

**Q3 / 30967/ 2010**  
**Circular No.17 / 2010**

**Office of the Principal Secretary / Commissioner**  
**of Commercial Taxes, Chepauk, Chennai-600005.**  
**Dated: 08.10.2010**

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**CIRCULAR**

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**SUB :** TNVAT Act, 2006 – Zero rate Sales – Issue of refund - certain instructions issued for strict compliance – circular instructions – issued.

**REF:** VAT Cell Lr. No. 37009 / 2007 / VCC No. 1060  
dated 21.8.2007

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Under the TNVAT Act, refund to Zero rate sellers, including exporters, is a major task to be handled by the Assessing Officers with great care since the refund has to be issued within 90 days from the date of receipt of claim.

**1.1 Zero rate sales are defined under Sec 18(1) of the TNVAT Act 2006 as below:**

“18(1) The following shall be zero rate sale for the purpose of this Act, and shall be eligible for input tax credit or refund of the amount of the tax paid on the purchase of goods specified in the First Schedule including capital goods, by a registered dealer in the State, subject to such restrictions and conditions as may be prescribed:-

- (i) A sale as specified under sub-section (1) or (3) of section 5 of the Central Sales Tax Act, 1956;
- (ii) Sale of goods to any registered dealer located in Special Economic Zone in the State, if such registered dealer has been authorised to establish such units by the authority specified by the Central Government in this behalf; and
- (iii) Sale of goods to International Organisations listed out in the Fifth Schedule.”

This means that a dealer who exports goods other than goods in Second Schedule directly, a deemed exporter effecting sale of such goods to an exporter, a dealer effecting sales to a registered and authorised dealer located in Special Economic Zone (SEZ) or a seller to an International Organisation is a zero rate seller. He must be a registered dealer under VAT Act.

**1.2 Entitlement for refund of Input Tax paid or payable by the zero rate seller is provided under Sec.18 (2) as below:**

“(2) The dealer, who makes zero rate sale, shall be entitled to refund of input tax paid or payable by him on purchase of those goods, which are exported as such or consumed or used in the manufacture of other goods that are exported as specified in sub-section (1), subject to such restrictions and conditions as may be prescribed. “

**1.3 The time limit for claim for refund and lapse are provided under Sec.18 (3), as below:**

“(3) Where the dealer has not adjusted the input tax credit or has not made a claim for refund within a period of one hundred and eighty days from the date of making zero rate sales, such credit shall lapse to Government.”

1.4 Export of non - VAT goods, (i.e.) goods falling under Second Schedule, are not eligible for ITC & therefore, no refund of ITC will arise.

1.5 Refund is eligible even for inputs used for export of finished goods, which are exempted from tax.

1.6 Refund is also eligible for input tax on capital goods for zero rate sellers.

2. These categories are eligible for full refund of their Input tax paid on their local purchases including consumables & packing materials, if exported as such or as finished goods after manufacture. Any claim made for refund has to be processed and refunded within 90 days and order passed by the assessing authorities in Form P.

3. Every registered dealer claiming refund under clauses (i) and (ii) of sub-section (1) of Section 18 of the Act shall file an application to the appropriate assessing authority in Form W with the following documents:-

(i) Original tax invoices relating to the claim of input tax in respect of the purchase of goods;

(ii) Invoices showing the sale of goods in the course of export out of the territory of India along with Bill of Lading or Shipping Bill or Export Application duly certified by any officer of the Customs Department to the effect that the goods have been exported.

4.1 For exporters, a refund register has to be opened by each Assessing Officer called E Register to watch the cases of Refunds for zero Rates sales. For every Zero rate seller, a separate folio / page has to be opened. Details of Form P shall be entered in the Register E to watch these cases.

#### REGISTER E

TIN: \_\_\_\_\_ YEAR: \_\_\_\_\_ Name of the Dealer: \_\_\_\_\_

Month	Date of return / Form	Input tax claimed as Refund (Rs.)	Purchase Turnover related	Turnover of Export / Zero rated sales	Date of refund order	Amount refunded	Refund voucher no. & Date	System staff initials	A.O's initial

4.2 Once the claim is filed in the Form W, it is the duty of the Assessing Authority to verify the correctness of the claim on inputs with reference to the evidences filed. In this connection, the assessing authority shall verify the following before issuing refund:

(a) Whether Form is correctly filled up?

(b) Whether the claim Form is supported by copies of 'Original' tax invoices from local existing registered dealers with their TIN.

- (c) If so, whether tax is charged for separately in those bills?
- (d) Whether the total tax paid on inputs tally with the data of tax paid of by the supplying seller available in the web site with this buyer's name & TIN
- (e) Whether copies of bills of lading, airway bill or other transport documents are enclosed as proof for the export of goods;
- (f) Whether any part of ITC has to be reversed.
- (g) whether the claim is supported by correct and complete Form W and other documents as prescribed under the TNVAT Act 2006 and TNVAT Rules 2007
- (h) whether the Zero rate sale amount has been realized from the buyer and accounted for in their bank statements.

4.3 The Assessing Officer has to ensure that tax on related inputs of the goods exported only has to be claimed and refunded. Input tax is refundable even for export of exempted goods manufactured by the zero rate sellers. In such cases, capital goods, raw materials, packing material of consumables will also come under the inputs.

4.4 Necessary Cross-verification may be made with respect to the Web site data through computer or from monthly Exporters data CD sent by Computer Centre or addressing Enforcement wing concerned.

4.5 The Assessing officer has to gather the details of turnover of export & local purchases from the records of earlier 3 years, so that the claim made monthly at average can be verified to check whether any abnormal claim on export or local purchases is effected and claimed in the return month. (For e.g.) An exporter has reported Local purchases of inputs for Rs. 12 lakhs and export / zero rate sales of Rs.48 lakhs, in 2005-06. (i.e.) An average of Rs. 1 lakh in inputs, and Rs. 4 lakhs in output per month. He claims now local purchases (input) of Rs. 5 lakhs & export sale of Rs. 20 lakhs in a month. The Assessing Authority may be cautious and issue refund voucher within 90 days as required under the Act since the returns are filed under the Self Assessment system. If Form W is incorrect and incomplete the Assessing Authority has to issue a notice in respect of the incorrectness or defect noticed to the dealer concerned.



8. All cases including the cases prescribed above shall be audited by the Assistant Commissioner (Audit) as per his schedule.

9. The genuineness of all refund claims involving an amount of Rs. Five lakhs and above in respect of the Coimbatore Division and all refund claims involving an amount of Rs. One lakh and above in respect of other Divisions shall be verified by Assessing Officers.

10. While examining the refund claim for exports, the Assessing Officer shall verify the following documents:

(i) Original purchase invoice in the name of Exporter, depicting the amount of input tax paid on purchase made within the State;

(ii) Original Sale invoice;

(iii) Self – attested copy of Shipping bill / Bill of Exports pertaining to the export in respect of which the refund has been claimed;

(iv) Self - attested copy of Bill of lading / Airway bill pertaining to Export;

(v) Bank Certificate from the concerned Bank where payment from the Foreign buyer in respect of goods received has been credited.

(vi) The purchases may be cross verified through e-file correspondence, filing a copy in the respective file. A Xerox copy of the cheque / demand draft given to the sellers for the purchase amount or a statement of payment referring the cheque number etc. with TIN of sellers may be obtained by the Zero Rate sellers for enabling cross verification to see whether those amounts include input tax amount and whether accounted for in the seller's accounts.

The above points must be verified in all cases without any omission.

11. The ITC claimed and adjusted by exporters / partial exporters who have claimed refund in Form W in respect of the export, should be reversed, wherever necessary, to the extent of the refund allowed.

12. The Territorial Joint Commissioners and Deputy Commissioners shall review the above work periodically and refer the dubious cases and claims to the Enforcement Wing for necessary action.

All the Territorial and Enforcement Authorities are directed to follow the above instructions scrupulously. The Joint Commissioners and Deputy Commissioners are instructed to verify the strict adherence of these instructions in supersession of the earlier instructions. Any deviation from the above instructions shall be viewed seriously.

All Joint Commissioners are instructed to send the acknowledgement by next mail. Similar acknowledgements should be obtained from all Deputy Commissioners and all Assessing Officers.

**Sd/- V.K.Jeyakodi,  
Principal Secretary /  
Commissioner of Commercial Taxes**

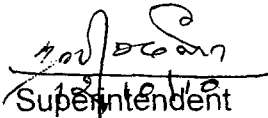
**To:**

1. All the Joint Commissioner (CT), (Territorial, Enforcement, ISIC & MoU Cell)
2. All Deputy Commissioners, (Territorial, Enforcement, & MoU Cell)
3. All the Head of the Assessment Circles in this State.

**Copy to:**

1. All the Additional Commissioners in the O/o the Principal Secretary / Commissioner of Commercial Taxes, Chennai -5.
2. Joint Commissioner (Admin), O/o the Principal Secretary / Commissioner of Commercial Taxes, Chennai -5.
3. All Joint Commissioner (CT), Deputy Commissioners (CT) & Assistant Commissioners (CT) in the O/o the Principal Secretary / Commissioner of Commercial Taxes, Chennai -5.
4. The Joint commissioner (Computer Systems), Chennai-600006 for uploading in the intranet and internet websites,
5. The Director, Commercial Taxes Staff Training Institute, Chennai -6.  
For Stock File / Spare-5

/ Forwarded/ by order/

  
Superintendent

By  
12/10/10