

GOVERNMENT OF WEST BENGAL
DIRECTORATE OF COMMERCIAL TAXES,
14, BELIAGHATA ROAD, KOLKATA-700 015.

TRADE CIRCULAR No. 16/2014

Date : 24/09 /2014

Every year after publication of the West Bengal Finance Act and of corresponding notifications by government effecting the procedural matters connected with the changes made in that Finance Act, it becomes necessary for issue of Trade Circular specifying the important changes made in law that may come to the aid of the dealers as well as of the officers of the Directorate for better understanding of these changes. The West Bengal Finance Act, 2014 and the corresponding notifications bearing Nos. 848 F.T. dtd. 28.05.2014 and 1183 F.T. dtd. 14.07.2014 have been published. This Trade Circular is clarificatory in nature and is not the legal interpretation of the changed laws. For interpretation, the West Bengal Finance Act, 2014 and the notifications may please be consulted. Unless otherwise mentioned in the respective paragraphs, amended provisions have come into force with effect from 01.07.2014.

Sub: Changes made in W.B.V.A.T.Act,2003 and in W.B.V.A.T.Rules,2005

A. Changes effected in W.B.V.A.T. Act, 2003

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| (1) | Capital goods redefined—
Definition of “capital goods” has been amended to include second hand plant and machinery as capital goods. So w.e.f. 01.07.2014 manufacturers will be entitled to avail input tax credit on purchase of second hand machinery also subject to the conditions specified in section 22 and its related rules. |
| (2) | Ambit of West Bengal Sales Tax Appellate and Revisional Board expanded—
Sub-section (1) of section 7 has been amended and Government is allowed to constitute different benches of WBSTAR Board in different districts of the State for discharging the functions as referred to in section 87. So dealers of far off districts may not have to come to Kolkata for any revision in the Board. Bench at Siliguri is likely to start functioning on or before 1 st January, 2015. Notification in this connection will be issued soon. |
| (3) | Registration of dealers under the Act simplified—
i) As per the present provisions of section 24 a dealer who is not required u/s 23 to be registered but intends to be registered u/s 24(i)(b) [voluntary |

	<p>registration] must have a turnover of sales or contractual transfer price, as the case may be, on the date of filing application for new registration, more than rupees fifty thousand. With the omission of 1st and 2nd provisos to section 24(1) w.e.f.01.07.2014 a dealer having no transaction of sale or CTP can apply for voluntary registration if he intends to do so. The Commissioner shall not have to waive requirement of such turnover or CTP separately.</p> <p>ii) At present where a dealer having liability to pay tax u/s 10, u/s 11 or u/s 14 applies for registration and it is found that he is carrying on business from table space etc. he has to furnish a security u/s 24(2B) not exceeding rupees one lakh. Sub-section 2B of section 24 is omitted w.e.f.01.07.2014.</p>
(4)	<p>Further extension of waiver of late fee/interest for dealers of Darjeeling, Kurseong and Kalimpong sub-divisions—</p> <p>The date of submission of returns/ payment of tax for the period commencing from 01.04.2008 to 30.06.2011 by dealer whose principal place of business is situated in Darjeeling, Kurseong and Kalimpong sub-divisions of Darjeeling District without any late fee or interest has been further extended up to 31.07.2014.</p>
(5)	<p>Introduction of collection of tax at source (TCS)—</p> <p>A new section has been introduced under the Act w.e.f. 01.07.2014. Under this new section 40A, Government or a local authority responsible for paying any sum for intra-State purchase of taxable goods from a dealer wholly or partly in pursuance of a contract between such dealer and that Government or local authority shall deduct towards tax a sum not exceeding five <i>per centum</i> as detailed below:—</p> <p><u>From 01.10.2014</u> where a dealer has made sales of goods to the Government or to a local authority under some contract, D.D.O. of the Government or local authority shall deduct— (1) five <i>per centum</i> towards tax while making payment to an unregistered dealer or to a registered dealer who cannot furnish return filing certificate and (2) three per centum towards tax while making payment to a registered dealer who furnishes return filing certificate.</p> <p>A certificate of Tax Collected at Source shall be issued in respect of such deduction. While filing return, the norms applicable for TDS Certificate received in connection with works contract will be applicable when this TCS certificate will be received for supply of goods either to Govt. Department or to local authority.</p>
(6)	<p>Audit by a special team introduced—</p> <p>A new section 43AB is introduced w.e.f.01.07.2014. As per this section the Commissioner is empowered to call for audit of accounts, records and documents of a dealer who is believed to be engaged in an activity detrimental to the State revenue. Such audit will be conducted by a special team of selected tax practitioners nominated by the Commissioner. Rule 54B is inserted to the WBVAT Rules, 2005</p>

	where constitution of team and how this team would function are prescribed.
(7)	<p>Summary assessment u/s 47AA amended— Quarter-wise summary assessment from Q.E. 30.09.2011 onwards is being made now and automatic as per law. For making assessment u/s 46(1) for the period 2011-12, all these quarter-wise summary assessments are required either to be automatically revoked or be re-opened as per existing provisions of sub-section (2), sub-section (3) and sub-section (4) of section 47AA respectively. As per amended provision of sub-section (2) of section 47AA, in addition to revoking or re-opening of quarter-wise assessments, Commissioner has been vested with the power to approve for assessment u/s 46(1) if not already selected for audit u/s 43 or special audit u/s 43A. Dealer will naturally be assessed u/s 46(1)(b). This provision is applicable w.e.f. 01.04.2011.</p>
(8)	<p>Limitation of assessment of dealers of Darjeeling, Kurseong and Kalimpong sub-divisions further extended— The limitation of assessment of dealers of Darjeeling, Kurseong and Kalimpong sub-divisions of Darjeeling District for the period from 01.04.2008 to 30.06.2011 has been further extended upto 31.12.2014 by amending seventh proviso to section 49(1).</p>
(9)	<p>Scope of pre-assessment refund to dealers expanded— Section 61(1)(aa)(ii) is substituted w.e.f. 01.04.1014. Now a dealer whose CST sales to registered dealers of other States exceeds 50% of total sales in a quarter and thereby ITC is found excess in a quarter, is eligible for pre-assessment refund. Earlier 100% CST sale to registered dealers was necessary for such refund.</p>
(10)	<p>Change in functioning of Appellate and Revisional Board —</p> <p>(i) At present if an applicant files an application for revision u/s 87(1) and fails to appear in person or through an agent on the date and at the time and place fixed for hearing, the Board may dismiss such application (1st proviso) and the Board may also restore such revision on application (2nd proviso). Those two provisos to section 87(1) have been omitted. As a result there will be no dismissal of an application for revision filed on or after 01.07.2014 for default and no restoration thereafter.</p> <p>(ii) By virtue of added proviso, any appeal/revision order confirming the assessment order that contains the adverse findings arising out of seizure or audit or special audit in relation to an applicant dealer where any revision case relating to earlier period is already pending for disposal before the Board may be revised by the Board only if the applicant dealer pays 5 % of the disputed amount or Rs. One lakh, provided the revision</p>

	<p>petition is filed on or after 01.04.2014.</p> <p>(iii) By inserting sub-section (1A) of section 87 the Board is vested with the power to confirm, reduce, enhance or annul a final appellate or revision order in any case filed before it on or after 01.07.2014.</p> <p>(iv) A dealer can produce additional evidence and the Board can accept such additional evidence only when certain conditions enumerated in sub-section (1B) of section 87, inserted w.e.f. 01.07.2014, are fulfilled.</p>
(11)	<p>Regarding Fast Track Revisional Authority— A second proviso to section 87A has been inserted so that the revision case which was supposed to have been transferred to Fast Track Revisional Authority on 01.10.2011 by the Board but was not actually transferred within 30.09.2012, shall be disposed of by the Board itself within 31.12.2014.</p>
(12)	<p>Changes effected in rates of tax of some commodities—</p> <p>(i) Human hair has been exempted from VAT w.e.f. 01.04.2005.</p> <p>(ii) Rates of tax of the following commodities has been reduced from 14.5 % to 5 % --</p> <p>(a) Gas stove including LPG stove the maximum retail price of which does not exceed rupees one thousand;</p> <p>(b) Hair bands and hair clips; and</p> <p>(c) Sanitary napkins the maximum retail price of which does not exceed rupees twenty-five.</p>
B. Other Changes effected in W.B.V.A.T. Rules, 2005.	
(1)	<p>Website defined— By inserting clause (q) to rule 2 “website” is defined as– “website” means the website of the Directorate, i.e., www.wbcomtax.gov.in, or any other website as may be specified in writing by the Commissioner.</p>
(2)	<p>Procedure for registration simplified— In the earlier system the registering authority had the power to make necessary enquiry before issuing registration. In the new system following electronic verification introduced w.e.f. 01.08.2014 by amending rules 6 and 6B, where the application is found in order the registering authority shall issue registration without any manual enquiry.</p>
(3)	<p>Introduction of e-amendment and waiver of amendment fees— To expand e-governance a new rule has been introduced w.e.f. 14.03.2014 to facilitate the dealers to apply for amendment of registration certificate on-line by</p>

furnishing information - first, electronically through the link provided in the website, and then by furnishing the self attested paper copies to the appropriate assessing authority within fifteen days of transmission. Trade Circular No. 04/2014 dtd. 14.03.2014 may please be consulted.

In the existing provision of rule 207 fees for amendment of R.C. was rupees one hundred. Rule 207 has been amended w.e.f. 01. 07.2014 to omit that provision. So now no court fee stamp or challan is required to be furnished along with an application for amendment of R.C.

(4) **Table appended to rule 30(2) is amended to bifurcate Repairing etc. of motor vehicles etc. and unspecified works contracts and this would come into effect from the return period commencing from 01.10.2014 onwards—**

(i) the amended Serial No 20A of the table shall be-

20A.	Repair or maintenance or servicing of any motor vehicles including two wheelers like motor cycle, scooter, etc involving transfer of only Schedule C goods.	10	55	35
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(ii) After Serial 20A a new Serial No. 20B is added in the following manner-

20B.	Repair or maintenance or servicing of any motor vehicles including two wheelers like motor cycle, scooter, etc involving transfer of only Schedule CA goods.	10	0	90
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(iii) Entry serial No. 21 is substituted with two entries in the following manner—

21.	All other works contracts not specified elsewhere in the TABLE and involving transfer of declared goods as specified in section 14 of the Central sales Tax Act, 1956(74 of 1956) and other goods specified under Schedule C, Schedule CA, or Schedule D.	20	30	50
22.	All other works contracts not specified elsewhere in the TABLE and not involving transfer of declared goods as specified in section 14 of the Central sales Tax Act, 1956(74 of 1956).	20	0	80

(5) **A reseller, holding R.C. in Form 3, who opted to pay fixed amount shall not have to file return—**

Second proviso to rule 34(2C) has been amended w.e.f. 01.04.2013 so that a

	registered reseller coming under this sub-rule need not file return under the VAT Act.
(6)	New annexures to returns in Form 14/14D are introduced— Dealers who want to adjust TCS with net tax payable in a period shall have to fill up Annexure TCS, while a manufacturing dealer in West Bengal who also is engaged in resale or other sale shall have to fill up Annexure MR. These annexures have to be filled up w.e.f. return period commencing on 01.10.2014. [Clause (k) and (l) to Rule 34(5) inserted]
(7)	Digital signature made compulsory Q.E. December,2014 for some dealers— Registered dealers filing return in Form 14/14D and having turnover of sales in the previous year in excess of rupees two crore shall have to furnish return through DIGITAL SIGNATURE only from Q.E. December,2014. [Rule 34A (3), 4 th proviso inserted.]
(8)	Certificate of filing return introduced— A registered dealer who is not a return defaulter under the VAT Act and/or under the CST Act may obtain a certificate as a proof of filing return. The dealer himself will generate the certificate from the web site of the Directorate. This provision has been introduced w.e.f. Q.E. December, 2014 by inserting a new rule 35A.
(9)	Procedure for deduction by contractee on account of intra-State works contract changed— Existing provisions of rule 46XA allows a contractee to deduct an amount equal to three per centum and an amount equal to five per centum while making payment to a registered and an unregistered dealer respectively for execution of works within West Bengal. Rule 46XA has been amended w.e.f Q.E. December 2014 in the following manner:— The amount to be deducted from a registered dealer who has furnished certificate of return filing shall be 3 % while that from a registered dealer who does not furnish certificate of filing return or an unregistered dealer shall be 5% .
(10)	Furnishing of print out of Form 19 A waived in case of payment through GRIPS— Where a contractee makes payment of tax deducted at source through GRIPS, he is not required to furnish print out of Form 19A to the Commissioner. This provision has come into effect from 01.07.2014 by inserting second proviso to rule 48A (1) (b).
(11)	Manner of collection of tax at source (TCS), deposit etc.— A new rule 49A has been inserted w.e.f. Q.E. December 2014. As per this rule TCS

	<p>to be collected u/s 40A in the following manner:- The amount to be collected shall be-</p> <ul style="list-style-type: none"> (a) 5% , where the intra-State purchase of taxable goods is from an unregistered dealer or a registered dealer who does not furnish a certificate of filing return; (b) 3% , where the intra-State purchase of taxable goods is from a registered dealer who furnishes a certificate of filing return. <p>Provisions of rule 46, rule 46XB, rule 46XC, rule 47, rule 48, rule 48A and rule 49 shall apply <i>mutatis mutandis</i> for TCS. [Sl. No. 5 of first part of this circular may be consulted.]</p>
(12)	<p>Procedure for conduct of audit by a special team of tax professionals- A new section, section 43AB, has been inserted under the WBVAT Act, 2003 w.e.f. 01.07.2014. The procedural part of that section has been provided in rule 54B inserted w.e.f. 01.07.2014. As per this rule:-</p> <ul style="list-style-type: none"> (i) The special audit team shall consist of at least two professionals – a Chartered Accountant or a Cost Accountant, for empanelment and an Advocate who are practising VAT and Sales Tax laws of the State for at least eight years. (ii) An eligible and willing professional has to apply online through the link to be provided in the website for consideration by the Commissioner. (iii) The Commissioner shall empanel an applicant professional, as he may deem fit. He may later on nominate such empanelled professional for conducting audit as a special team. However a professional nominated for conducting audit in a year shall not be eligible for nomination in the next year. (iv) After completion of audit the special team shall submit its report in Form 88 with additional points, if any. <p>[Sl. No. 6 of first part of this circular may be consulted.]</p>
(13)	<p>Pre-assessment refund made faster— Existing system of pre-assessment refund requires a substantial time for disposal of an application. It has long been felt necessary how to save time in this long drawn process so that a particular case is disposed of within a short spell of time. Rule 76 has been amended by Notification No. 1183 F.T. dated 14.07.2014. In order to cut down the delay and to expedite the disposal, now an applicant dealer shall submit the following information and documents along with his application which must be digitally signed, before CRU in addition to the documents and statements, presently submitted by him:</p> <ul style="list-style-type: none"> (i) A copy of receipt obtained from the website of the Directorate upon e-filing

	<p>of Form C received in respect of inter-State sales effected during the quarter under refund, as refund u/s 61(1)(aa)(ii)(B) is directly linked with collection of Form C in support of claim of refund.</p> <p>(ii) An indemnity bond.</p> <p>(iii) Any other information or document as may specifically be called for in the website of the Directorate.</p> <p>(iv) Furnishing of information in purchase statement is minimised.</p> <p>The applicant dealer shall submit another set of copy of application and documents etc. before his assessing authority.</p> <p>By inserting a new sub-rule (7D) the Commissioner has been vested with the power to bar a dealer from claiming pre-assessment refund for three years where the Commissioner has reasons to believe that the dealer is engaged in fake transactions of purchase for claiming ITC.</p> <p>The above changes shall take effect from the return period commencing from 01.04.2014 and onwards.</p>
(14)	<p>Imposition of penalty u/s 96 for concealment of sales etc.— Amendment has been brought in rule 135 w.e.f. 01.04.2005. By this amendment, not only the assessing authority but the auditing authority, appellate authority, revisional authority or any other authority as authorised by Commissioner are empowered to deal with section 96 of the Act. In this connection order of authorisation dated 27.08.2014 by CCT/WB may also be looked into.</p>
(15)	<p>WBSAR Board's jurisdiction extended— Apart from the existing cases for which a revision under section 87 shall lie before the Board, a final appellate order passed by an appellate forum constituted by the Commissioner under the first proviso to section 84(1) shall also lie before the Board. A new clause (aa) to sub-rule (1) of rule 155 has been inserted w.e.f. 01.04.2012 to give effect to the above provision.</p>
(16)	<p>Security for getting registration made mandatory— As per the existing provisions of rule 195(2) a dealer applying for registration voluntarily has to pay security for Rs. 10000/- to Rs. 25000/-, and as per rule 195(3) a dealer, applying for compulsory registration from a place of business which is not owned nor directly rented by him, has to furnish security u/s 24(2B) for Rs. 100000/-.</p> <p>Rule 195(2) has been amended w.e.f. 01.07.2014. As per amended provision of rule 195(2) any dealer who desires to be registered under the WBVAT Act, 2003</p>

	<p>shall have to pay a security of Rs. 25000/-. This security shall be kept held for one year only in lieu of two years [rule 196(2) has been amended accordingly].</p> <p>With the omission of section 24(2B) of the WBVAT Act, 2003 rule 195(3) becomes redundant. Hence rule 195(3) has been omitted w.e.f. 01.07.2014.</p>
(17)	<p>Fees for amendment, composition registration and misc. Applications waived— Under the existing provisions of rule 207 fees for amendment of registration certificate was Rs. 100/- whereas fees for miscellaneous applications was Rs. 10/-. Rule 207 has been amended w.e.f. 01.07.2014 to do away with such fees for amendment of R.C., miscellaneous applications, application for registration in Form 1CR and amendment under rule 46XB.</p> <p>Fees for application for revision under section 86, and application for review under section 88 against an order (other than an order of assessment or an order passed under section 87 have been raised from Rs. 100/- to Rs. 200/-.</p>
(18)	<p>Commissioner vested with the power to specify mode of furnishing information or making application or petition— Wherever the mode or manner has been prescribed in the rules regarding furnishing of information, making an application or petition by a dealer, casual dealer, transporter or any other person, and disposal thereof, the Commissioner has been vested with power, by inserting rule 207A, to specify and arrange for online furnishing of application or information etc. by all or any dealer or class of dealers.</p> <p>This provision has been inserted w.e.f. 01.07.2014.</p>
<p>This trade circular is meant for circulation amongst officers of the Directorate and the trade communities for their information about the changes now made by West Bengal Finance Act, 2014 and in the WBVAT Rules, 2005. It is expected that everybody concerned with the provision of law will be benefited from clarification issued through this trade circular.</p>	
<p style="text-align: right;">Sd/- 24.09.2014 (Binod Kumar) Commissioner, Commercial Taxes, West Bengal</p>	

Memo No. 881 CT/PRO
3C/PRO/2012

Dated. 24.09.2014

Copy forwarded for information and necessary action to the Additional Commissioner, Commercial taxes for uploading in both the internal and external websites of the Directorate.

Sd/- 24.09.2014
Special Commissioner ,
Commercial Taxes, W.B.