is scope for action under the R R Act or under Section 45 of the Tamil Nadu Value Added Tax Act, 2006 should be collected without any further delay.

A special fortnightly report on the progress in each of the above items of work shall be sent by the Territorial and Enforcement Joint Commissioners and the completion report shall reach this office by 30.09.2009.

The receipt of this circular shall be acknowledged at once by the Territorial and Enforcement Joint Commissioners.

**Sd/-T.Jacob,
Principal Secretary/
Commissioner of Commercial Taxes.**

To
The Territorial Joint Commissioners
The Enforcement Joint Commissioners

Copy to:

1. Additional Commissioners in the O/o PS/CCT, Chennai-5
2. Joint Commissioner (Computer Systems)
3. The Superintendent 'Y' Section
4. PA to PS/CCT, Chennai 5
5. Stock File
6. Spare 2

/ Forwarded / By Order /

Deputy Commissioner (SMR).