

REFUND OF TAX

by

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REFUNDS

38. (1) (A) A VAT DEALER EFFECTING SALES FALLING UNDER SUB-SECTION (1) OR (3) OF SECTION 5 ~~(AND SUB-SECTION (6) OF SECTION 8)~~ OF THE CENTRAL SALES TAX ACT, 1956 IN ANY TAX PERIOD SHALL BE ELIGIBLE FOR REFUND OF TAX, IF THE INPUT TAX CREDIT EXCEEDS THE AMOUNT OF TAX PAYABLE SUBJECT TO THE CONDITION THAT THE EXPORTS HAVE BEEN MADE OUTSIDE THE TERRITORY OF INDIA. THE EXCESS OF TAX SHALL BE REFUNDED WITHIN A PERIOD OF NINETY DAYS ON A CLAIM MADE ON A VAT RETURN PRESCRIBED TO THE AUTHORITY PRESCRIBED SUBJECT TO THE PROVISIONS OF THE ACT AND THE RULES MADE THEREUNDER;

- **(b) In all other cases, the VAT dealer may make a claim for refund of any excess credit available at the end of second year after the commencement of the Act and thereafter in the return to be filed for the month of March every year if registered as a VAT dealer for a minimum period of twelve months or in the event of cancellation of registration. The excess of input tax credit claimed as refund shall be refunded within ninety days of the date of receipt of the claim;**

(c) The claim for refund under this Section shall be made on the VAT return in the form prescribed;

(d) A VAT dealer, who has paid tax in excess of the amount due for a tax period, may claim a credit in the next tax return.

(2) Where a VAT dealer claiming a refund is required by authority prescribed to provide accounts or records to substantiate the claim but fails to do so in a manner satisfactory to the authority prescribed within seven days of issue of notice, the time period specified in sub-section (1) for making the refund shall not apply.

(3) Where a claim of a VAT dealer is not accepted either in full or in part, the authority prescribed, shall send a notice in writing, to the VAT dealer.

(4) A VAT dealer aggrieved by the decision under sub-section (3) may file an appeal as prescribed in the Act.

(5) The tax paid under the Act on the purchases made by specialized agencies of the UNITED NATIONS ORGANISATION and Consulates or Embassies of any country located in the State, or International Crop Research Institute for Semi Arid Tropics, Hyderabad shall be refunded in such manner as may be prescribed.

Provided that, Government may by notification denotify or exclude any of the Organizations, Consulates or Embassies or any other International Institutions from the purview of this sub-section making them not eligible for refund of tax under the Act on the purchases made by them.

(The proviso to sub-section (5) was added by Act no 14 of 2007 dated 16-04-2007 w.e.f 16-4-2007)

6) Where the authority prescribed fails to make a refund within the time specified under sub-section (1) the amount of refund shall carry simple interest at the rate of one percent per month on the amount of the refund for the period of delay.

(7) A TOT dealer shall be eligible to adjust any excess tax paid by him in the subsequent returns or may claim refund at the time of cancellation of registration in the manner prescribed.

(8) The Government may, by notification provide for grant of refund earlier than the period stipulated in this section, of any excess credit available, after adjusting the tax payable under the Act or any tax payable under the provisions of Central Sales Tax Act, 1956 in respect of any Value Added Tax dealer or any category of Value Added Tax dealers.

(Sub- section (8) is added by Act No 34 of 2006 dated 19-09-2006 w.e.f 01-04 2005)

(9) The tax paid under the Act, by the person who is not liable to be registered as Value Added Tax or Turnover Tax dealer and not liable to pay tax under the Act, may be refunded in the manner as may be prescribed.

(Sub-section (9) is added vide Act No 28 of 2008 dated 24-09-2008 w.e.f 24-09-2008)

39. (1) Where the authority prescribed is required to refund an amount of tax to a VAT dealer or TOT dealer or any other dealer as a result of:-

(a) a decision under Section 31; or

(b) a decision of the Appellate Tribunal under Section 33; or

(c) a decision of the High Court under Section 35; such refund shall be made within a period of ninety days from the date of the receipt of the order.

(2) Where refund is not made within the stipulated time, as mentioned in sub-section (1) the amount of refund shall carry interest at the rate of one percent per month for the period of delay. The interest in respect of part of a month shall be computed proportionately and for this purpose, a month shall mean a period of 30 days.

40. (1) The Commissioner or the authority prescribed shall have the power to adjust any amount due to be refunded against any tax, penalty and interest outstanding against a VAT dealer or a TOT dealer or any other dealer.

(2) Where an order giving rise to a refund is the subject matter of an appeal or further proceeding, or where any other proceeding is pending, and the authority prescribed is of the opinion that the grant of the refund is likely to adversely affect the revenue, the authority prescribed may, with the previous approval of the Deputy Commissioner, withhold the refund till such time as the Deputy Commissioner may determine.

(3) Where any demand of tax or penalty or both is disputed by a VAT dealer or TOT dealer before any appellate authority or Sales Tax Appellate Tribunal or High Court and the demand becomes finally due either partly or fully an interest at the rate of one percent per month shall be charged from the date such tax or penalty was originally due.

GOVT. NOTIFICATIONS

15.(1) The Government may, if it is necessary so to do in the public interest and subject to such conditions as it may impose, by a notification, provide for grant of refund of tax paid to any person, on the purchases effected by him and specified in the said notification.

(2) Any notification under sub section (1) may be issued so as to be retrospective to any day not earlier than the appointed day and such notification shall take effect from the date of its publication in the Gazette or such other earlier or later date as may be mentioned therein.

(3) An application for refunds shall be made in duplicate to the Commissioner within a period of six months from the date of purchase or as the Government may prescribe in the notification and it shall be accompanied by the purchase invoice in original.

REFUNDS (RULES)

35. Procedure for Refunds.

1 The claim for refund shall be made by a VAT dealer on Form VAT 200 by a TOT dealer on Form TOT 030.

2 Any VAT dealer who claims any refund of VAT or a TOT dealer who claims refund of excess TOT shall not be eligible for any refund unless all the returns due have been filed and the taxes due have been paid.

3 The authority prescribed shall have the powers to adjust any amount to be refunded against any taxes, penalty and interest outstanding under the Act against such VAT dealer or such TOT dealer.

4 The authority prescribed shall not refund any VAT where tax, penalty, interest or any other amount is outstanding against such VAT dealer under the Andhra Pradesh General Sales Tax Act, 1957 and or under the Central Sales Tax Act, 1956.

5 Subject to the conditions specified in subsection (1) of Section 38, a VAT dealer shall be eligible to claim a refund for the tax period in which sales falling within the scope of (clause (b) of Section 8) have been made in excess of Rupees ten lakh in such tax period and in other cases at the end of second year after commencement of the Act and thereafter in the return to be filed for month of March or in the event of cancellation of registration.

(The words in brackets are substituted by G.O MS No. 503 Rev (CT-II) dept, dated 08-05-2009 w.e.f 01-05-2009. The words substituted are "clauses (b) & (c) of Section 8")

6 a) In the case of sales falling within the scope of sub section (1) of Section 5 of Central Sales Tax Act, 1956, the VAT dealer shall be in possession of the following documents:

i) Copy of contract or order from a foreign buyer

ii) Copy of the invoice issued to the foreign purchaser

iii) Transport documentation i.e. Bill of Lading, Airway Bill, or a like document.

iv) Evidence of payment or evidence of letter of credit from the foreign purchaser.

(v) Copy of the document in proof of export duly certified by Customs Department.

(Clause (v) is added by G.O MS No 816 Rev (CT-II) Dated 16-06-2007 w.e.f 1.4.2005.)

b) In the case of sales falling within the scope of sub-section (3) of Section 5 of Central Sales Tax Act, 1956, the VAT dealer shall be in possession of the following documents:

- i) Declaration in Form 'H'**
- ii) Purchase order from exporter**
- iii) Evidence of export in the form of transport documentation i.e. bill of lading, air way bill or a like document.**

c) In the case of sales falling within the scope of sub-section (6) of Section 8 of Central Sales Tax Act 1956, the Value Added Tax dealer shall be in possession of the following documents;

- i) Declaration in Form I**
- ii) Authorization Certificate from Development Commissioner.**

(Clause (c) was added by G.O MS No 1624 Rev (CT-II) Dept, dated 06-11-2006 w.e.f 06-11-2006)

7 (A) VAT dealer making sale of goods in the course of inter-state trade or commerce falling under Section 3 of the Central Sales Tax Act, 1956 may adjust any excess credit available under the Act against any tax payable under the Central Sales Tax Act, 1956 for the same tax period.

8 a) Where the VAT dealer makes a claim under Section 38, such refund shall be made within a period of ninety days of the date the return was due or the date the return is filed whichever is later.

b) Where the VAT dealer fails to produce accounts or records required by the authority prescribed within seven days of date of issue of the notice, the time limit specified in clause (a) shall not apply.

c) Where the VAT dealer has produced accounts or records within the prescribed time limit, interest shall be payable at the rate of one percent (1%) per month from the date after the expiry of the ninety days till the date of actual refund.

The interest in respect of part of month shall be computed proportionately and for this purpose, month shall mean a period of thirty days.

9 a) Where any refund is due to VAT dealer under Section 39, a notice in Form VAT 351 shall be issued by the authority prescribed proposing either adjustment of such refund against any tax, interest, penalty and any amount due under the Act outstanding against such dealer or notifying the refund within fifteen days of date of receipt of the order specified in Section 39 of the Act.

b) The VAT dealer, on receipt of such Form, shall confirm the claim of refund within fifteen days of receipt by returning Form VAT 352.

c) On receipt of confirmation from the VAT dealer, the authority prescribed shall either adjust or refund the amount as the case may be.

d) The stipulated time of ninety days under Section 39 shall include the period of process specified under clauses (a), (b) and (c).

e) Where the refund is not made within ninety days, the interest shall be payable at the rate of one percent (1%) per month from the date after the expiry of the said ninety days till the date of actual refund.

The interest in respect of part of month shall be computed proportionately and for this purpose, month shall mean a period of thirty days.

10 a) Where any turnover tax has been levied and collected under the Act in respect of sale inside the State of any declared goods specified in Section 14 of the Central Sales Tax Act, 1956 and such goods are subsequently sold by a VAT dealer in the course of inter-State trade or commerce, the turnover tax so levied and collected shall be refunded to such VAT dealer in manner and subject to the conditions specified in clauses (b) to (e) of this sub-rule.

Provided that the refund shall not be made unless the tax payable under the Central Sales Tax Act, 1956 is paid.

b) The refund of tax referred to in clause (a) shall be made to the VAT dealer who effected the first sale in the course of the inter-State trade or commerce.

c) Every application for such refund under this rule shall be filed by the VAT dealer claiming refund in Form VAT 360 before the authority prescribed having jurisdiction over the place of business of the VAT dealer within a period of ninety days from the date of payment of the tax due under the Central Sales Tax Act, 1956 in respect of declared goods specified under clause (a) above

(Provided that the authority prescribed may condone for reasons to be recorded in writing, any delay in filing of such application)

d) The burden of proving that a VAT dealer is entitled to such refund shall be on the VAT dealer claiming such refund.

e) The authority prescribed shall, after making such enquiry as he considers necessary, refund without interest the turnover tax levied and collected within ninety days from the date of receipt of application on Form VAT 360.

Provided that the authority prescribed shall first adjust the amount of such refund towards tax, penalty, interest or any amount due from the VAT dealer for any tax period and then refund the balance if any.

11 The claim for refund under sub-section (3) of Section 15 of the Act shall be made on Form 510 along with the invoices in original. The refund in such cases shall be made within a period of 45 days from the date of submission of Form 510.

12 The claim for refund under sub-section (5) of Section 38 of the Act shall be made on Form 510A, along with the copies of invoices, within 45 days from the end of the month during which the goods are purchased, to the Commissioner or to any other officer in Commissioner. The refund in such cases shall be made within a period of 45 days from the date of the claim.

13 The Claim for refund under sub-section (9) of Section 38 of the Act shall be made in Form 510B, along with the proof of payment of tax in original, within 45 days from the end of the month during which the tax was paid, to the Commissioner or to any other officer, authorized by the Commissioner. The refund in such cases shall be made within a period of 90 days from the date of claim.

(Sub-rule (13) was added by G.O MS No. 503 Rev (CT-II) dept, dated 08-05-2009 w.e.f 01-05-2009)

GOODS OF SPECIAL IMPORTANCE IN INTER-STATE TRADE OR COMMERCE.(CST ACT)

14. Certain goods to be of special importance in Inter-State trade or commerce.-

It is hereby declared that the following goods are of special importance in inter-State trade or commerce:-

⁹³ [(i) cereals, that is to say .-

(i) paddy (*Oryza sativa* L.);

(ii) rice (*Oryza sativa* L.);

(iii) wheat (*Triticum vulgare*, *T.compactum*, *T.sphaerococcum*. *T. durum*, *T. aestivum* L.*T. discococcum*);

(iv) jowar or milo (*Sorghum vulgare pers*);

(v) bajara (*Pennisetum typhoideum* L.);

(vi) maize (*Zea malys* D.);

(vii) ragi (*Eleusine coracana* Gaertn.);

(viii) kodon (*Paspalum scrobiculatum* L.);

(ix) kutki (*Panicum miliare* L.);

(x) barely (*Hordeum vulgare* L.);]

⁹⁴[⁹⁵(ia)] coal, including coak in all its forms, but excluding char-coal:

Provided that during the period commencing on the 23rd day of February, 1967 and ending with the date of commencement of section 11 of the Central Sales Tax (Amendment) Act, 1972, this clause shall have effect subject to the modification that the words "but excluding char-coal" shall be omitted;]

Sub-Section 6 of Section 8 (CST Act 1956)

[(6) Notwithstanding anything contained in this section, no tax under this Act shall be payable by any dealer in respect of sale of any goods made by such dealer, in the course of inter-State trade or commerce to a registered dealer for the purpose of setting up operation, maintenance, manufacture, trading, production, processing, assembling, repairing, reconditioning, re-engineering, packaging or for use as packing material or packing accessories in an unit located in any special economic zone or for development, operation and maintenance of Special Economic zone by the developer of the Special Economic zone, if such registered dealer has been authorised to establish such unit or to develop, operate and maintain such Special Economic Zone by the authority specified by the Central Government in this behalf.]

SECTION 4 (2)

Every dealer, who has not opted for registration as a Value Added Tax dealer and who is registered or liable to be registered for Turnover Tax, shall pay tax at the rate of one percent (1%) on the taxable turnover in such manner as may be prescribed.

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