

Ref No. 2bll/ 7466

20 Oct 08

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Govt. of U.P.  
Secretariat Annexe  
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To,  
The Industrial Development Commissioner  
&  
Principal Secretary, Industrial Development  
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Secretariat Annexe,  
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**Subject: Request for Making Notification No. 2758/29.09.08, Industry friendly by restoring to its original position immediately before notification.**

Sir,

The Govt. of U.P. vide its aforesaid Notification has made enhancement of Rates of Taxes under VAT & Levied Extra Taxes under Entry Tax Act 07 on Ten fresh and 10 old Commodities. This amendment is going to affect the establishment, operation, Expansion, Maintenance & Infra-structure etc. with regard to Industries. This will certainly tell upon the health, growth, running & development of Industries in the State of U.P.. Indian Industries Association (IIA) desires to bring forth the reasons & logic of our contention.

Keeping in view the basic principles of VAT System the Empowered Committee on VAT had laid down strict guidelines for framing the laws and Taxing of the goods. The most important of these was that the Industrial Inputs & I.T Products, plant & Machinery- as well as Floor Rates of VAT to be competitive so that one State can have no superiority over the other State with Respect to Rates/Value /Price of Goods. Meaning thereby that Taxes shall be rationalized as to leave no room for the levy of higher rates of tax to discourage the goods of home States. This principle has been sacrificed through above Notification. A copy of comparative Rate chart available on the website of U.P. Commercial Tax Deptt (**Annexure-I**) will bring to your kind notice the truth of our contention. This will show that most of the goods which after repeated & constant persuasion by IIA on the basis of logic, the U.P. Govt had brought down to 4% or fixed at 4% have gone up to 12.5%. whereas the rates in neighboring State are only 4%. Naturally this more than three times higher rate will ruin U.P. Industry, inside State or for outside sales. Because Govt Big-consumers, Govt undertakings, Corporations or Companies as well as end users will prefer to purchase from outside State & the home Industry will sink to extinction. To support our arguments a case of how Punjab state having 12.5% VAT Rates vis-à-vis Rajasthan on bus-body making, has suffered loss of Revenue. A copy of such notification of Punjab as reported in Business Standard is enclosed for ready reference at **Annexure-II**.

Not only this in competitiveness with other states, but when consumers will learn that so far 4 % Rate have gone upto 12.5%; either he will purchase less or opt for outside goods. This will add to mushrooming of Tax evaders den & diversion of State Market to outside State. The overall Economic impact of all this will be dearer as lack of purchasing capacity will slope down the demand resulting in disequilibrium of Demand & Supply line.

The same thing had patronized the Ex-UP players & a few big Industrialists under Rajiv Gandhi Gramin Vidutikaran Yojana and crippled the State Industries & lowered the receipts of Revenue will be repeated.

That IIA had long laboured to impress upon the Govt that the white Paper on VAT lays down that:-

- (a) Floor rates of all States will be equal. But this has not received proper attention. While framing VAT Act and Amending it from time to time.
- (b) Industrial Inputs & I.T. Products will not be taxed above 4%, while the same has been overlooked in the above Notification. .
- (c) Taxes will be competitive between states as to allow easier interstate flow of goods and Protection of Home Industry of the State-which has not been the background of this notification.
- (d) That Taxes have been levied on declared goods under C.S.T. Act of Sec-14 & their rates exceeded in excess of 4% as falling u/s 13 of C.S.T. Act.
- (e) That rates of goods once agreed to be lower under a logical request have again been enhanced to maximum without any cause.

IIA wishes to submit a brief of such few commodities under amendments of Rates difference. Few exp. are as follows:-

(i)	Sno. 26 Schedule 2A	Machinery, equipment, apparatus, tools, moulds, dies and component spare parts, accessories	On these goods 12.5 % VAT & 2% Entry Tax has been imposed instead of 4% when in other States rates are only 4% comparative rate chart of other States is enclosed at <b>Annexure-I</b> . This will be further loaded with 1% of Entry Tax at Local area & 1% at Manufacturer level & will further enhance the load.
(ii)	Sno. 59 Schedule 2A	Hose pipes and fittings thereof	The Goods are used in almost all fields as well as agriculture. Higher rates will retard growth & development of such industries.
(iii)	Sno. 87 Schedule 2A	Nuts, bolts, screws and fasteners that is to say-hinges, nails, rivets, cotter, cotter pins, staples, panel pins and tools; tel ki kuppi; files used by artisans.; files used by artisans.	Which will cost dearer without much gain to Govt. This Tax will square-up cost of Machinery, Building Construction & Industrial Establishments etc. Thus industries will be discourazged and overlooked.
(iv)	Sno. 94	Pipes of all varieties including Gl. Pipes, Cl. Pipes, ductile Pipes, PVC etc, and fittings.	Most of these pipes have already been included u/s 14 of C.S.T. Act & have for all times been decided by Hon'ble Supreme Court to be "Iron & Steel"(e.g.G.I.Pipe) on which Tax in excess of 4% can not be levied u/s 13 of C.S.T Act. These will enhance cost of Industries & Priority sectors.
(v)	Sno. 126 Schedule 2A 27 Schedule 2A	Transformers  Electrical apparatus for line telephony or line telegraphy including line telephone sets with cordless handsets and	These goods are required for

	tele-communication apparatus of carriage-current line system or for digital line system; video phones.	Industrial use mainly.  Enhancement of rates will severely hit Private Sectors & Industrial Establishment & make things harder to pull on. ultimately these goods will have to be imported from neighbouring States where such Rates are 4% only.  Causing severe Revenue loss to State of U.P.
236 Schedule 2A	Electrical goods, ie. Winding wires and strips, Switches, selector switches, fuse-switches unit, up to 15 amps, and not in enclosure, Contractors auxiliary contactors, contact block, Control gears and starters, ammeter, Kwh meter, voltmeter, Insulating materials, insulator, jointing materials, Circuit breakers, HRC fuse, thermostate, programmable logic controller, timers, switch boards, panel boards, distribution boards, control panels, motor control center, power control center, bus duct, burner control cubicle, control desk, push button station, local control station, kiosk, feeder pillar, SMPS, Electrical relays and single phasing preventor and timers, overhead transmission line materials including components, accessories and spare parts thereof.	

IIA has identified 15, Serial numbers of the changed notification (Placed at **Annexure-III**) to have been taken to 12.5%, from convenient 4%. so far, which was done after great many efforts. These items are of Prime Importance & yield no much revenue also. If these goods are not brought down to 4%, they will be imported from outside U.P. hitting the revenue receipt of the Stats as well as Industries producing these items will also be doomed.

Excessive Importing from other States will boost Evasion & mush-rooming of evaders of laws.

Your goodself can very easily perceive that the consumption of form-38 Prior to rendering the check-posts non-functional was more than three times & the value of goods imported likewise. This is hurting state revenue as now most of the imported goods go unaccounted for & without revenue. Therefore IIA will request that the check-post which are still existing & manned, but non-functional may kindly be made operative with the same duties & functions as performed before. Your goodself will

see that the revenue which has currently decreased will increase ultimately leading to targeted collection of revenue & crushing the greatest effect of evasion, & black-Marketing & other malpractices by evaders.

The contention of the Govt with regard to equivalent I.T.C. in connection with higher rates of tax is based on idealistic analogy and is not readily available. Most of the applications of such Refunds do not find favour & are rejected. In the matter of Plant & Machinery the process of Refund or adjustment is long wait of more than three years & a matter of discretion, on which reliance cannot be placed.

It is also surprising that most of the Sales & Supplies depend on Govt. Contracts e.g. Govt. of Central & State, institutions, Corporations, Authorities like U.P.P.C.L, Builders of Awas Vikas, L.D.A, Jal Nigams, Hospitals, Nursing Homes, Educational Institutions and University etc, where there is much controversy over the VAT & Entry Tax and are not prepared to pay more than 4% VAT. IIA for illustration annexes a copy of contract of U.P.P.C.L where it has been laid down clearly that VAT payment in excess of 4% will not be paid. Then How business will bear it as the difference is higher than profit margin (copy enclosed at **Annexure-IV**).

Having mentioned the above anomalies IIA desires to bring forth to Govt Notice that Uttranchal which is the nearest neighbour & our hardest competitor has issued a notification No. 1314 dated on 31.03.08 to help lift Industries & make them worthy to compete (copy enclosed at **Annexure-V**). The notification has settled once for all the impact of off & on changes of State Tax Rates by linking the concessional Rate to Sec. 8 (1) of C.S.T. Act which always remains Stable & makes much of the trouble whenever general State rate of Tax is enhanced, opening doors for evaders. This change will cease the trouble of disparity for ever.

Therefore IIA desires the similar Stable provisions may kindly be made in U.P. VAT Act to allow concessional rated on "Capital goods, and Raw Materials, Processing Materials, Consumable Stores, Spare Parts, Accessories, Components, Sub-Assemblies, Fuels & Lubricants and in the packing of such goods. The similar type of form as has been prescribed in Uttrakhand i.e. Form No. 11 may kindly made operative as a license of concessional purchase as was provided under sec 4-B of U.P.T.T. Act & has been provided in Notification No. 1314 dt. 31.03/08 of Uttarakhand. The purchase of goods may also be made Vatable.

To meet the disparities of Present Contract System in all Govt & allied offices in general, the orders may kindly be made to issue contract orders on Basic Price only, which will clear much of the controversies & troubles of varying rates of VAT.

Entry Tax has already been declared ultra-vires by Hon'ble High Court & has no locus in face of VAT as mentioned in white paper that no other taxes in addition to VAT will be levied. The law which makes our State uncompetitive be abolished altogether.

**Check-Post being Non-functional though exist with establishment & manpower, paraphernalia may be made rigorously functional as not to allow Evaders, Black Marketers & Economic offenders to go scot free. Form- 38 may be checked, passed & submitted to sectors at the earliest to take penal Action wherever needed.**

The Rates of VAT on identified commodities be restored to their respective old status as has been requested and got done after our sincerest effort to make things smooth.

Therefore if Industries are in the Priority sector of the State they should be allowed to establish, expand, develop, grow & prosper without additional burden on them.

- (a) All Govt contracts to be issued on basic price only.
- (i) Form-11 as provided in Uttrakhand Notification No. 1314 Dt. 31/03./08 may also be provided & prescribed and concessional rates of tax as provided u/s 8(1) of C.S.T. Act.
- (ii) Tax on Entry of goods may be abolished in face of VAT.
- (iii) Check-Post may be made rigorously functional with similar powers and duties as they used to function under U.P.T.T. Act.
- (iv) Enhanced VAT Rates to be restored to their original position as immediately before the above Notification.

Thanking you,

Yours truly

Parveen Sadana  
President