

## **Internal Circular**

**Office of the Commissioner of Sales Tax  
Eighth Floor, Vikrikar Bhavan, Mazgaon,  
Mumbai-400010**

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**No : ACST(VAT-1)/Planning/158/2013/B- 661**

**Mumbai, Date : 28.08.2013**

**Internal Circular No. 10A of 2013**

**Sub: Administrative Instructions in respect of Assessment/Audit Plan for  
the periods 2006/07 to 2010/11.**

**Background :** A concept note in respect of the disposal of pending assessments/audits up to the period 2010/2011 was circulated to all the Additional Commissioners and had been discussed with the senior management of the department in various meetings. A consensus had been reached that the pending assessments/audits for the periods 2006/07, 2007/08, 2009/10 and 2010/11 should be completed in a period of one year. Accordingly some decisions and some work parameters necessary for the completion of the task were agreed upon. Approval for the said plan of action was sought from the Finance Department which has been granted by the Finance Department vide letter No. VKA 2013/CR 87/Tax 2 Dt. 06.08.13. It is, therefore, expedient to issue instructions to give effect to the plan of action for completion of assessments/audits for the periods 2006/07, 2007/08, 2009/10 and 2010/11 in a period of one year.

**1.** The cases selected for scrutiny will be either completed by way of assessment u/s 23 of the MVAT Act, 2002 or by way of issue based audit u/s 22 and 23(5) of the MVAT Act, 2002. The task will be completed before 31.07.2014 with due attention to completion of time barring assessments for the periods 2006/07 and 2009/10.

## **2. The Selection of cases:**

The selection of cases for the years 2009/10 and 2010/11 has been done by the EIU which has identified the cases which either need full assessment or the issue based audit depending upon the risk to revenue.

It is mandatory for the PSI Nodal Officers, LTUs, Refund and Refund Audit Branches and the Investigation Branches to take up the assessments/audits in the cases allotted to/visited by them. These branches shall be mandatorily completing assessments/issue based audits, as may be applicable, for all the years 2006/07, 2007/08, 009/10 and 2010/11 in the cases allotted to them.

***The cases analysed by the EIU which are not allotted to the PSI Nodal Officers, LTUs, Refund & Refund Audit Branches and the Investigation Branches shall be allotted to the BA, IBA or 704 branches.***

## **3. The E.I.U analysis for 2009/10 and 2010/11 :**

The EIU analysis points out that there are 97,738 and 1,00,310 cases for the years 2009/10 and 2010/11 respectively which show some risk to revenue. Out of these, 12486 cases for 2009/10 and 12122 cases for 2010/11 are already in process with the PSI Nodal Officers, LTU, Refund and Refund Audit and the Investigation Branches. As mentioned in para 2 above, these cases will be completed by the PSI Nodal Officers, LTUs, Refund and Refund Audit Branches and the Investigation Branches.

The remaining 85252 cases for 2009/10 and 88188 cases for 2010/11 shall undergo issue based audit except for the cases in which the dealers have accepted the liability shown by their Auditors as 'Asked to pay' in the audit report as mentioned in the following paragraphs.

## **4. Classification of cases for the periods 2009/10 and 2010/11:**

Depending upon the various risk parameters and the revenue risk, the cases have been classified into various categories as shown below:

- A-1 : Agreed VAT and CST 'Asked to pay' cases
- A-2 : Not agreed VAT and CST 'Asked to pay' cases
- B : Cases of un received CST declarations
- C : Cases with clear risk indicators (ITC related)
- D-1 : High Risk cases for comprehensive assessment
- D-2 : Low Risk Multiple Parameter cases (Risk < Rs 5 L cases)

## **5. Distribution of cases for the years 2009/10 and 2010/11 :**

### **5.1 Recovery Cases- Category -(A-1) :**

The cases of category A-1 are the direct demand notice cases which need to be followed for recovery only. Out of these, there are (252+346) 598 cases in which the recovery amount is in excess of Rs 5 L per case. These cases constitute more than 55 % of the recovery amount and shall be personally monitored by the ACST, PT and the concerned ACTSs for immediate recovery. The recoveries in all these cases shall be prioritized and the amounts may be recovered in a month's time. Other cases of this category shall be allotted by the concerned Additional Commissioner to the suitable branch/officer under their jurisdiction. A suitable mechanism shall be developed at each of the location to ensure that the all such amounts are recovered in a time bound manner.

### **5.2 Issue Based Audit Cases- (Category A-2, B, C, D 2)**

The cases of category A-2 are the cases in which the dealers have not accepted the findings of the CA. These cases, involving risk of less than Rs 5 L, shall be followed by the Officers of the BA/IBA branches.

The cases of category B mostly involves non acceptance of audit findings on account of un-received CST declarations. These cases are presently followed by the 704 Branches and shall be followed by the same branch.

The cases of category C involve the cases which have clear revenue risk on account of ITC. These cases will not involve much of verification and can be completed mostly by way of issue based audit. These cases shall be handled by the officers of BA and IBA Cells.

Apart from these cases, there will be multiple parameter low risk (< Rs 5 L) cases in category D-2. The officers from the BA and IBA branches shall follow these cases.

Thus in all the cases covered by categories A-2, B, C and D-2 only the issue based audits, limited to the issues pointed out shall be conducted. The case completion, in such cases, may be by way of filing of revised return or transaction wise assessment. The supervisory officer may conduct inspection of the sub-ordinate officer to ensure that the risk to the revenue pointed out by EIU has been properly covered.

### **5.3 Assessment cases (Category D 1):**

The high risk cases normally include cases with maximum deductions and ITC claims. The EIU analysis of these cases shows that about 95 % of total risk is embedded in 11443 cases having risk of Rs 5 Lac or more on multiple parameters.

Also there are 1204 cases in which the unaccepted 'Asked to pay' risk is more than Rs 5 Lac.

All these 12647 cases (11443+1204) have been selected for comprehensive assessment by the officers of the BA/IBA Branches.

### **5.4 Additional cases for assessment for the years 2009/10 and 2010/11:**

Apart from these cases additional (2299+2717=5016) cases have been selected for the years 2009/10 and 2010/11, for comprehensive assessments from following categories:

- Dealers having tax payments in excess of Rs 1 Cr but not covered by LTUs and also not found to be risky in EIU analysis.
- Dealers claiming huge deductions from sales turnover.
- Dealers adjusting VAT refunds in CST liability etc.

These cases shall be assessed by the DCs, ACs or the STOS depending upon the quantum of embedded revenue risk.

### **6. Existing cases for assessments:**

Existing cases pending for assessment include the cases of Builders/Developers, DDQs, Tobacco, REIC related, Complaints and Cinematographic Film Distributors etc. The concerned Additional Commissioner shall immediately take stock of such pendency and shall distribute these cases depending upon the work load of each officer. All these assessments, pending up to the year 2010/11 shall be completed by the concerned officers before 31.07.2014 with due regard to completion of time barring cases.

### **7. Probable cases for compulsory assessments and issue based audits for the years 2006/07 and 2007/08:**

The trade has been representing about the multiplicity of assessment/IBA proceedings. Therefore, the allotment of cases for the periods 2009/10 and 2010/11 should be done in such a fashion that a particular dealer gets allotted to a particular officer for both the years. Similarly

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if such dealer needs to be assessed/audited (IBA) for the year/s 2006/07 or/and 2007/08 then the same should be done by the same officer to whom the case was allotted for 2009/10 and/or 2010/11.

#### **7.1 Assessment cases for the years 2006/07 and 2007/08:**

6000 comprehensive assessments have been planned to be completed for the years 2006/07 (3000) and 2007/08 (3000). The EIU has circulated the **number** of cases to be selected for the comprehensive assessment for these years to all the ACST/ JCSTs. The concerned ACSTs have already been informed to select cases for comprehensive assessments remaining within the limits as informed by EIU. Once selected these cases shall be allotted by the concerned ACST/JC to the concerned assessing officers to whom the said case for the years 2009/10 and/or 2010/11 is allotted.

#### **7.2 Assessment/Issue Based Audit cases selected for the years 2006/07 and 2007/08:**

The ACSTs/JCs were also asked to list out the cases in which the issue based audits for these years need to be done. It is decided that the desk audits for the periods 2006/07 and 2007/08, in respect of a dealer, shall be done by the officer to whom the said dealer is allotted for 09/10 and/or 10/11 for assessment or IBA. The concerned Additional Commissioners shall ensure that these audit reports are made available to the relevant officer to whom the case is allotted for 2009/10 or/and 2010/11. The audit reports pertaining to the LTU, PSI and Refund cases shall be sent to the concerned officers for appropriate actions. The remaining audit reports shall be audited by the officer in possession of such audit reports. However, the ACSTs/JCs may adopt any other methodology suitable to complete the desk audits and taking up the suitable cases for issue based audits.

The desk audits, on three parameters viz., VAT/CST Asked Pay and CST declaration tax completed shall be done and the cases for issue based audits shall be identified.

**The concerned ACSTs shall prepare the list of assessment and the IBA cases for the years 2006/07 and 2007/08 and send it to the EIU before 31.08.2013 which shall cause the same to be published on the web site.**

## **8. Disposal of pending refunds:**

**8.1** The trade has constantly represented about inordinate delay in grant of refunds. In order to address this concern, it is felt necessary to adopt a particular strategy for early grant of refunds. Accordingly analysis of the applications pending for refunds was done and the pending refund cases were divided into three categories as under:

- a) Cases which involve refunds in excess of Rs 5 L,
- b) Cases which involve refunds between Rs 1 L and 5 L and
- c) Cases which involve refunds less than Rs 1 L

It is decided that the cases of category b) and c) be scrutinized only in respect of the risks pointed out by the EIU.

If the category c) refunds do not have any EIU risk then the same need to be granted without issuing any notice of verification to the refund applicant. However, for the b) category cases in which the EIU has not assigned any risk, the refunds may be granted without further verification only if the applicant dealer falls under Four Star and above category.

The above preposition of early refunds to category b) and c) does not apply to the refund applicants who are works contractors. Refunds to these applicants shall be granted only after complete verification.

**8.2** Apart from these, the refunds of deposits of Rs 25,000/- paid for voluntary registration need to be granted without verification except for the verification that is provided for in the relevant Rule of MVAT Rules, 2005.

**8.3** The refunds of category a) shall be granted only after due and complete verification in respect of the refund claim.

The Additional Commissioners shall make classification of pending refunds, as mentioned above and manage the task as decided so as to complete the same on or before **31.03.2014**.

**Note:** i) The limits of refund amounts shown at a),b) and c) above pertain to one complete financial year. ii) The verification of Input Tax Credit through the ITC verification utility is mandatory in respect of all the refund applications. iii) The procedure for processing of refunds below Rs 5 Lac will be circulated separately.

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## 9. Quota of assessments, issue based audits and refund audits:

### 9.1 For BA, IBA and Refund Divisions<sup>1</sup>

Post	Quota for Assessment	Quota for IBA
Deputy Commissioner	5	10
Assistant Commissioner	10	20
Sales Tax Officer	5	40

### 9.2 For e 704 Cells

Post	Quota for IBA
Deputy Commissioner	40
Assistant Commissioner	60
Sales Tax Officer	60

The Additional Commissioners may modify the quotas as above, depending upon the working strength at the locations/offices under their jurisdiction but shall see that the number of Assessment or IBA cases allocated to their Zone get completed on or before 31.07.2014 (with due consideration to time barring cases). They shall also see that the refund cases pending as on 31 July 2013 get completed before 31.03.2014.

## 10. Publishing of list of dealers selected for assessment/issue based audit on web site:

The list of dealers selected for assessment or issue based audit for the periods 2009/10 and 2010/11, shall be published on the web site<sup>1</sup> of the department.

The list of cases selected for assessments/issue based audits for the years 2006/07 and 2007/08 shall be prepared by the concerned Additional commissioners and shall send the same to JC, EIU on or before 31.08.2013. These lists will also be published on the web site of the Department before 31.08.2013 (Refer to para 7).

The officers shall not take up assessment or issue based audit in any of the cases other than the cases listed on the web site. If any notices for verification had/have been issued in the cases apart from these cases published on the web site then the concerned officer shall withdraw the said notices with prior intimation to the concerned Joint Commissioner and intimate the dealer about such withdrawal immediately. The concerned Additional Commissioner shall obtain a certificate to that effect from all the assessing/auditing officers by 31.08.2013. Similarly, if

notices to the same dealer are found to be issued by more than one officer then the concerned case shall be handled by / transferred to the officer to whom the case has been allotted. The notice issued by the other officer in such case shall be withdrawn.

#### **11. Additional cases:**

Apart from the cases selected for assessments/issue based audits as above, any other case, under exceptional circumstances, depending upon the gravity and need of scrutiny/assessment can be selected for scrutiny/assessment by the EIU or by any other officer with the prior sanction from the concerned Additional Commissioner of Sales Tax. Whenever such cases are selected the information about the same shall be updated on the web site.

#### **12. Follow up of returns and recoveries:**

The follow up of return filing and the recovery actions in case of an allotted dealer shall be done by the officer to whom a particular case is allotted for assessment/IBA.

#### **13. Applicability of Internal Circular 1A of 2013 Dt. 11.01.2013 :**

The aforementioned circular provided for relaxation of conditions of cross verification of ITC for the period 2008/2009. This office has issued an Internal Circular No 9 A Dt. 19<sup>th</sup> Aug 2013 wherein ITC cross verification in respect of top 10,000 mis-matches for the years 2009/10 and 2010/11 has been provided for. In view of the same, it is now decided to make the Internal Circular No. 1A of 2013 Dt. 11.01.2013 applicable to the periods 2009/10 and 2010/11 also.

**14.** All the Additional Commissioners are requested to plan the work so that the entire task allotted to BA, IBA and e 704 Cells gets completed before **31.07.2014** with due attention to completion of time barring assessments. It shall be seen by all the supervisory officers that normally the orders are not passed ex-parte. A monthly review of the progress in respect of these administrative instructions shall be taken. The guidelines issued by the Joint Commissioner E.I.U., in respect of distribution/allotment of cases for the periods 2009/10 and 2010/11 may be followed. You are requested to follow these instructions scrupulously.

  
(Nitin Kareer)

**Commissioner of Sales Tax**



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NO : ACST(VAT)1/Planning/158/2013/B-661 Mumbai, dt 28/08/2013.

Copy to :

1. The Special commissioner of Sales Tax,
2. All the Additional Commissioner of Sales Tax
3. All the Joint Commissioners of Sales Tax
4. All the Deputy Commissioner of Sales Tax in the state
5. All the Asstt. Commissioner of Sales Tax in the state
6. All the Sales Tax Officers in the state.

10A of 2013

Copy forwarded with compliments to:-

- 1) The Dy. Secretary, Finance Department, Mantralaya, Mumbai for information.
- 2) Accounts officers, Sales Tax Revenue Audit, Mumbai and Nagpur for information.
- 3) Copy to all Desks and Desk Officers in the office of the Commissioner of Sales Tax, M.S. for information.

  
28/8/13  
(S. G. Morale)

**Additional Commissioner of Sales Tax (VAT-1)**  
**Maharashtra State, Mazgaon, Mumbai.**