

No. C2/37481/06/CT

Office of the Commissioner
Department of Commercial Taxes
Thiruvananthapuram.
Dated 20/3/2007

CIRCULAR No.14/2007

Sub:- KVAT Act,2003- Advance Tax on evasion-prone items -Transport of goods by registered dealers for own use- goods covered under CST registration certificate - Documents to be insisted -instructions-issued

Read:- (i) CIRCULAR No.50/2006 dated: 18-12-2006

(ii) CIRCULAR No.51/2006 dated. 19-12-2006

As per circular 1st cited advance tax was imposed on certain evasion-prone commodities to be collected at the time of import of such goods into the State and as per circular 2nd cited procedure for transport of goods for 'own use' by persons other than registered dealers was also formulated.

But instances have come to notice of cases where registered dealers are bringing goods covered under the CST registration certificate for own use; such goods will attract advance tax as per the said circular, even though there would be no tax liability under KVAT Act, 2003 since the import of such goods is for own use; this causes inconvenience to such dealers.

The CST Act entitles dealers to include only the following items of goods in their certificate to claim privileges under clause (b) of sub section (1) of section 8 of the CST Act, 1956.

- (i) for resale
- (ii) for use in the manufacture or processing of goods for resale
- (iii) for use in mining
- (iv) for use in the generation or distribution of electricity or any other form of power
- (v) for use in the packing of goods for resale.

But there have also been instances of transporting goods covered under the CST registration certificate by registered dealers on the pretext of 'own use' and resale of such goods subsequently in the State, leading to loss of revenue to the State Exchequer. While protecting the genuine right of dealers to bring in goods as per statutory provisions, misuse of the facility has also to be curbed.

The issue has been examined and the following instructions are issued:

- (i) The procedure laid down for transport of goods for 'own use' as per circular 2nd cited shall mutatis mutandis apply to registered dealers also.

- (ii) Subject to above no advance tax shall be insisted, if such goods are covered under the Circular 50/2006.
- (iii) The assessing authorities shall review the CST registration certificates and satisfy themselves that only goods eligible for inclusion in the certificate of registration as detailed supra are included in the certificate of registration.
- (iv) In cases where such goods are covered under CST registration certificate, counter signature of Form 16 need not be insisted upon, provided there is an endorsement in the CST RC on a date subsequent to the issuance of this Circular by the assessing authority as regards the eligibility of the dealer for such imports of goods, and the dealer furnishes a copy of the same along with the Form 16.

These orders shall take immediate effect.

No C2/37481/06/CT

Commissioner
Office of the commissioner,
Department of Commercial Taxes,
Thiruvananthapuram
Dated 23/3/2007

ERRATUM TO CIRCULAR No.14/2007

Para 3 of the Circular 14/2007 shall be corrected and read as under, taking into account the amendments made in sub section (3) of section 8 of the CST Act, 1956 by Finance Act 20 of 2002 read with sub section (1) section 8 of the said Act:

“The CST Act entitles dealers to include only the following items of goods in their certificate to claim privileges under clause (b) of sub section (1) of section 8 of the CST Act, 1956.

- (i) for resale
- (ii) for use
 - (a) in the manufacturing or processing of goods
 - (b) in telecommunication net work
 - (c) in mining
 - (d) in generation or distribution of electricity or any other form of power
- (iii) for purchasing the goods being containers or materials intended for being used for packing of goods for sale”

Commissioner.