

Date: 30.11.2009.

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**CIRCULAR**

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| <b>SUB :</b> | TNVAT Act 2006 – C.T.Department –undue enrichment of input tax credit on sales made at a lower price – non payment of tax by certain line of dealers –circular issued- reg |
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The Principal Secretary and Commissioner of Commercial Taxes requested all the officers of the Department to point out the hurdles they are facing in the implementation and enforcement of the Value Added Tax provisions. It was brought to the notice of the Department that the dealers in consumer durables such as TV, Washing Machine, Refrigerator, Electrical and Electronic Appliances, Home appliances, and Computer and peripherals are showing nil or lesser value addition on their Sales since the introduction of VAT in Tamilnadu.

Under the TNVAT Rules, 2007 there is an implicit provision in Rule10 (6) (b) (ii) (C) which reads as follows:

***“Wherever any credit notes are to be issued for discount or sales incentives by any dealer to another dealer after issuing tax invoice , the selling dealer shall pass a credit note without disturbing the tax component on the price in the original tax invoice , so as to retain the quantum of Input Tax Credit already claimed by the buying dealers as well as not to disturb the tax already paid by the selling dealer”.***

The above Rule clearly implies that the quantum of tax paid to the Government cannot be disturbed by means of lowering the purchase cost or by means of reducing the selling price by any dealer after a sale or purchase which means that if any incentive or discount is allowed subsequently it should not disturb the tax component which was already paid to the Government and such discounts must be kept outside the VAT chain. If the dealers do such things for a particular product or a particular sector or for particular people then it can be construed as “sales made at a lower price” and the provisions of Section.24 of the TNVAT Act, 2006 can be invoked.

In general , if the consumer durable goods or other goods are sold to the consumers for invaluable consideration at a price lower than the market price or purchase price and in reality the profit is subsidized by a subsequent post-purchase discount , which has link with the quantity or turnover of goods purchased by the dealer during the year , such a discount received occurring as profit in the Profit and Loss Account shall also be construed as Value Addition and subjected to tax at the appropriate rate applicable to the goods.

All the Joint Commissioners are instructed to identify such cases and to take immediate action to realise the revenue due to the State.

The Joint Commissioners shall acknowledge the receipt of this circular by next mail and shall in turn obtain acknowledgement from their Subordinate Officers.

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

To  
All the Joint Commissioners (CT) (Territorial)  
All the Joint Commissioner (CT), (Enforcement),  
Including Inter-State Investigation Cell.

**Copy to**

All the Deputy Commissioners (Territorial & Enforcement)  
All the Heads of the Assessment Circles.  
The Director, Commercial Taxes Staff Training Institute, Chennai -6.  
Joint Commissioner (Computer Systems), Chennai -6.  
All the Additional Commissioners in the Office of the Principal Secretary/ Commissioner of Commercial Taxes, Chennai -5.  
EDP Cell, Office of the PS/Commissioner of Commercial Taxes, Chennai -5  
(For uploading in the Commercial Taxes Website).  
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