

Shri Arun Kumar Sinha, IAS  
Principal Secretary SSI  
And  
Export Commissioner,  
Export Promotion Bureau,  
PICUP Bhawan,  
Lucknow

**Sub:- Bottlenecks in VAT render Exports un-competitive.**

Sir,

Your goodself is very well aware that from Jan 2008 our (State) opted VAT System of Indirect Tax. This system abolished all concessions and exemptions and levies Tax on every addition of value. But since the Exports outside India are not to be taxed as per provisions of constitution of India it has no option but to declare it exempt. Under Sale Tax as well as Trade Tax law purchases in connection and proceeding Export, such as raw materials and packings were also exempt by issuing Form "H" prescribed under central Sales Tax Act. Though central Sales Tax despite VAT being implemented continues with all its provisions yet New experience of VAT Rules and Act has created anomalies which require clarification. The clarification should come from such Authority, so that it could have all complying and binding effect.

The necessity arose due to vague provisions of relevant sections and Rules of VAT Act giving exemptions to Manufacturer Exporters in such chain of Exports Sales preceding to Exports, there exist doubts and suspicious regarding admissibility of the process of Exemption and ITC. When this matter was raised before Zonal Additional Commissioner, Moradabad by our local chapter, he too was not very much sure of the Admissibility of Exemption. As such he framed direct questions and wrote a letter to Commissioner, Commercial Tax (Vidhi) H.Q.Lucknow, Letter No. 178(1), dt. 28.04.2010. Copy of the letter is enclosed at **Annexure -I**. The problem summarized to Provisional Exemptions, Exemptions on Raw Material and Packing as well ITC (input Tax credit) on sales preceding export. Thus, following question were posed –

- (i) Whether as per provision of Rule 21 (1) of VAT the seller of goods to Manufacture exporter will get ITC against form – E ?
- (ii) Whether Dealers selling against form – H to exporters will be eligible for provisional Refund ? Whether they would come under the category of exporters ? If so what will be the basis thereof whether they will get provisional refund under section 41 of VAT Act or not ?
- (iii) As per Notification No. 247, dt. 24.02.2010 Seller against form –E and purchaser will be Registered Dealers. As per provision of the VAT Act Registered Dealer transacting with Registered will issue Tax Invoice & Recover Tax. In this context what will be the modus of billing in cases of export ?

The issue has not been addressed so far. Your goodself better understands that two months time is very important for export, particularly in rate determination and if the exporters do not clearly know whether ITC (Input Tax Credit) will be admissible or not, Provisional refunds in the chain of purchases will follow or not and what system of billing has to be adopted in certain cases; the exports may suffer an irreparable loss. Your goodself is therefore requested to help IIA in getting early response.

Thanking you,

Yours faithfully,

D.S. Verma  
Executive Director

Copy to :- Shri Prabhat Kumar, Joint Export Commissioner, Export Promotion Bureau.

D.S. Verma