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Principal Secretary,
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Lucknow

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Sub:- Field officers issuing general Notices to 100% registered dealers- derail the Provision of scrutiny not exceeding 20% u/s 27 of VAT Act.

Sir,

Sec. 27 of VAT Act 2008 has provided the facility of "Self Assessment" in order to liquidate the heavy pendency enlarging every year, as well as relieving tax payers from the cumbersome exercise of repeated hearings for final Assessment every year. But inspite of rolling out the facility officers at the field are diverging to direct hearing of cases by finding faults.

IIA has gathered that officers at the field level are issuing absolutely unspecific notices in general to exclude the dealers from the above facility and fix up the same day date for hearing on which the Notice is issued, or maximum one day's margin for hearing without resorting to examination of defects. Rule 43 of VAT provides that for identification of such Dealers. The commissioner shall prescribe the modalities manners and norms for selection of Dealers or class of dealers, whereas no specific orders have been issued. The Deptt. Expressed that not more than 20% Dealers shall be taken in this net. But the Dealers are least informed on this count. No minimum time for compliance of Notice is given. Even the **extended time** for submission of form **XXVI** is taken as adverse and subjected to notice. Although the provisions speak liberally as under :-

The operative section 28 provides, “..... after detailed examination of books of Accounts and documents kept by the dealer in relation to his business and other records, if any, and after making such enquiry as it deem fit..... shall pass and assessment order”. But it is distressing that all exercises are aimed at thwarting the facilities and benefits of Sec- 27 by the field officers. According to provisions :-

1. No decision can be taken without proper hearing and examination of the dealer as prescribed and no unilateral, ex-parte decision is to be taken.
1. Act and Rules and judicial decisions provide that at least 15 days time to comply with Notice is to be given for meeting the ends of natural justice.
2. Section 28b (1) provides for acceptance of annual return within extended time also.

It is imperative that the vital facility of VAT Act may not be allowed to be snatched arbitrarily. Therefore, suitable directory circular may kindly be issued, of course after checking the large quantity and quality of such Notices issued by the field officers. Under seven (7) conditions of Sec-28 (which includes the Dealer identified for Tax Audit) cases can be heard and assessed by giving opportunity of being heard (not less than 15 days time). But the huge exercise of show cause notices is intended to take every Dealer in its fold, rendering the liberal provisions of Sec-27 absolutely infructuous. It is therefore requested that :-

- (i) **By whatever method commissioner deems fit Dealers under Tax Audit be identified and listed to ensure transparency. As promised this number may not exceed 20%.**
- (ii) **Notice if at all required (but giving minimum 15 days time) be issued to a limited number of Dealers to save face of the liberal provision.**
- (iii) **As per provision of Sec-28 Notice should be on pin-pointed, defect-identified with facts and figures with clear specification as to how and why the opinion has been formed to call the Dealer for hearing of case & removing him from self assessment.**
- (iv) **Officers may be prevented from blatantly misusing their discretion arbitrarily with out rhyme or reason.**

Thanking you,

Yours faithfully,

D.S.Verma
Executive Director