



Government of Rajasthan
Commercial Taxes Department

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No. F16 (5)ED/Tax/CCT/2015/Pt. III / 1553

Dated: 17/03/2023

All Dy. Commissioners (Adm.),
Commercial Taxes Department,
Rajasthan.

Sub.-Regarding Electricity Duty on **Auxiliary power consumption** by Captive Power Plants.

It has been brought to notice by the CAG (Revenue) report 2017-18 Chapter-II para no. 2.6.6 under the heading "irregular exemption of Electricity Duty on Auxiliary consumption" that some Captive Power Plants such as M/s Mangalam Cement Ltd, M/s Nirma Ltd, M/s JK Laxmi Cement Ltd and M/s DCM Shri Ram Ltd have not paid Electricity duty for their Auxiliary Power consumption.

It is pertinent to mention relevant provisions of The Rajasthan Electricity Duty Act 1962 in this regard:-

Section 2 of The Rajasthan Electricity Duty Act, 1962 defines, the following as:-

(c) "**Consumer**" means a person who is supplied with energy by a supplier or by any other person who generates energy and includes a supplier in respect of the energy consumed by him in or upon premises used by him for his commercial or residential purposes;

(d) "**energy**" means electrical energy;

(h) "**supplier**" means the 'Board' or a 'licensee' licensed under chapter II of the Indian Electricity Act, 1910 (Central Act 9 of 1910) to supply energy and includes any person who has obtained the sanction in that behalf of the State Government u/s 28 of the said Act.

Section 3 of The Rajasthan Electricity Duty Act, 1962 states that:-

"There shall be levied for, and paid to, the State Government on the energy consumed by a consumer or by a person other than a supplier generating energy for his own use or consumption a duty (hereinafter referred to as the "electricity duty") computed at such rate as may be fixed by the State Government from time to time by notification in the Official Gazette."

As per definition 2(h) of The Rajasthan Electricity (Duty) Act, 1962 '**Supplier**' under the Act shall mean the '**Board**' or **licensee licensed under Chapter II** of the Indian Electricity Act, 1910. Captive power plants are not "licensee" hence they are not covered under the definition of "supplier". Thus Electricity Duty shall be levied and paid to the State Government on the energy consumed by a consumer other than a '**Supplier**' generating energy for his own use or consumption.

In the matter of State of Mysore vs West Coast Papers Mills Ltd. & Anr the Hon'ble Supreme Court of India has stated that:

"Although the arguments of the respondents mentioned above have found complete acceptance in the High Court, I find myself, with due respect, unable to accede to them. Logically speaking, I find no way of escaping the conclusion that a tax imposed on (1)84 I.T.R. 735 consumption cannot be avoided even when the consumer uses up energy either in generating or producing it or transmitting it or transforming it before utilising it for some manufacturing process. It is consumption that is taxed."



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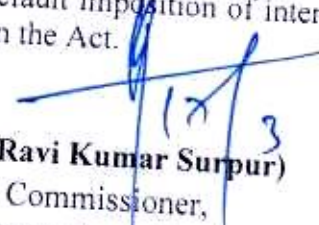
Applicability of electricity duty pertaining to auxiliary consumption by Captive Power Plants can also be examined in the light of Notification no. **F.12 (23) FD/Tax/2015-219** dated **9.3.2015** which states as below:-

"hereby fixes, the rate of electricity duty payable on consumption of self-generated energy for any purpose in respect of energy generated by captive power generating plants other than by the diesel generating sets at rupees 0.40 per unit(KWH)"

In the above notification, there is no exemption of electricity duty on auxiliary power consumption. On above analysis electricity duty is leviable on all consumption of electricity by the captive power plants, even if it is auxiliary energy consumption or transmitting losses.

Therefore, all DC(Adm) are directed to ensure the compliance of the provisions, rules and notifications issued in this regard under The Rajasthan Electricity (Duty) Act, 1962 (as stated above) on the following points:-

- (i) Examine the auxiliary consumption of electrical energy by Captive Power Plants in their jurisdiction.
- (ii) Ensure the collection of electricity duty as stipulated in section 5 of the Act, and compliance of the notification no F.12(34)FD/Tax/2015-72 dated 05.10.2021 which provides for filling of returns electronically.
- (iii) Wherever electricity duty payable has been ascertained (on consumption and/or auxiliary power consumption) and not deposited in the State exchequer, it shall be recoverable as arrears of land revenue as per section 8 of the Act; and on default imposition of interest and penalties may be initiated as per the provisions provided in the Act.


(Dr. Ravi Kumar Surpur)

Commissioner,
Commercial Taxes Department
Rajasthan, Jaipur

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Copy to the following for information and necessary action:-

1. PS to CCT.
2. All Additional Commissioners, CTD, H.Q.
3. All Deputy Commissioners (Adm.)
4. DC(IT) for uploading it on Dept's website www.rajtax.gov.in and Web Portal RajVISTA.
5. Guard File.

Dated: 17/03/2023


(Hawaii Singh)

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