

Dated: 14.06.2010

CIRCULAR

SUB: TNVAT Act, 2006 - VAT Audit reports sent to assessment circles-certain deviations noticed in the VAT Audit reports- powers to deviate on inconsistent VAT Audit and Inspection proposals-certain instructions issued for strict compliance - circular instructions - issued.

REF: 1. From the Joint Commissioner, Enforcement-I, in D.O Letters No.6031/2009/A3 dated 22.12.2009 and 19.01.2010.
2. From the Joint Commissioner, Enforcement-II, in Letter No.3645/2009/A5 dated 20.01.2010.

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In the references cited, the Joint Commissioners (CT), Chennai Enforcement-I and II, have requested to formulate necessary systems and procedures relating to sending of proposals to Territorial Wing and the consequential action relating to implementation of the proposals. In this regard the following instructions are issued for strict adherence:

1. The Audit report or the Inspection proposals involving a revenue effect of Rs.25000/- (including tax and penalty) per assessment year shall be approved by the Enforcement Assistant Commissioner.
2. The Audit report or the Inspection proposals involving a revenue of more than Rs.25,000 upto Rs.5 lakh (including tax and penalty) shall be approved by the Enforcement Deputy Commissioner.
3. The Audit report or the Inspection proposals involving revenue effect of above Rs.5 lakh (including tax and penalty) shall be approved by the Enforcement Joint Commissioner.
4. The revenue effect shall be considered with respect to every year of assessment separately.

5. In respect of issues involving interpretation of Law, the Audit report or the Inspection proposals shall be approved by the Enforcement Joint Commissioner, irrespective of the monetary limit.
6. The time limit for sending the Audit reports shall not exceed one month from the date of completion of field audit.
7. The time limit for implementation of the Audit Reports or the Inspection proposals by the assessing Officers shall not exceed three months from the date of receipt of such Audit Reports or Inspection proposals. If the implementation of the Audit or Inspection reports could not be made within three months of receipt of such proposals, the Assessing Officers shall inform the Territorial Deputy Commissioner or Joint Commissioner as the case may be, by specifying the reasons for non implementation of such proposals.
8. All proposals shall be sent to the Assessing Officers directly, after approval by the appropriate Enforcement Wing authority, and a copy shall be marked to the Territorial Deputy Commissioner.
9. The receipt of the proposals shall be duly acknowledged by the Assessing Officer.
10. The implementation of the proposals shall be reviewed by the Deputy Commissioner (CT) and Joint Commissioner (CT) periodically and the implementation status and pendency should reflect in the monthly Performance Statistics.
11. On implementation of the proposal, a copy of the implementation report shall be sent by the Assessing Officer to the Enforcement Wing and a copy of the implementation report shall also be marked to the Territorial Deputy Commissioner.
12. If the Assessing Officer finds any arithmetical inaccuracy, he may himself rectify the same and report the fact to the Enforcement wing after passing final orders, in his implementation report. If any mistakes are noticed in the proposals of the Enforcement wing in adopting lower rate of tax or adopting wrong slab in the working of tax or penalty, the Assessing Officers need not send any deviation proposal, but may rectify the same and proceed with the assessment. However, the fact shall be reported by the Assessing Officer to

the Enforcement wing and to the Territorial Deputy Commissioner, in his implementation report.

13. If the Assessing Authority feels that, the Audit report or Inspection proposals, are not in conformity with the Law or the established principles set by various higher Judicial Forums, and if he wishes to deviate from the proposals either partly or wholly, he shall seek approval for deviation with appropriate reasons from the Enforcement wing authority who has approved the Audit report or Inspection proposals as the case may be. The deviation proposals shall be sent by the Assessing Officer to the Enforcement Wing Authority through the Territorial Deputy Commissioner or Territorial Joint Commissioner.
14. If the Territorial Deputy Commissioner or Territorial Joint Commissioner (CT) finds that the deviation proposals sent by the Assessing Officer is correct, he shall send the deviation proposals with his remarks to the Enforcement Deputy Commissioner or Joint Commissioner, as the case may be.
15. The deviation proposals shall be decided by the Enforcement Wing within a period of two months from the date of receipt of such proposals.
16. If the Enforcement Deputy Commissioner or the Enforcement Joint Commissioner agrees with the deviation proposal, then the Assessing Officer may be instructed to go ahead.
17. In case of any disagreement by the Enforcement wing in according permission to deviate from such proposals, the issue, if deemed fit, shall be further taken up by the Territorial Deputy Commissioner or Joint Commissioner in the Co-ordination meeting and a decision shall be arrived.
18. If the Enforcement Joint Commissioner still does not agree with the deviation proposal, and if the deviation proposals are in conformity with the Law, the Territorial Joint Commissioner shall decide on the implementation of the Audit report / Inspection proposals based on the provisions of Law and Judicial pronouncements and his views are final.
19. When an assessment involving Audit report or Inspection proposal, is set aside and remanded back to the Assessing Officer for fresh disposal in an appeal, and if the Assessing Officer seeks any deviation from proposals made

and implemented based on the Audit report or Inspection proposals, then the consideration of such deviation proposals shall be made by the Territorial Joint Commissioner based on Law and Judicial pronouncements. In such cases the deviation proposal need not be sent to the Enforcement wing.

20. Utmost care and caution shall be exercised by the Authorities who are approving the reports / proposals, at the time of its formulation and also at the time of deviating the reports/proposals, so that the proposals stands test of law and also the revenue of government is safeguarded.

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 periodically. Any deviation from the above instructions shall be viewed seriously. The receipt of this Circular shall be acknowledged by next mail.

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.
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