

**OFFICE OF THE COMMISSIONER OF COMMERCIAL TAXES
ODISHA, CUTTACK**

No.III(I)01/2015 4012/CT

Dated 11-03-15

To

**The Joint Commissioners of Commercial Taxes incharge of
Territorial Ranges.**

Sub:- Enhancing Transparency and quality of audit process

Sir,

Each year, a certain number of dealers are selected by the Commissioner for tax audit u/s 41 of the OVAT Act, 2004. On such selection, tax audit is to be carried out by an audit team in the place of business of the dealer with prior notice in Form VAT-301. As provided in sub-section (4) of the said Section read with sub-rule(3) of Rule 45 of OVAT Rules, the head of the audit team shall submit the Audit Visit Report within seven days of the completion of audit.

The prescribed format of Audit Visit Report, in Form VAT-303, indicates that specific discrepancies detected and evidence thereof including the explanation furnished against such discrepancies and statement recorded by way of explanation to such discrepancies form part of the report. The design of the format itself reiterate the principle of law that an assessee should have fair and adequate opportunity to state his case and meet the objections made against him/her. In case of Dhakeswar Cotton Mills Vrs. CIT AIR 1955 SC-65, the Hon'ble Apex Court held that quasi-judicial authority cannot make any decision adverse to any party without giving him an effective opportunity of meeting any relevant allegation against him.

Applying this principle of law, the audit officer should in the course of audit, intimate his adverse findings and call for a response from the


dealer. This will facilitate further proceedings under the Act with clarity, precision and ensure quality. The audit process should be transparent so that all the findings are intimated to the dealer and an opportunity is provided to give his explanation before an objection is finalised and consequential action is initiated. Audit objections raised must be fully supported by documentary and legal evidence. This will greatly help in explaining and discussing the objections with the dealer. The dealer must have the opportunity to know the objections and to offer clarifications with supporting documents. This process will resolve potential disputes early and avoid unnecessary disputes.

To implement audit mechanism in a more effective manner, it is instructed that before submission of final Audit Visit Report, a draft report containing the objections is to be communicated, with acknowledgement, to the dealer or to his representative on the appointed date fixed for the purpose on the table or by email before final completion of the audit process, inviting his written response to the objections raised. The audit officer will also indicate the date for submission of the written response, reasonably within a period of 30 days of service of draft report. The draft report should be comprehensive and should indicate each specific objection in the form of a para. All such objections should be supported by documentary and other legal evidence and the objections raised should demonstrate the research and reasoning used to base his/her application/interpretation of statutes, rules and policies.

If the dealer furnishes explanation in respect to the adverse observations in the draft audit report, the explanation will be considered by the audit officer. The Audit team should take into account the explanation from the dealer regarding all points of dispute before taking the final view. The audit officer may accept or reject the contentions of the dealer, but the audit officer is legally obliged to record his findings in support of his acceptance or rejection as the case may be. In any case,

the final Audit Visit Report is to be submitted to the designated authority within 7 days of receipt of such explanations of the dealer. The submission of final audit visit report to the designated authority shall include the draft audit report and the written response of the dealer to the same, if any. The day-to-day proceedings are to be recorded in the order sheet in a file and the same should be available to assessing officer to form part of the record for future reference.

These instructions should be put into effect for the audit programme for FY 2015-16.


Commissioner of Commercial Taxes,
Odisha, Cuttack.

Memo No. 9013 /CT

Dated 11-03-15

Copy forwarded to all Deputy/Assistant Commissioner of Commercial Taxes in charge of Circles for information and necessary action.


Deputy Commissioner of Commercial Taxes
(Policy)