

Submitted to : Principal Secretary Tax & Registration, Govt. of U.P.
(2b/6760,dt. 5 June 07)

Urgent issues/proposals related to industrial development in the State submitted to Principal Secretary Tax & Registration, U.P.

Indian Industries Association (IIA) the only representative body of Micro, Small and Medium Enterprises (MSMEs) in Uttar Pradesh welcome you as Principal Secretary, Tax & Registration, Govt. of Uttar Pradesh.

For MSME's your department attaches special importance because their well being is related to the revenue collection in your department, tax structures and implementation of various policies/rules framed in the department.

IIA is working for this sector for 21 years now and has been providing useful informations and feedback based on the ground level realities to the Government for improving the tax systems. We have submitted various important issues/proposals to the Govt. in the recent past. The outlines of these issues/proposals are as under : -

1. Implementation of VAT in U.P

Since the concept of VAT was originated about 8-10 years back, IIA has been advocating for its implementation. Govt of India and almost all the States as on date have accepted IIA's view. However in our home state it is yet to be implemented. We have been requesting the Govt. of U.P to implement VAT regularly in the past and have also participated in the process of formulation of U.P VAT Act & Law at initial stages. As on date Small & Medium Enterprises in U.P due to its non implementation are facing the problem of survival in the competitive market. VAT allows set-off in all the cases whereas Trade Tax loads the input Tax on the ultimate cost of production making our goods costlier. Moreover rates of Taxes in VAT in most of the cases are comparatively lesser than Trade Tax. This ultimate rise in prices leads to smuggling of otherwise cheaper goods in the State from border states affecting the growth of home Industry adversely.

The matter has been agitated at all the departmental level including Udyog Bandhu & about more than two dozen meetings have taken place without results. Lastly Commissioner Trade Tax in Tripartite meeting of Udyog Bandhu had assured that the matter will be placed before the Government. This is a matter of serious concern & of survival of U.P. Industries which deserves consideration on priority.

2- Deduction of Trade Tax at source in cases of Govt. purchases

IIA had made an upright request of Trade Tax deduction at source (T.D.S) like Income Tax pattern from the supplier or contractor. The request was made initially on 23.08.03 & since then it has been pending. In Udyog Bandhu last meeting took place on 17.04.07 where Commissioner Trade Tax assured that the matter being genuine will be placed before the Govt. This provision will ensure hundred percent Tax recovery as well as the honest dealer who desires to pay govt Tax would benefit & would thwart the smugglers from coming in the fray & finally run away.

Original letter alongwith Minutes of Udyog Bandhu Meetings are placed at **Appendix- 'A'**

3. Preferential Treatment to Ex-U.P dealers in face of U.P. SME's & dealers against the spirit of Article No. 303 & 304 of Indian constitution as well as against the State Policy to protect its Home Industry (Notification No 1283 dt. 13.07.06) under RGGVY & other with regard to Electrical equipment/Material):-

IIA had requested vide its various letters addressed to the then Principal Secretary Tax & Registration including letter dated 04.09.06 & repeated till 17.04.07 that through above Notification the wholesome contracts have been doled out to Ex U.P players ousting the U.P Industries. Our representatives met the administrative heads in all the concerned departments including Principal Secretary Energy to impress the gravity of the problem. Executive Director Udyog Bandhu vide his letter 580/06.12.06 to Principal Secretary Energy as well as Tax & Registration re-iterated the genuineness of our request. Departmental officers in the Trade Tax participating in Udyog Bandhu Meeting conceded our view point & promised a Notification but all efforts have proved futile & since then we are repeatedly asked to give the expected losses to the exchequer. We have been stressing that no loss to Govt. revenue will be caused, instead it will improve. The Trade Tax Deptt has the figures & U.P.P.C.L has the figures of U.P & Ex-U.P. dealers to whom it has given the contract as also comparative tax figures. But the exercise is made to while away the time & ensure that entire benefits are usurped by Ex-upian.

Letter dated 4th Sep. 06 alongwith Minutes of Udyog Bandhu Meetings are placed at **Appendix- 'B'**.

The above facility if given to U.P. SME's will breathe life in its dead corpus.

4- Declaration of Chief Minister in his budget speech to Sales Tax on Plastic Packaging Material not honoured so far which may kindly be honoured.

IIA had requested on 03/05/05 that Chief Minister U.P in his budget speech had in unambiguous terms promised to cut down the rate of Tax on "Plastic Packaging". A copy of such Budget speech was enclosed too.

Since then IIA has been pursuing the matter at the Principal Secretary as well as Udyog Bandhu level. On 17.04.07 Commissioner Trade Tax while chairing the meeting of Udyog Bandhu promised that the facility will be made available in case it is proved that the same has been used in packaging of the manufactured goods by the manufacturer. The same may kindly be notified.

Copies of Chief Ministers announcement, our letter and Minutes of Udyog Bandhu are placed at **Appendix - 'C'**.

5 - Facility demanded with regard to form-D in connection with Notification No. 1/2007 dated 29.03.07

The Govt. of India through above C.S.T Notification has made purchases of unregistered Govt. offices to be Taxed at the Normal C.S.T. rate of Tax. The similar situation had arisen in 2002 with regard to Finance Act in which Sales of conditionally exempt goods without from 'C' or 'D' were also to be taxed at normal C.S.T rate but the deptt through circular no. 1526 dated 2 November 2002 had extended the facility without form 'C' or 'D' till 14.10.02 by levying & waiving such tax (by Assessing offer). The same order in this case too may kindly be made as most of the Govt. orders were placed in March 07 against form-D & the notification was issued in the end of March. If this benefit is not given many industries will be prone to extinction. This provision for U.P, a non-VAT State will be dearer as heavy supply orders of Govt departments will revert to VAT States, where Tax with Input rebate will naturally be lesser. This will affect the growth of home Industry of our States.

Copy of letter dated 16th April 2007 to the then Principal Secretary Tax & Registration is placed at **Appendix – ‘D’**.

6- Levy collection & recovery of Entry Tax in face of Apex Court judgment & High Courts judgments declaring it non-compensatory & hence not leviable.

The Question regarding the validity of the levy of Entry Tax is sub-judice before Apex Court. This matter was litigated on the question of law viz “whether Entry Tax is compensatory in nature or not”. The Hon’ble Supreme Court Remanded the matter to different high courts of the Nation to reply the above law point . Almost all the High Courts including U.P have opined that the Balance sheets, Budgets & financial provisions prove the Tax to be non Compensatory in Nature. Therefore the same is ultra vires of Article 301 of Indian constitution. The Act which is violative of Indian constitution may not be allowed to discriminate. For this reliance is placed on the following verdicts :-

- (i) 2007 UPTC- 258 (Hon’ble Supreme Court)
- (ii) 2004 NTN-135 (Hon’ble All High Courts)
- (iii) 2004 NTN-214 (Hon’ble All High Courts)
- (iv) V.S.T.I 2007 Vol – 1 Part- 9 (Hon’ble Supreme Court)
- (v) Civil Appeal No. 337-998 pf 2004 (Hon’ble Supreme Court)

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