

Ref.No. 2B/R-4/8410

31.3.2010

Principal Secretary,  
Tax & Registration, Govt. of U.P,  
Secretariat Annexe,  
Lucknow

Shri V.N.Garg, I.A.S  
Executive Director,  
Udyog Bandhu,  
12-C, Mall Avenue,  
Lucknow

Shri Chandra Bhanu, I.A.S.  
Commissioner,  
Commercial Tax, Govt. of U.P,  
Vibhuti Khand, Gomti Nagar,  
Lucknow

**Sub:- Set off /Rebate / Refund in Entry Tax.**

Sir,

IIA had represented that considering the back ground and underlying principles of VAT, Entry Tax may be abolished. It is a good response from the Commercial Tax Department that only a few goods now come under preview of Entry Tax Schedule. But the goods under Entry Tax too have not been extended the treatment envisaged in its compensatory nature. The Act provides rebates but confusions and varied interpretations prevail causing immense strain to Tax-payer, who does not know the extent of this taxability and thus cannot plan his targets with confidence. Dilemma hovers, whether set off or refund will be given, when and how, is the tax to be deposited or not and if the interest will also be payable .

IIA has always worked in furtherance of the interest of Industry as well as revenue. Association has the corroboratory evidence that certain officers levy and allow set off in Entry Tax on paper and others levy Entry Tax create demand and charge interest.

The main reason behind the confusion is the Notification Entry Tax amendment (Act) 2009 (Act no. 9 of 2009) by virtue of ,which amendment in Sec 4, 5, 6, 12 of Entry Tax were affected. These amendments were explained / interpreted vide circular no. 091006/17.04.09.

The circular reads “ धारा 6 में वर्तमान में जो प्राविधान है उसके अनुसार किसी स्थानीय क्षेत्र में माल के प्रवेश करने से पूर्व यदि उत्तर प्रदेश मूल्य संवर्धित कर अधिनियम 2008 के अंतर्गत उस माल पर कर भुगतान का दायित्व हो राज्य सरकार अधिसूचना द्वारा इस अधिनियम के अंतर्गत उद्गृहणीय कर की संपूर्ण धनराशि की सीमा तक रिबेट अनुमन्य कर सकती है। संशोधन में “ किसी स्थानीय क्षेत्र में माल के प्रवेश करने से पूर्व कर भुगतान का दायित्व हो” हटा दिया गया है। अब दोनों परिस्थितियों में प्रवेश कर में रिबेट अनुमन्य हो सकेगा चाहे मूल्य संवर्धित कर अधिनियम 2008 के अंतर्गत दायित्व स्थानीय क्षेत्र में प्रवेश से पूर्व हो अथवा बाद में” ।

**Notification no. 2-766, dt. 4.3.2009 allowed rebate on paper.**

Principal Secretary, Tax & Registration in the meeting of उत्तर प्रदेश व्यापार विकास निधि प्रबंधन समिति, which was chaired by Chief Secretary U.P., Lucknow, clearly declared that जनवरी 2008 से “कागज पर देय प्रवेश कर से कागज पर देय वैट को घटाने की व्यवस्था है—— प्रवेश कर की देयता नहीं रह जाती” This is incorporated in the “Minutes of Meeting” **(Photocopy at Annexure-I)**

The department in its counter affidavit dated 07.01.2009 in the matter of M/s Gulab Chandra Vishwanath & CO Vs Govt of U.P. in WP.No. 2090 of 2008, averred, “That the impugned Act facially and patently indicates that the benefits, which is quantifiable and measurable, is given to the payers of entry tax as a class. The deponent is further advised to state that the rate of tax regarding goods imported from outside the State and goods manufactured within the State is the same” **(Photocopy at Annexure-II)**. From the above it is clear that department desires to extend the facility, which is constitutionally due, provided in Act, reflected through a Notification and Circular issued, Minutes of the Meeting of Development fund, averment before Hon’ble High Court. But law is least understood/respected by field officers and make tax payer run from pillar to post craving for justice and without knowing his taxability.

IIA hopes that commercial Tax Department will be kind enough to let the tax payer clearly know the extent of his tax liability so that an efficient financial management be in place and smooth and swift flow of Revenue.

Therefore, clear instruction through circular or Notification deemed fit may kindly be issued in this behalf at the earliest.

Thanking you,

Yours faithfully,

**D.S.Verma**  
**Executive Director**