

Ref No 2b/7789

16 June 09

Shri Desh Deepak, I.A.S
Principal Secretary
Commercial Tax
Govt. of U.P. Secretariat Annexe, Lucknow
Shri Anil Sant, I.A.S,
Commissioner
Commercial Tax, U.P.Vibhuti Khand, Gomti Nagar, Lucknow

Subject: Concessional & Exemption form under C.S.T & U.P.T.T to be allowed submission till final Assessment.

Dear Sir,

IIA has constantly been receiving feedback from its various chapters throughout U.P on the above subject. The Provisions for such time bound submission of concessional forms existed in U.P.S.T and U.P.T.T as well. But those provisions could not be adhered due to the fact the C.S.T forms were dependent on the Ex-U.P buyers. U.P.T.T. forms were frequently short in supply or not issued according to need of the dealers. Various circulars extending the dates of submission & liberal treatment have been issued in this context. All courts up to the level of Apex Court have ruled that this concessional or exemption benefit should not be shackled and allowed liberally. Mostly in 99% cases. Appellate Authorities of the Deptt allow submission at their level or Remand the case to examine & accept the forms. The Commissioner Commercial Tax has issued a latest Circular No. 0809068/759 dt. 29.09.09 (Copy enclosed at Annexure-I) educating the Field Officers about the C.S.T Sec. 8(4) & Rule 12(7) as been an enabling Section for pro dealer use of discretionary power. It is a general practice that the facility given in the Act should not be misused by taking anti-business decision. No Officer has used the discretion in favour of dealer. When Deptt. does extend the time barring limit of final assessment for a year or more it may have reason to grant extensions to dealers to address the submission of concessional forms which have either not been given by the outside State Deptt. or delayed by Ex-UP purchasers.

It is to your good-self's kind notice that IIA has constantly been insisting/requesting to give executorial shape to the benefit of Industry by issuing a clear directives to accept forms till the limitation period of case. The following letter written by IIA are as under (Copy enclosed at Annexure-II).

- (i) 2b/7763 dt. 22.05.08
- (ii) 30/7555 dt. 30/12/08
- (iii) 2b/7511 dt. 21/11/08

The aforesaid description will show your goodself the massive problem, its magnitude & inconveniences in general, created by inflating the demand operationalising recovery process because the high demands in Appeal are slashed substantially or altogether reduced to Zero. The Deptt without getting additional demand unnecessary incurs litigation expenses.

It is therefore requested that you may be kind enough to compassionately consider the pros & cons of the problem & issue a directive to field officer to accept form (U.P.T.T. & C.S.T) till final Assessment i.e. time barring date. Moreover in genuine cases as are to the satisfaction of the Officer, Final Assessment may be made giving up to one year time to submit the form. Till them the Demand may not be raised.

Thanking you,

Yours truly,

D.S. Verma
Executive Director

Encl: As above