

GOVERNMENT OF WEST BENGAL  
OFFICE OF THE COMMISSIONER, COMMERCIAL TAXES  
14, BELIAGHATA ROAD, KOLKATA – 700 015.

**Trade Circular No. 7/2011 dated 04.04.2011**

Sub : Pre-assessment refund of tax etc. u/s. 61 and u/s 22(8A) of the WBVAT Act, 2003.

In Trade Circular No. 2/2010 dated 01.04.2010, in paragraph 12 it was mentioned that under the amended section 61, furnishing of special declaration, the then required to be furnished under clause (ab) of sub-section (1) was dispensed with effect from 01.04.2010 and furnishing of Form 12B prescribed under rule 76(2A) would only suffice. But rule 76(2A) was amended vide notification no. 1057FT dated 12.07.2010. This amended rule again came into force on and from 01.04.2010. Trade Circular No. 9/2010 dated 28.10.2010 was issued after publication of that notification no. 1057FT dated 12.07.2010. In that circular it was brought to the notice of everybody that Form 12B would no more be required. Instead Form 31A, prescribed under rule 76 had to accompany the following :

- a) A certificate from Chartered Accountant or a Cost Accountant regarding purchases and sales, relating to said refund, of goods and correctness of the claim of refund claimed in the application;
- b) A copy of return, authenticated by the dealer;
- c) Copy or copies of tax invoices, attested by the dealer, for purchases pertaining to the said refund including a statement in a proforma appended to rule 76(2A)(c).

For pre-assessment refund of VAT claimed u/s. 22(8A), same certificate from Chartered Accountant or Cost Accountant, copy or copies of return and copies of tax invoices etc. were required to be enclosed along with application form in Form 33.

The difference between two categories of pre-assessment refund was that after *prima-facie* processing of applications, 75% of refundable amount, claimed u/s. 61(1) was prescribed to be allowed at the first instance whereas this amount was 90% of that claimed u/s. 22(8A).

Now, another notification bearing no. 351FT dated 01.03.2011 is issued by virtue of which rule 76 and rule 79A of the VAT Rules, 2005 have undergone through some major changes. In brief, the changes which shall come into force with effect from 01.04.2011 and shall govern the return or returns for the period or periods commencing on or after 01.04.2011 are noted below :

- 1) National Electronic Funds Transfer System has been adopted by the Directorate of Commercial Taxes.
- 2) The dealers in both cases of pre-assessment refund shall make applications in modified Forms 31A and 33 electronically through the website of the Commercial Tax Directorate instead of the existing system of furnishing the forms manually.
- 3) Modified Form 31A should be enclosed with statement of computation of refundable amount and statement of purchases pertaining to the refund electronic transmission of which becomes automatically mandatory. This modified Form 31A, itself contains details of bank account of the dealer that

would facilitate electronic fund transfer. Modified Form 33 on the other hand should be enclosed with the same type of computation of refund sheet and statement of purchases pertaining to the refund. Here also modified

(2)

Form 33 itself contains details of bank account of the dealer that would facilitate electronic fund transfer. Besides above, pieces of information connected with certificate of eligibility issued to the dealer have been made part of the particulars of Form 33.

- 4) This time a dealer coming u/s. 61(1) will claim only 75% of excess ITC as refund under rule 76 and a dealer coming u/s. 22(8A) will claim only 90% of the 75% of excess ITC as refund.
- 5) Form 32 is modified which is required to be transmitted electronically along with Form 31A by the dealer coming u/s. 61(1). In Part B of this Form, a dealer is required to furnish information on clearance of consignment by Customs Authority and acknowledgement of receipt of goods by vessel/aircraft/road authority.
- 6) Electronic filing of application for condonation of delay, if there is any delay in filing Form 31A or 33, is made mandatory this time.
- 7) Submission of the paper form of Form 31A, statements, Form 32, physical Forms 35, 36, 37 and acknowledgement, within fifteen days from the date of electronic transmission in case of refund u/s. 61(1) and of the paper form of Form 33 and statements and acknowledgement, within fifteen days from the date of electronic transmission is made compulsory. A copy of return, certified by the dealer and certificate from Chartered Accountant or Cost Accountant are to be submitted along with paper form of Form 31A and Form 33. Submission of copies of tax invoices for purchases has this time been dispensed with.
- 8) Date of receipt of paper copy of forms along with all enclosures shall be deemed to be actual date of receipt of refund applications.
- 9) If found admissible after adjustment made against past unpaid dues, the Central Refund Unit (CRU) will refund the claimed 75% of the excess ITC falling u/s. 61(1) and claimed 90% of the 75% of excess ITC falling u/s. 22(8A) electronically and the respective amounts will be transferred to the dealers' accounts through National Electronic Funds Transfer System.
- 10) The balance 25% of excess ITC falling u/s. 61(1) and balance 10% of the 75% of excess ITC falling u/s. 22(8A) will be taken care of in course of assessment to be made by the assessing officers u/s. 46.

All concerned are requested to bring the contents of this circular to the notice of the dealers.

(H.K. Dwivedi)  
Commissioner,  
Sales Tax, West Bengal.

Memo No 214(500)CT/PRO  
3C/PRO/2008

Dated: 06.04.2011

Copy forwarded for information and necessary action to:

- 1) **The Principal Secretary, Finance (Revenue) Department, Government of W.B.**
- 2).....Special Commissioner, Sales Tax, W.B/

Additional Commissioner, Sales Tax, W.B.

3) The Special Officer, Bureau of Investigation.

4) The Sr. Joint Commissioner, Sales Tax,(HQ).

5) Sr.Joint Commissioner, Sales Tax,.....Circle/Range/Central Section/.....

6) Joint Commissioner, Sales Tax.....Circle/Charge.

7) The Public Relations Officer, Directorate of Commercial Taxes, W.B.

8) Trade Bodies.....

9) Website [www.wbcomtax.gov.in](http://www.wbcomtax.gov.in).

For Commissioner,  
Sales Taxes, West Bengal