

**CIRCULAR 1/06**

Sub:- Refund of Input tax- speedy settlement- instructions issued- Reg:

Section 13 of the Kerala Value Added Tax Act, 2003 provides for refund of input tax in the case of interstate sale/ stock transfer and export. Refund will be available where the goods purchased after paying input tax are-

- (1) sold interstate or exported
- (2) used as packing material of goods sold interstate or exported.
- (3) Used in the manufacture of goods and the manufactured goods are sold interstate or exported.
- (4) Used as capital goods in relation to goods sold interstate or exported.
- (5) Sent as stock transfer to outside the state or the goods manufactured or packed using the goods purchased are sent as stock transfer to outside the state, where input tax had been paid in excess of 4%.

2. In the case of interstate sale or stock transfer refund of input tax will be available only if the goods sold interstate or sent as stock transfer are taxable. But in the case of export, refund of input tax is provided for even if the goods purchased are used in the manufacture of goods included in the first schedule or are used as containers or as packing materials of such goods and such manufactured goods are sold in the course of export.

3. Rule 46 and 47 prescribe the procedures to be followed for claiming refund. The application for refund in the case of interstate sale/stock transfer and exports are to be in Form Nos 21B and 21C respectively. Along with the application the following documents have to be submitted:

**A. Interstate sale /Stock transfer**

- (i) The statement of interstate sales in the prescribed form.
- (ii) Copy of transport documents (LR/RR etc)
- (iii) Declaration in Form 21J , obtained from the dealer who had collected the tax in respect of which refund is claimed.
- (iv) A declaration in Form No. 44 obtained from the consignee.

**B. Export**

- (i) Exporter's copy or export promotion copy of the shipping bill duly certified by the Customs authority.
- (ii) A certificate from the dealer's Bank to prove receipt of payment from the foreign buyer.

- (iii) Declaration in Form 21J, obtained from the dealer who had collected the tax in respect of which refund is claimed
- (iv) Declaration in Form H prescribed under the Central Sales Tax (registration and Turnover) Rules, 1957 where the sale by the dealer claiming refund falls under sub-section (3) of section 5 of the CST Act, 1956, irrespective of whether the exporter is within the state or outside the state.

4. In the case of Form No. 21J, as amended by the Kerala Value Added Tax (Amendment) Rules, 2005, what the assessing authority is required to certify is only that the selling dealer, who had issued the certificate in **Form No. 21J**, has included all the sales covered by the declaration in the sales statements furnished along with the monthly return.

5. It is noticed that some of the assessing authorities insist on production of C form along with the application for refund to prove interstate sale. But, as per the second proviso to sub-rule (1) of Rule 12 of the CST (Registration and Turnover) Rules, 1957, as amended by the CST (Registration and Turnover) Third Amendment Rules, 2005 issued as per notification GSR 588(E) dt. 16.09.05,(2005)13KTR(Statutes)859 a single declaration in C Form can cover all transactions of sale which take place during a quarter of a financial year between the same two dealers. Further, as per sub-rule (7) as substituted, declaration in Form C or Form F or the certificate in Form E1 or E2 are permitted to be furnished to the prescribed authority within three months after the end of the period to which the declaration or the certificate relates. The prescribed authorities are given power to extend the time for sufficient reasons. So insisting on production of C Form or F Form as a condition precedent for allowing refund of input tax will be contrary to the provisions of the CST(Registration and Turnover) Rules,1957.

6. As per Rules where the dealer submits the application along with required documents, refund has to be given within three months. But till date not even a single refund claim could be processed and refund given. This has affected the image and credibility of the Department.

7. In the circumstances the following instructions are issued for the processing of refund claims.

- (i) Where certificate in Form No. 21J is produced before any assessing authority for certification, the assessing authority shall verify the particulars furnished therein with reference to the sale statement filed by the selling dealer along with the return in Form 10. If the bills mentioned in Form No. 21J are included in the statement filed along the return, the assessing authority shall issue the certificate immediately, at any rate within two days.
- (ii) Where application in Form Nos. 21B or 21C as the case may be is submitted, the assessing authority will verify whether all the documents required are submitted along the application. The documents submitted shall be verified to see whether they are prima-facie in order.
- (iii) If the application and documents submitted support thereof are prima-facie in order, refund order shall be issued within one month. However it should be ensured, as far as

possible, that all claims received upto 28<sup>th</sup> February, 2006 are processed and refund issued to the assessee before 31<sup>st</sup> March, 2006.

- (iv) In cases where Form No. 21J is not certified by the assessing authority of the dealer issuing Form No. 21J, refund will be issued where the application is supported by other documents prescribed and the dealer claiming refund furnishes security as required by sub-rule 5 of Rule 46 or Sub-rule 4 of Rule 47, as the case may be. In such cases, Form No.21J submitted by the dealer claiming refund shall be sent to the assessing authority with whom the selling dealer is registered. The assessing authority to whom the declarations in Form 21J is sent for verification shall complete the verification and return it to the authority concerned within a week positively. Where the report received confirms the claim made by the dealer, the security furnished shall be released to the dealer concerned.
- (v) In cases where refund is issued, the record shall be immediately transferred to the Audit Assessment wing. The audit assessment wing shall under take audit in respect of all refund cases on priority basis.
- (vi) In cases where any irregularity is detected in audit, simultaneously with initiating penal action against the dealer concerned, wherever necessary, the Audit Assessment Wing shall give necessary intimation to the assessing authority who issued the refund order, and proceed to make best judgement assessment to demand the revised tax for the amount wrongly claimed as refund.
- (vii) In cases where the Audit Assessment Wing reports any fraud, further claims of refunds will be honoured only after audit of the refund claims by the Audit Assessment Wing.

8. The Deputy Commissioners concerned will closely monitor the progress of disposal of refund claims and ensure that prompt action is being taken on the applications. The particulars of refund claims received, amount of refund claimed and the amount of refund issued will be reported to the undersigned so as to reach him by the 5<sup>th</sup> and the 20<sup>th</sup> of every month through E-mail.

9. The Deputy Commissioners shall acknowledge the receipt of the circular and obtain acknowledgment from their subordinates. The Deputy Commissioners shall discuss this in the next monthly conference of officers and intimate any points for further clarifications or directions to the undersigned before 15<sup>th</sup> January 2006.

COMMISSIONER

