

**TRADE CIRCULAR**

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No. VAT/MMB-1009/31/ADM-8  
Trade Cir. No. 15 T of 2017

dated 26<sup>th</sup> April 2017.

**Subject : Conditional remission in interest payable as per section 30(1) by un-registered dealers**

**Ref. :** (1) The Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2017.  
(2) Finance Department Notification published in the Government Gazette Extra-ordinary Part-IVB bearing No. 94 dated 19<sup>th</sup> April 2017.  
(3) Trade Circular(s) issued from time to time with regards to Administrative Relief.

Gentlemen/Sir/Madam,

1. You are well aware that clause (ii) of sub-section (5) of section 30 of the MVAT Act empowers the State Government to issue notification and provide for the remission in interest (as per section 30 of MVAT Act) payable under following contingencies:
  - (1) late payment of tax due to technical problems in the MSTD's automation system;
  - (2) the dealers who have obtained registration late.
2. On this backdrop, as per aforesaid provision i.e. section 30(5)(ii) of MVAT Act, the Finance Department, Government of Maharashtra, has issued a notification cited at Ref. (2) above.
3. As per sub-section (1) of section 30 of the MVAT Act, the interest is payable if any dealer fails to apply for registration or has failed to apply within the time period specified in rule 8 of the MVAT Rules. Such dealer is liable to pay interest in respect of all unregistered period(s). The said interest is calculated from the 1<sup>st</sup> April of the respective year till the date of payment.

*Eg. A dealer whose turn-over limit of Rs.10 Lakh exceeded on 1<sup>st</sup> May 2015 was liable to apply for registration on or before 31<sup>st</sup> May 2015. The said dealer has applied for registration on 5<sup>th</sup> February 2017 and has for period 2015-16 and 2016-17 paid the taxes on 15<sup>th</sup> March 2017. For period 2015-16 the interest under section 30(1) will be calculated from 1<sup>st</sup> April 2015 to 15<sup>th</sup> March 2017. Accordingly for period 2016-17 the interest will be calculated from 1<sup>st</sup> April 2016 to the 15<sup>th</sup> March 2017.*

4. The dealers who desires to avail benefits of interest remission shall accordingly calculate the said interest.
5. The notification cited at Ref. (2) above provides for remission in interest in respect of the tax payable by the dealer for such un-registered period. The important conditions given in the said notification are as under:

- (1) un-registered dealer should have filed the application for registration during the period starting from 18<sup>th</sup> March 2017 and ending on 30<sup>th</sup> June 2017.

- (2) the said dealer shall file the returns for all such un-registered period and make the payment of 100% tax alongwith 25% of the interest payable as per section 30(1) of MVAT Act, on or before 31<sup>st</sup> July 2017.

6. The eligibility, extent of remission, filing of return for URD period, payment therefor etc. are explained in this Trade Circular.

- (1) **Submission of application for registration:** In order to avail the benefits under the above referred notification dealer who is liable to pay tax but has failed to obtain the registration within time limit provided in rule 8 of MVAT Rules should submit the application for registration on the departments' web-site during the period starting from 18<sup>th</sup> March 2017 and ending on 30<sup>th</sup> June 2017.

- (2) **Grant of Registration:** The application so made will be assigned (by the system) to the Nodal Officer based on the PINCODE of that area. On the basis of the given guidelines the concerned Nodal Officer will process the application. If application meets all the requirement then the Nodal Officer will grant registration with a unique Tax Identification Number (TIN).

**(3) Computation of tax liability and filing of returns.**

- (a) As explained above, the dealer who has submitted application for registration between 18<sup>th</sup> March 2017 and 30<sup>th</sup> June 2017 and has been granted a registration certificate at any time on or before 31<sup>st</sup> July 2017, will be required to compute the tax liability for the period(s) for which he has remained unregistered. This would be necessary in order to quantify the remission in interest.
- (b) The tax liability for each such period shall be computed (as if he is a registered dealer) after considering the admissibility of set-off as per provisions of section 48 of the MVAT Act and rule 52, 53, 54, 55 and other rules relating to set-off.
- (c) The said dealer for all the un-registered period shall on or before 31<sup>st</sup> July 2017 file the return and make the payment of the tax as well as 25% of the interest so computed,.

**(4) Submission of application for seeking remission in interest:**

- (a) Un-registered dealer, who desires to avail the benefits under the notification cited at Ref. (2) above, is required to submit a duly filled, correct and complete application in Form appended to this Trade Circular.
- (b) A separate application should be filled for each un-registered period.
- (c) In the said application dealer should specifically state the un-registered period with the details of tax liability. It should include amount of set-off claimed for said un-registered period with the details of payment of tax.
- (d) The dealer should also specify the amount of interest payable as per section 30(1) of MVAT Act for each such period. In addition to this he should also mention the amount of interest paid i.e. 25% of the total interest and the amount of remission in interest i.e. 75% of the interest so calculated.

- (e) The application so filled and duly signed shall be submitted on or before **31<sup>st</sup> July 2017** to the administrative/ Nodal Joint Commissioner of Sales Tax of the respective divisions
- (f) The Joint Commissioner of Sales Tax of the concerned division shall make necessary arrangement for receipt of the application and keep a separate register for this purpose. On receipt of application a receipt shall be given. The said receipt should bear the date and serial number of the application mentioned in the aforesaid register.
- (g) The dealers are requested to preserve the said receipt which may be used for any further correspondence with the department.

**(5) Grant of Administrative Relief:**

- (a) As per rule 55 of the MVAT Rules, the dealer who has effected the purchases is eligible to claim set-off only if the registration certificate was effective on the date of such purchases.
- (b) If any dealer despite being liable to obtain registration has remained un-registered and has effected the purchases during the said URD period then the set-off under MVAT Act is available only if the date of effect of registration is administratively pulled back to the date when said dealer become liable to obtain registration i.e. the date on which he has crossed sales turn-over of Rs. 10 Lakh.
- (c) As discussed, the dealer in the instant case has obtained registration late hence in order to allow set-off under MVAT Act, it would be necessary to regularize the period for which he has remained un-registered. In other words said date of effect is required to be fixed to such date on which he was liable to obtain registration.
- (d) In view of this, the application filed for the purpose of seeking remission in the interest should be treated as application for the purpose of administrative relief.

(e) On the basis of said application the administrative Joint Commissioner of Sales Tax shall after due verification of the claims so made, pass an order granting administrative relief.

(f) The concerned Joint Commissioner of Sales Tax shall also forward the copy of the administrative relief order to the Nodal Officer to whom the application of registration is assigned.

**(6) Processing of Application and extent of remission:**

(a) The concerned Joint Commissioner of Sales Tax shall allocate the said application to the concerned Nodal Officer to whom the application of registration is assigned.

(b) The Nodal Officer after receipt of the said application shall verify the correctness of the application, the computation of tax, as also the interest calculation, amount paid etc.

(c) The concerned Nodal Officer shall verify the application for remission of interest submitted by the dealer. On receipt of the Administrative Relief Order passed by the concerned Joint Commissioner of Sales Tax and after verifying that the said dealer has fulfilled all the conditions as stated in the notification and has made the payment on or before 31<sup>st</sup> July 2017 of 100% tax and 25% interest determined payable for said URD period after confirmation of these aspect the Nodal Officer shall pass an order granting,-

➤ remission in interest to the extent of 75% of the interest liability worked out under provisions of section 30(1) of the MVAT Act; and

➤ waiver of the penalty under sub-section (2A) and (3) of section 29 of MVAT Act including the compounding fee and Composition amount, if any.

**(7) Withdrawal of benefits:**

(a) The remission in the interest, waiver of penalty including compounding fee and composition amount is subject to the true and correct disclosure of tax liability for un-registered

period and payment of 100% tax and 25% interest so calculated.

- (b) Needless to state that the benefits accorded as above shall be withdrawn if subsequently it is found that the dealer has not computed the tax liability correctly, or has availed set-off in contravention of the provisions of the MVAT Act or rule i.e. rule 52, 53, 54, 55 and other rules relating to set-off.

7. All the authorities are directed to follow these instructions scrupulously.

**Encl. Application Form.**

Yours faithfully,



**(Rajiv Jalota)**

Commissioner of Sales Tax,  
Maharashtra State, Mumbai.

No. VAT/MMB-1009/31/ADM-8  
Trade Circular No. 15 T of 2017.

dated 26th April 2017.



**(D. M. Thorat)**

Joint Commissioner of Sales Tax,  
(HQ)-1, Maharashtra State,  
Mumbai.

**Copy to,-**

The Joint Commissioner of Sales Tax (Mahavikas) with a request to upload this Circular on Departments Web-site.