

Office of the CGDA, West Block-V, R.K.Puram, New Delhi-66
Pr. IFA Wing
INSTRUCTION NO. 15th OF 2007

No. PIFA/13381/Army Policy

Dated: 18th Sept. 2007

To

All PCsDA/CsDA/IFAs

Subject: Change in structure in Central Sales Tax consequent to notification dated 29.3.2007 effective from 1.4.2007.

A copy of Director General of Supplies & Disposals (P&C DTE-1) No. P-10001/01/05/P&C-1 dated 28.6.2007 on the above subject alongwith the copies of Govt. of India, Ministry of Finance, Department of Revenue, Central Board of Excise & Customs DO No. 28/7/2007-ST dated 25.5.2007 and 21.6.2007 are enclosed herewith for guidance of all.

2. The Govt. of India, vide their above notification have withdrawn the facility of concessional CST against Form 'D' with effect from 1.4.2007. As such w.e.f. 1.4.2007, the inter-state sale to Govt. Departments is taxable at the rate of sales tax/VAT on local sale prevailing in the state of selling dealer.

Pr.IFA has seen.

[Encls:3]

sd/-
(Varghese Mathew)
Dy. IFA

Copy to:

(i) Jt. CGDA (AT-I) (ii) Jt. CGDA (AT-II) (iii) Jt. CGDA (AT-III)	}	For information with reference to above.
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sd/-
(Varghese Mathew)
Dy. IFA

No. P-10001/01/05/P&C-I
DIRECTORATE GENERAL OF SUPPLIES & DISPOSALS
(P & C DTE.-I)

Circular No.4 (Revised)

28th June, 2007

Subject: Change in structure in Central Sales Tax consequent to the Notification dated 28.3.2007 effective from 1.4.2007

Reference:- Circular No. - 4 dated 04.06.2007

In supersession of aforesaid Circular dt. 4.6.07, the Change in structure in Central Sales Tax consequent to the Notification dated 28.3.2007 effective from 1.4.07 shall be as under.

Provisions with regard to Sales Tax have been stipulated in Para-10 of the DGS&D Manual. In accordance with Para-10.10.11 of the said Manual, all inter-state sales to Govt. are liable to tax at a concessional rate against Form-D.

The Govt. of India vide their above Notification dt.28.3.07 have withdrawn the facility of concessional CST against Form "D" with effect from 01.04.2007. As such w.e.f. 1.4.2007, the inter-State sale to Govt. Departments is taxable at the rate of sale tax /VAT on local sale prevailing in the State of selling dealer.

As per para 13.14.2 (c) of DGS&D Manual – (Price Evaluation of Tenders) - for the purpose of conclusion of R/Cs, the purchase proposal is to be on the basis of all inclusive prices i.e. basic price, duties, and taxes etc. As regards incidence of ST, the element of CST is only to be considered and not State Sales Tax.

Now that with the issue of the above Notification, Form-D for concessional rate of tax to Govt. sales has been abolished w.e.f. 1.4.2007, inter-state sales to Govt. Department shall be at the rate of Sales Tax /VAT on local Sale prevailing in the 'appropriate' State (i.e. the State of selling Dealer).

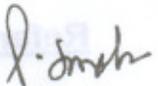
Thus, the implication of the Notification is that the CST has been amended to make it at par with applicable LST/VAT. Hence CST has to be necessarily taken into consideration for evaluation/ranking.

The aforesaid change in the tax structure may be noted by all for evaluation of tenders for the purpose of ranking and award of Rate Contracts.

Contd...pg.2/-

Clarifications were sought from Ministry of Finance with regard to the implication due to withdrawal of Form 'D'. Copies of replies received from them vide D.O. letters No. 28/7/2007-ST dt.25.5.2007 and 21.6.2007 are enclosed for guidance of all.

This issues with the approval of DG(S&D).


(P.S.Mehra)
Dy. Director (P&C)

Encl: as above.

All Des. of Purchase & Q.A Wing at Hq. & Regions.

FAX NO. :

Jun 21 2007 22:51AM P1

120

F.No.28/7/2007-ST
Government of India
Ministry of Finance
Department of Revenue

New Delhi, 21st June, 2007

To

Shri A. K. Saxena,
Additional Director General (ADG),
Directorate General of Supplies & Disposals (DGS&D),
Ministry of Commerce & Industry, Department of Supply,
JEEVANTARA, 5-Sansad Marg,
New Delhi-110001.

Subject: Discussions held on 30.05.2007 regarding implications of recent amendments to the CST Act, 1956.

Sir,

This has reference to DO letter No.10001/01/05-P&C-1, dated 01.06.2007 of Shri I. S. Garg, enclosing a copy of the Minutes of the Meeting that took place in my office on 30.05.2007. It is stated in Para-4 of the Minutes that "Since Form-D earlier issued would not be valid after 01.04.2007, such cases would have to be dealt with accordingly." This is not very clear to us.

2. In this connection, it may kindly be noted that earlier, the similar issue was raised in the DO letter dated 08.05.2007 of JS, Commerce, as also in your letter dated 23.05.2007. The issue raised was "Status of Form-D already issued prior to 01.04.2007 and the applicability of inter-State sales tax @3% against Form-C in case of old contracts issued by DGS&D". On this issue, our response in our letter dated 25.05.2007 was as follows:

"The CST is levied on 'inter-State sale'. The amendments shall apply to the 'inter-State sale' taking place after 01.04.2007. The questions like what is inter-State sale and when it is deemed to have taken place, is to be interpreted as per the provisions of the CST Act, 1956 and the Rules made thereunder."

3. Thus, the validity of Form-D issued prior to 01.04.2007 would depend on whether the inter-State sale took place prior to 01.04.2007 or not. If the inter-State sale has taken place prior to 01.04.2007, the validity of Form-D cannot be questioned. However, if inter-State sale has taken place on or after 01.04.2007, Form-D shall not be valid.

4. We hope that this aspect is being interpreted in the manner indicated above.

Thanking you,

Yours faithfully,

(L. K. Gupta)

Joint Secretary (State Taxes)

Tel: 011-2309 2262

ADD(S)

FAX NO. :

May. 29 2007 25:06AM P1

Kind attn. Shri A.K. Saxena.



L. K. GUPTA

JOINT SECRETARY (ADMN) & S.T.
TELE : 23092262

भारत सरकार
Government of India
वित्त मंत्रालय
Ministry of Finance
राजस्व विभाग
Department of Revenue
Central Board of Excise & Customs

D.C.F.No.28/7/2007-ST
25th May, 2007

Dear Madam,

This has reference to your DO letter: No.12(1)/2007-P, dated 08.05.2007 regarding implications of the recent amendments to the CST Act, 1956, which came into force on 01.04.2007. For your ready reference, the tax structure, before and after these amendments, is summarised in the enclosed Annexure. The position in respect of specific points mentioned in your letter is as follows:

- i) The CST is levied on 'inter-State sale'. The amendments shall apply to the 'inter-State sale' taking place after 01.04.2007. The questions like what is inter-State sale and when it is deemed to have taken place, is to be interpreted as per the provisions of the CST Act, 1956 and the Rules made thereunder.
- ii) The concessional CST rate of 3% (to be phased out in due course) is only for inter-State sale to Registered Dealers. This is because in such cases, the normal VAT/ Sales Tax shall get paid in the destination State when the purchasing registered dealer sells the goods or uses such goods for manufacturing taxable goods. This does not happen when goods are sold to Final Consumers (including Government Departments). Hence, such final consumers should pay the normal VAT/ Sales Tax on the inter-State sale/purchase.
- iii) Inter-State sale to Government Departments is taxable at the rate of sales tax/VAT on local sale prevailing in the 'appropriate State'. Thus, if the rate is lower than 12.5%, such lower rate will apply.
- iv) The point is not very clear. CENVAT is a Central Tax, whereas CST is assigned to the States. So far, there has been no mechanism for giving credit for CENVAT against CST and vice-versa. The amendments have not touched this aspect.
- v) CST is collected and appropriated by the States and is administered by them as per provisions of their respective State Sales Tax/ VAT laws. States have the legislative and the administrative framework for checking fraudulent tax claims.
- vi) This issue does not relate to levy of CST.

2. I hope these clarifications will be useful. I shall be glad to discuss it further with Shri A.K. Saxena, ADG (DGS&D), as suggested by you on 29.05.2007 or a later date (I will be away on 28.05.2007 for a meeting).

With regards,

Yours sincerely,

(L. K. Gupta)

Ms. Bharathi S. Siliag,
Joint Secretary, Department of Commerce,
Udyog Bhawan,
NEW DELHI-110001.

Room No. 155-C, North Block, New Delhi-110001

30/05/2007
28/12/5/07