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Subject: Concessional/ Exemption C.S. T forms to be allowed recognition till the time of Assessment.

Sir,

IIA has constantly been receiving feed backs through its District Chapters regarding acute difficulties in the submission of Central Exemption/Concessional Forms. This is mostly due to non-availability of forms with the Deptt or delays in issue thereof.

Considering the bonafide & genuineness of the matter, Commissioner Commercial Tax issued a circular No. 759/29.9.08 (Copy enclosed at **Annexure-I**). In this circular it was clarified that the Rule 8 (2) of U.P. Rule on C.S.T. 1957 which allowed the discretion to accept the forms beyond three months from the last date of Tax- period Return was superseded by Govt. Notification 2584 dt. 15/12/07. But the Central Act sec. 8 (4) & Registration & Turnover Rules 1957 Rule 12(7) empowers the Assessing Authority to accept such forms by extending the date (for adequate reasons) even beyond that. Therefore Commissioner Commercial Tax by indicating the existing powers desired Assessing Authority to consider extension of date/time beyond the time frame as provided in Central Rules.

Hon'ble High Court Allahabad in the Matter of Santoshi Enterprises Noida v/s Commissioner Trade Tax on 20/07/06 had already clarified in unequivocal terms that "The Assessing Authority which is a "prescribed Authority" can grant the extension of time for filing declaration forms beyond the date of "Assessment order". It further Ruled, "Rule 12 (7) itself permits furnishing of declaration forms till the date of Assessment there would be no requirement of any extension of time provision to Rule 12(7) can only refer to extension of time beyond date of Assessment." This judgment of the High Court of jurisdiction is "binding" in U.P until over ruled. (Copy enclosed at **Annexure-II**)

The Hon'ble Supreme Court of India in M/s Ambika Steels Ltd. v/s State of U.P has ruled that " -- complete the Re assessment proceedings (which is beyond original Assessment order/proceedings) keeping in mind the circumstances that Assess is not in a position to obtain form 'F'-----". Similar Judgments have been given by Apex Court in the case of Quantum Engg & Fabricators Pvt. Ltd & Subh Udyog v/s State of U.P. This shows that the judgment which is the Law of the Land does not conceive the Rule as an impediment in extending time/date beyond Assessment orders. (Copy enclosed at **Annexure-III**)

But despite the circular & judgments referred above the Assessing Officers are not prepared to accept the claim. They are blatantly and arbitrarily misusing their discretion by rejecting the claims & creating huge imaginary demands for which brighter chances exist being knocked down in Appeal.

Your goodself can collect the statistics that out of the Total demand created during any year what is part of demands on rejection of Forms or not agreeing to extend time to procure forms. Previously As per the circular of Commissioner Trade Tax the Assessment order invariably used to include extension of time for submission of forms which could not be submitted at the time of Assessment and on request could further be extended. The circular has not so far been withdrawn, but is not complied with at the field level.

Therefore IIA wishes to project that practically administratively & even lawfully, the Officers are bound to so-moto extend time. Because the dealer has been registered under Central Sales Tax Act to import & export goods on Concessional/Exempt rates. The Forms have been prescribed under C.S.T Act. By the Deptt itself and "postman" (as the dealer is) delivering the letter is refused acceptance of letter i.e. declaration in form 'C', 'F', 'E' or whatsoever it may be The real concession/exemption flows from the registration granted to dealer whereas declaration form is a subsidiary certificate. The Registration holder is a genuine dealer and Registered after submitting security. Therefore every possible effort to give facility may not be overlooked.

It is worthwhile to explain that every year old giant arrears which are leavings of these "Forms" account become a ray of hope for the Deptt to achieve its targets. But hardly any amount is recovered, being stayed, reduced, remanded or quashed. The cases of such types are usually accepted in Appeal or Tribunal level. But the Deptt in arguing & preparing such Appeal cases have wasteful official machinery in negative work. The Dealer has to suffer at the hand of Advocate as he has to repeat the "fees" for different works. The Dealer is victimized & such recurring expenses added to his balance sheet enhance the prices. The official machinery is engaged in negative work which could otherwise have worked for revenue oriented work.

Therefore we request you to consider the following proposals sympathetically :-

- (i) All Central Exemption/Concession forms be directed to be accepted till the date of Assessment as per C.S. T Rule 12(T) & in time with Allahabad High Court judgment.
- (ii) Genuine Cases be allowed Six Months time after assessment and demand be not raised till them.

Thanking you,

Yours truly,

D.S. Verma
Executive Director

Encl: As above