

GOVERNMENT OF WEST BENGAL  
DIRECTORATE OF COMMERCIAL TAXES  
14, BELIAGHATA ROAD, KOLKATA – 700015.

**TRADE CIRCULAR NO. 12/2009**

Dated: 09.12.2009

Sub: Assessment of tax under sub-section (1) of section 46 of the  
West Bengal Value Added Tax Act, 2003.

In terms of amendment made in sub-section (2) of section 32 of the West Bengal Value Added Tax Act, 2003 ( hereinafter referred to as “the Act”) a dealer is required to pay late fee of such sum, not exceeding rupees two thousand, as prescribed in the West Bengal Value Added Tax Rules, 2005 ( hereinafter referred to as “the said rules”) for each month or part thereof of delay in furnishing a return. Again, in accordance with the provisions of section 53A and rule 68A and 68B of the said rules, the appropriate assessing authority is required to determine the amount of late fee payable by a dealer who is liable to pay late fee.

There are instances where a dealer has submitted return without payment of late fee in spite of being liable to pay such late fee. There are instances also where a return has been furnished without payment of net tax and interest, payable according to such return.

A question has come up as to whether the appropriate assessing authority will proceed to assess a dealer under sub-section (1) of section 46 of the Act where he has furnished return without payment of net tax, late fee or interest, payable according to such return. Such cases of default are usually detected at the time of making scrutiny of returns. The authority, referred to in rule 52, upon detection of such cases, is required to issue a notice in Form 20 upon the dealer directing him to make payment of the amount comprising the net tax and late fee in deficit along with interest payable under sub-section (1) or sub-section (3) of section 33, or both and to produce receipted copy of challan in proof of payment within the date specified in such notice. Where the dealer complies with such direction made in such notice and furnishes proof of such compliance even after the date specified in the notice in Form 20, the appropriate assessing authority need not initiate proceedings for assessment of net tax payable by the dealer. In case, any assessment proceedings have already been initiated on the above grounds, such proceedings may be dropped as if the registered dealer was not assessable on the ground of non-payment of tax, interest and late fee according to the return furnished by such dealer, provided that dealer, upon receipt of such notice, makes payment of the net tax and late fee in deficit and also interest.

Again, as per the provision of sub-section (3) of section 41, the notice in Form 20 shall not be issued to any dealer after the expiry of four months from the day on which a return has been furnished. Even where the said deficit in payment of net tax, interest and late fee is discovered after the expiry of four months from the day on which a return has been furnished and the dealer makes the payment of net tax and late fee in deficit and also interest upon being informed in writing by the appropriate assessing authority of such deficit, the appropriate assessing authority will not initiate proceedings for assessment of the case. In case, any assessment proceedings have already been initiated on the above grounds, such proceedings may be dropped as if the registered dealer was not assessable on the ground of non-payment of tax, interest and late fee according to the return furnished by such dealer, provided that dealer, upon receipt of such notice, makes payment of the net tax and late fee in deficit and also interest.

In order to avoid unnecessary assessment, the above instructions are issued as a future guideline for the assessing officers in making assessment under sub-section (1) of Section 46 of the Act in the cases where the dealer has furnished return but full amount of net tax, interest and late fee payable according to such return has been paid after the due date of furnishing such return and where the appropriate assessing authority is satisfied that the return so furnished by the registered dealer is correct and complete. In other words, this guideline will not be applicable in respect of clause (a), (c), (d), (e), (ea), (eb), (f), (h) and (i), of sub-section (1) of Section 46 of the Act.

This Circular shall be deemed to have come into effect from 1<sup>st</sup> day of December, 2009.

(H. K. DWIVEDI)  
Commissioner, Commercial Taxes, W.B.

**Copy forwarded for information and necessary action to:**

- 1) the Principal Secretary, Finance (Revenue) Department, Government of W.B.
- 2) .....Special Commissioner, Commercial Taxes, W.B./  
Additional Commissioner, Commercial Taxes, W.B
  
- 3) the Special Officer, Bureau of Investigation.
- 4) the Sr. Joint Commissioner, Commercial Taxes, (HQ)
- 5) .....Sr. Joint Commissioner, Commercial Taxes,  
.....Circle/Range/Central Section/.....
- 6) .....Joint Commissioner, Commercial Taxes  
.....Circle/Charge
- 7) the Public Relations Officer, Directorate of Commercial Taxes, W.B.
- 8) Trade Bodies.....
- 9) website “www.wbcomtax.gov.in”

for Commissioner,  
Commercial Taxes,W.B