

Tax E-Chronicle

Monthly News Letter on Tax and Revenue

Commercial Taxes Department
Government of Rajasthan

From the Desk...



It is well known truth that **"Information is Power"** and dissemination of right information to the right person at right time is basic need for the performance of the system.

For better Information, collection and recording of data should be time bound and correct in nature.

In tax administration periodical collection of data has been defined in Act & Rules and every citizen involved in business activities (Dealer) should have to comply with the provisions of Act and Rules meant for tax administration in the State. If there is gap in data collection then the smooth administration of tax becomes difficult.

Department is on the way of automation of core and non-core activities related to the tax administration. In view of the above various e-Services are being provided by the Department. In this context new concept of providing CST forms to the door-step of the dealer named **"Rajasthan Online CST System (ROCS)"** is on the way. In this process the dealer have to file quarterly purchase details online through web portal of the Department and in turn, CST forms will be generated and dispatched to the dealer via registered post. The basic requisites of the system to promote e-Payment and e-filing of Return for correct and timely information dissemination. The dealers coming in the criteria should have to mandatorily file return electronically as well as have to make payment electronically.

It is a matter of fact that Department is working for the convenience and facilitation of taxpayer but to implement the process effectively positive participation of the taxpayer is essential. The taxpayer should come forward and contribute in the efforts of the Commercial Taxes Department for providing hassel free tax administration.

I have feeling of great pleasure that e-Services being provided by the Department are being used extensively and I hope that all new efforts would also be welcomed by the trade and industry of the State.

(B.N.Sharma)

Highlights

- ☞ IDBI bank has been included in the list of banks authorised for e-Payment of Tax . The dealers having account in IDBI bank can also pay tax through web portal of the Department
- ☞ Presently 4 Banks have been authorised for collection of VAT and CST through web portal. The name of banks are State Bank of India, State Bank of Bikaner and Jaipur, Bank of Baroda and IDBI Bank.
- ☞ Integration of Union Bank of India is under process and would be available very soon.
- ☞ The Empowered Committee of State Finance Ministers, Government of India has issued first Discussion paper on the proposals of Goods and Service Tax (GST). The Discussion paper is available on the website www.rajtax.gov.in of the Department
- ☞ The providing of CST forms at the door step of the dealer is on the way and the facility would be provided very soon to the dealers for whom e-filing of returns is mandatory.

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**राजस्थान सरकार
कार्यालय-उपायुक्त-(अपील्स),
वाणिज्यिक कर विभाग, कोटा ।**

अपील सं. 1/ई.टी./2009-10/कोटा
मैसर्स बजाज ओटो लि0, आई.पी.आई.ए., कोटा ।
बनाम
वाणिज्यिक कर अधिकारी, विशेष वृत्त-प्रथम, कोटा ।
कर निर्धारण अवधि 01.04.05 से 31.3.06 (2005-06)
धारा 12(3) ऑफ राजस्थान टैक्स ऑन एन्ट्री ऑफ
गुड्स इन टू लोकल एरिया एक्ट, 1999
उपस्थित श्री पारस पाटनी, अधिकृत प्रतिनिधि
श्री एन.के. जैन, विभागीय प्रतिनिधि
अपील सुनवाई दिनांक 21.08.09
अपील आदेश दिनांक 24.08.09

अपील आदेश

उक्त अपील विद्वान वाणिज्यिक कर अधिकारी, विशेष वृत्त-प्रथम, कोटा के द्वारा राजस्थान टैक्स ऑन एन्ट्री ऑफ गुड्स इनटू/लोकल एरिया एक्ट जिसे आगे "प्रवेश कर अधिनियम" कहा जायेगा की धारा 12(3) के तहत पारित आदेश दिनांक 24.04.09 के विरुद्ध दायर की गई है ।

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प्रकरण के तथ्य इस प्रकार है कि वाणिज्यिक कर अधिकारी, विशेष वृत्त-प्रथम, कोटा जिसे आगे "कर निर्धारण अधिकारी" कहा जायेगा, ने दिनांक 01.04.05 से 31.03.06 वर्ष 2005-06 की अवधि का अपीलान्त का कर निर्धारण आदेश दिनांक 24.04.09 को पारित किया गया । अपीलान्त द्वारा जून, अक्टूबर नवम्बर, 2005 व फरवरी, मार्च, 2006 के ई.टी.एल.ए.-3 विलम्ब से पेश किये जाने के कारण रु. 1000/- शास्ति आरोपित की गई है । अपीलान्त द्वारा राज्य के बाहर से आयातित माल पर प्रवेश कर का दायित्व बनता है । अपीलान्त को सुनवाई हेतु दिनांक 24.04.09 के लिए सूचना पत्र जारी किया । कर निर्धारण अधिकारी ने अपीलान्त द्वारा राज्य के बाहर से आयातित माल कीमतन रु. 776533580/- पर 1 प्रतिशत की दर से प्रवेश कर रु. 7765336/- आरोपित किया है । जिसे इस अपील में चुनौती दी गई है ।

अपीलान्त के विद्वान अधिकृत प्रतिनिधि ने तर्क प्रस्तुत किया कि कर निर्धारण अधिकारी ने अपीलान्त को सुनवाई हेतु समुचित अवसर दिये बिना तथा अपीलान्त की विधिक स्थिति की जांच किये बिना कर निर्धारण आदेश पारित किया है जो अविधिक एवं अवैधानिक होने से अपास्त किया जावे ।

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अपीलान्त के विद्वान अधिकृत प्रतिनिधि ने तर्क प्रस्तुत किया कि प्रवेश कर के कई मामले माननीय सर्वोच्च न्यायालय के सम्मुख लम्बित है । चूंकि माननीय राजस्थान उच्च न्यायालय ने मैसर्स दिनेश पाउचेज (2007) 19 टैक्स अपडेट 1 के केस में अधिनियम को असंवैधानिक करार दिया है । अब यदि माननीय सर्वोच्च न्यायालय ने प्रवेश कर की वैधानिकता को उचित भी करार दिया गया तो भी करारोपण भविष्य लक्षी प्रभावी होगा । इसलिए भी अपीलान्त आदेश अविधिक है । तर्क के समर्थन में माननीय सर्वोच्च न्यायालय का निर्णय 8 वीएसटी 469 का उद्धरण प्रस्तुत किया ।

अपीलान्त के विद्वान अधिकृत प्रतिनिधि ने तर्क प्रस्तुत किया कि राजस्थान में प्रवेश कर compensatory nature का नहीं होने एवं माननीय उच्चतम न्यायालय के मैसर्स जिन्दल स्ट्रीप्स लि0, के प्रकरण के अनुसार राजस्थान में प्रवेश कर आरोपणीय नहीं है । अतः कर निर्धारण अधिकारी द्वारा आरोपित प्रवेश कर अविधिक एवं अवैधानिक होने से अपास्त किया जावे ।

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विद्वान विभागीय प्रतिनिधि ने कर निर्धारण आदेश का समर्थन कर अपील को अस्वीकार किये जाने पर जोर दिया है ।

डभयपक्षों की बहस सुनी गई । प्रस्तुत तर्कों एवं उद्धरित निर्णयों पर मनन किया गया । प्रवेश कर राजस्थान में असंवैधानिक होने के बारे में विधिक स्थिति को माननीय राजस्थान उच्च न्यायालय ने मैसर्स लक्ष्मी सीमेन्ट जो (2007) 19 Tax Up-Date page 64 पर उद्धरित है में निम्न प्रकार पाया है :-

Constitution of India- D.B. Civil Writ petition- At the time of hearing of this matter, it was pointed out by the learned Advocate for the petitioner that since the issue raised in the petition is covered by the decision of Division Bench of the Court in D.B. Civil Writ Petition No. 21/2002 (Dinesh Pouches Ltd. Vs. State of Rajasthan and ors.) This petition is required to be allowed by holding that the Rajasthan Tax on Entry of Goods in to Local area act, 1999 is ultra vires the provision of constitution of India and on that basis, this petition is required to be allowed. The question before the Rajasthan High Court was: Whether the matter is required to be referred to the Larger Bench and whether the decision given by the Division Bench in the case of Dinesh Pouches Ltd. (Supra) is required to be reconsidered by the large bench. While referring the issue to the Large Bench, the Rajasthan High Court held that :- Looking to the fact that number of petitions are pending before this Court on the same matter, the Registry is directed to place this order before Hon'bel the Chief Justice for considering the question about constituting large Bench so that issue in question may be thrashed out at the earliest.

Notifications

नीतिगत निर्णय एवं उनकी क्रियान्विति की स्थिति

क्र.	नीतिगत निर्णय	क्रियान्विति की वर्तमान स्थिति
1	RIPS-2003 के अन्तर्गत SEZ में स्थापित होने वाली इकाईयों को मनोरंजन कर एवं विलासिता कर से मुक्ति प्राप्त नहीं होगी	अधिसूचना संख्या एफ.12(43) एफडी / टैक्स / 05 पार्ट दिनांक 03.09.09
2	ग्रामीण क्षेत्रों में स्थापित सूक्ष्म, लघु एवं मध्यम उद्यमों को विद्युत कर में 75 प्रतिशत की छूट दी गई ।	अधिसूचना संख्या एफ.12(99) एफडी / टैक्स / 07-56 दिनांक 05.10.09
3	समस्त कर निर्धारण अधिकारियों को वित्त विभाग द्वारा 10.10.08 को RIPS हेतु जारी स्पष्टीकरण के आधार पर अनुदान आदेश जारी करने हेतु निर्देशित किया गया ।	कर नीति परिपत्र संख्या 17 एफ.16(60)170-14 / RIPS / कर / आयुक्त / 03 पार्ट-II / 840 दिनांक 13.10.2009
4	एमनेस्टी योजना 2009 के अन्तर्गत आवेदन-पत्र अग्रेषित करने से पूर्व विहित प्रक्रिया हेतु निर्देश जारी किए गए ।	कर नीति परिपत्र संख्या 18 प.16(752)वैट / कर / आयुक्त / 2009 / 846 दिनांक 13.10.2009
5	वर्ष 2009-10 की द्वितीय तिमाही हेतु आनलाईन रिटर्न जमा कराने की अवधि 30.11.2009 तक बढ़ाई गई	अधिसूचना संख्या एफ.16(375) / टैक्स / वैट / सीसीटी-06 / 882 दिनांक 05.10.09

Data Nest...

विभाग की महत्वपूर्ण उपलब्धि

(राशि करोड़ रु. में)

क्र.सं.	मद	2008-09		2009-10		प्रतिशत उपलब्धि
		राजस्व लक्ष्य वार्षिक(R.E.)	उपलब्धियाँ (Tent.)	राजस्व लक्ष्य वार्षिक(B.E.)	उपलब्धियाँ माह Oct 2009 तक(Tent.)	
1	वैट	9100.00	8904.50	10030.00	5500.94	54.84
2	प्रवेश कर	190.00	189.90	225.00	107.61	47.83
3	मंनोरजन कर एवं विलासिता कर	60.00	64.53	70.00	23.20	33.14

Profile of a leading tax payer

TATA Motors Ltd.

Tata Motors Ltd is a dealer registered in the Special Circle, Rajasthan. It deals in Sales of Commercial Vehicles of Tata. The last five years revenue figures are as follows:-

(Rs. in Crore)

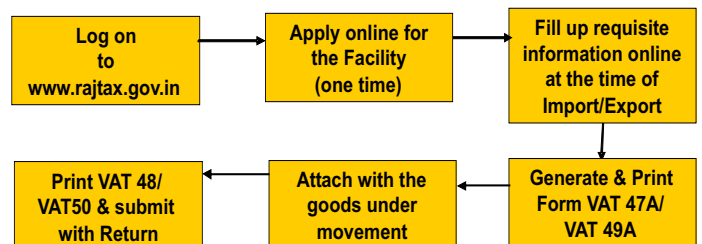
S.No.	Year	Revenue
1	2004-05	102.19
2	2005-06	111.02
3	2006-07	188.82
4	2007-08	169.41
5	2008-09	79.71

Presently, Tata Motors Ltd. is making payment of tax electronically and rarely defaults in payment of tax.

E-Forms- VAT 47A/ VAT 49A

The dealer can now avail the facility to file their declaration of inter-state goods movement **online**

- In this case no need of purchasing VAT -47 and VAT -49 forms
- No need of submitting its account and used forms to the Department
- Auto generation of Statement of Utilization of Forms VAT -47A and VAT -49A (i.e. Forms VAT -48 and VAT -50)



Goods and Service Tax- FAQ

Question 1 : What is the justification of GST ?

Answer : There was an unfair burden of "tax on tax" in the pre-existing Central excise duty of the Government of India and sales tax system of the State Governments. The introduction of Central VAT (CENVAT) has removed the cascading burden of "tax on tax" to a good extent by providing a mechanism of "set off" for tax paid on inputs and services upto the stage of production, and has been an improvement over the pre-existing Central excise duty. Similarly, the introduction of VAT in the States has removed the cascading effect by giving set-off for tax paid on inputs as well as tax paid on previous purchases and has again been an improvement over the previous sales tax regime.

But both the CENVAT and the State VAT have deficiencies. The deficiency in CENVAT is that it has yet not been extended to include chain of value addition in the distributive trade below the stage of production. It has also not included several Central taxes, such as Additional Excise Duties, Additional Customs Duty, surcharges etc. in the overall framework of CENVAT, and thus kept the benefits of comprehensive input tax and service tax set-off out of the reach of manufacturers/dealers. The introduction of GST will not only include comprehensively more indirect Central taxes and integrate goods and services taxes for set-off relief, but also capture value addition in the distributive trade.

Similarly, in the present State-level VAT scheme, CENVAT load on the goods has not yet been removed and the cascading effect of that part of tax burden has remained unrelieved. Moreover, there are several taxes in the States, such as, luxury tax, entertainment tax, etc. which have still not been subsumed in the VAT. Moreover, there has also not been any integration of VAT on goods with tax on services at the State level with removal of cascading effect of service tax. In addition, although the burden of Central Sales Tax (CST) on inter-State movement of goods has been lessened with reduction of CST rate from 4% to 2%, this burden has also not been fully phased out. With the introduction of GST at the State level, the additional burden of CENVAT and services tax would be comprehensively be removed, and a continuous chain of set-off from the original producer's point and service provider's point upto the retailer's level would be established which would eliminate the unfair burden of all cascading effects, including the unfair burden of CENVAT and service tax. This is the essence of GST. Also, major Central and State taxes will get subsumed into GST which will reduce the multiplicity of taxes, and thus bring down the compliance cost. With GST, the burden of CST will also be phased out.

Thus GST is not simply VAT plus service tax, but a major improvement over the previous system of VAT and disjointed services tax a justified step forward.

Question 2. How does GST work ?

Answer : As already mentioned in answer to Question 1, GST is a tax on goods and services with comprehensive and continuous chain of set-off benefits from the producer's point and service provider's point upto the retailer's level. It is essentially a tax only on value addition at each stage, and a supplier at each stage is permitted to set-off, through a tax credit mechanism, the GST paid on the purchase of goods and services as available for set-off on the GST to be paid on the supply of goods and services. The final consumer will thus bear only the GST charged by the last dealer in the supply chain, with set-off benefits at all the previous stages.

The illustration indicates, with a hypothetical example, how GST will work. Let us suppose that GST rate is 10%, with the manufacturer making value addition of Rs.30 on his purchases worth Rs.100 of input of goods and services used in the manufacturing process. The manufacturer will then pay net GST of Rs.3 after setting-off Rs. 10 as GST paid on his inputs (i.e. Input Tax Credit) from gross GST of Rs.13. The manufacturer sells the goods to the wholeseller. When the wholeseller sells the same goods after making value addition of (say), Rs.20, he pays net GST of only Rs.2, after setting-off of Input Tax Credit of Rs. 13 from the gross GST of Rs. 15 to the manufacturer. Similarly, when a retailer sells the same goods after a value addition of (say) Rs. 10, he pays net GST of only Re.1, after setting-off Rs.15 from his gross GST of Rs. 16 paid to wholeseller. Thus, the manufacturer, wholeseller and retailer have to pay only Rs. 6 (= Rs.3+Rs.2+Re.1) as GST on the value addition allowing the entire value chain from the producer to the retailer, after setting off GST paid at the earlier stages. The overall burden of GST on the cost-price of the goods is thus much reduced. This is shown in the table below. The same illustration will hold in the case of final service provider.

Cont. In Next Issue....

DISCLAIMER

The newsletter is for general information purposes only and the contents contained herein are not meant to constitute legal advice

SUGGESTIONS & SUBSCRIPTION:

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The Addl. Commissioner (VAT&IT)
Commercial Taxes Department
HQ, Kar Bhawan, Ambedkar Circle
Bhawani Singh Marg, JAIPUR
Ph:0141-2227291,0141-2385142
E Mail: acct-vat@rajtax.gov.in

The newsletter is also available at
www.rajtax.gov.in