

GOVERNMENT OF WEST BENGAL
DIRECTORATE OF COMMERCIAL TAXES,
14, BELIAGHATA ROAD, KOLKATA-700 015.

TRADE CIRCULAR No. 10/2011

Date: 6th June, 2011.

Reg :: **Determination of late fee for the assessment periods commencing from 2008-09.**

In terms of rule 40(1)(c) of the WBVAT Rules, 2005, as it stood amended and was operative for the return periods commencing from 01.04.2008 and ending on 31.03.2009, a dealer was made liable to pay late fee of Rs.2000/- for first English Calendar month and of Rs.500/- for every subsequent English Calendar month if he was found defaulter in furnishing return for any quarter or for all the quarters of that particular financial year. The fact that a dealer was not required to pay any amount as net tax for any quarter falling within that particular period became irrelevant so far rule 40(1)(c) was concerned. But we all are aware of the fact that this factor was taken into account in determining late fee for the return periods coming within the period from 01.04.2007 to 31.03.2008.

Section 53A of the WBVAT Act, 2003, read with existing rule 68B of the WBVAT Rules, 2005 prescribes how the late fee would be determined when a dealer had defaulted in furnishing a return. Rule makes it mandatory that a defaulting dealer would be liable to pay late fee for the period of default irrespective of the amount of net tax payable for the return period commencing from 01.04.2008 along with interest to be payable by him in connection with the defaulting amount of net tax.

Now in terms of notification no. 804 FT dated 2.6.2011, second proviso is added to rules 68B and this has particularly been made operative for the return periods commencing from 1.4.2008. Out of the reasons that may be attributed to a dealer for being his tax liability at nil for a return period, the existence of turnover of sales, of turnover of purchases and of contractual transfer price, of a dealer has now become a decisive factor in determining late fee in his case.

Law as its stands now, a dealer, who is defaulter in furnishing return for the period commencing from 1.4.2008, would be liable to pay late fee for such default if it is determined that in that return period there is turnover of sales and/or turnover of purchases and/or contractual transfer price, although no tax along with interest is ultimately found payable by him. **On the contrary, a dealer, who is defaulter in furnishing a return for the period commencing from 1.4.2008 would not be liable to pay late fee for such default if it is conclusively determined that there is no turnover of sales and/or no turnover of purchases and/or no contractual transfer price in respect of that return and consequently no tax along with interest is payable by him.**

All the assessing authorities and the auditing authorities shall take note of it and shall act accordingly while assessing a dealer u/s. 46 of the WB VAT Act, 2003.

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

Memo No.307(500)CT/PRO
3C/PRO/2008

Dated: 06.06.2011

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.

For Commissioner,
Sales Taxes, West Bengal