

Ref.No. 2B/8289

06.2.2010

Shri D.D. Verma, I.A.S.  
Principal Secretary  
Tax & Registration  
Govt.of U.P.  
Lucknow

**Sub : Levy of Double Tax on account of Entry Tax & VAT u/s 54(1) (14) of VAT and Static penalty for all kinds of offences.**

Sir,

During the meeting of Tax Board on 13.11.2009 as well as working group meeting dated 15.01.2010 it was agitated that due to not filling of column No.6, which in most of the cases is due to oversight :-

- (i) Static double penalty i.e.  $40+40= 80\%$  is levied. This discriminates between the gravity of the circumstances of various lapses. Meaning thereby that a lesser, more serious offences are weighed equally, which is devoid of discretion. Hence, maximum limit of penalty may be kept as 40% and authorities may be allowed to use discretion to impose lower penalty for lessor offences. Therefore, the penalty should be “NOT EXCEEDING 40%”.
- (ii) Under VAT Act 54(1)(14) Penalty is levied under VAT Act and Entry Tax. Double penalty 80% on the same offence under the same provisions is arbitrary and against Natural justice. As such penalty exceeds 40%, which infringes the maximum provision under the said section. It is note worthy that Clause 14 of Sce-48 lays down, “Import are abets the import of any goods in contravention of the provisions u/s 50 or Sec – 51 with a view to evading (**Tax**) ----“ no (Entry Tax) or (VAT) has been mentioned seperatly. Therefore, the use of word Tax only in the section conceives VAT & Entry Tax in composite at 40% only. Recently in case of one of our members penalty on import value of Rs. 7,78,927/- of exempt (after manufacture) goods to the Tune of Rs. 6,22,902/- has been levied; which will hamper Industrial production and put the Industry out of Gear.

You were kind enough to listen to our above arguments and we were assured that suitable action will be taken. It is therefore, requested that suitable orders may be issued at the earliest.

Thanking you,

Yours faithfully,

**D.S.Verma**  
**Executive Director**

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Shri H.N.Rao  
Joint Secretary,  
Commercial Tax, Govt. of U.P.,  
Bapu Bhawan Sachivalaya,  
Lucknow.

Shri V.N.Garg, I.A.S  
Executive Director,  
Udyog Bandhu,  
12-C, Mall Avenue,  
Lucknow

Shri S.M.Sinha  
Additional Commissioner,  
Commercial Tax, Head Quarter,  
Vibhuti Khand , Gomti Nagar,  
Lucknow.

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**D.S.Verma**  
**Executive Director**