CIRCULARS

GENERAL CIRCULARS

1. CCT's Ref. No. AIII (2) /106/2004, dt. 02-07-2005

Sub : A.P. VAT Act 2005 – Evasion of tax by Edible Oil Millers and Traders – certain instructions – Issued.

It is observed that certain Edible Oil Millers and Traders are issuing invoices / way bills without mentioning the proper description of the oil which is giving scope for adulteration and evasion of taxes.

So all the Deputy Commissioners (CT) are requested not to allow any invoice / way bills issued by the edible oil millers and traders unless proper description of oil with HSN Code are mentioned please instruct the traders that if invoice / way bill is not covered by the above description such transactions can be made in eligible to claim input Tax Credit.

All the Deputy Commissioners (CT) are therefore requested to issue necessary instructions to the concerned authorities / traders / millers under their jurisdiction, to ensure proper recording of sales and payment of tax.

The receipt of the Circular may be acknowledged immediately and also a copy of the instructions issued in this regard to the subordinate officers should also be furnished to this office.

2. CCT's Ref. No. AIII (2)/57/2005, dt. 06-07-2005

Sub : A.P. VAT Act 2005 – AED leviable but made Zero by Notification – Applicability of VAT Tax – Clarification sought by A.P. Manufacturers and Traders Association of Textile Fabrics (Coated with plastic), Secunderabad – Regarding.

Ref : 1. Representation filed by A.P. Manufacturers and Traders Association of Textile Fabrics (Coated with Plastics), Secunderabad, dt. 25-05-2005.

In the reference cited, A.P. Manufacturers and Traders Association of Textile Fabrics (Located with Plastic) Secunderabad sought clarification on applicability of VAT on PVC Cloth, Water Proof Cloth, Tarpaulin Cloth, Rexene Cloth and 100% Cotton made fabrics i.e. items falling under Goods of Special Importance Act.

In this connection they are informed that items, which attract Additional Excise Duty but exempted by notification are outside levy of VAT Tax.

3. CCT's Ref. No. A III (2)/64/2005, dt. 06-07-2005

Sub : A.P. VAT Act, 2005 – Rate of Tax on Tarpaulin made up of Plastic – Clarification sought by M/s. The A.P. Tarpaulin Dealers – Association, Secunderabad – Regarding.

Ref : 1. Representation of the A.P. Tarpaulin Dealers Association, Secunderabad, dt. 08-06-2005.

In the reference cited the A.P. Tarpaulin Dealers Association, Secunderabad, sought clarification on the rate of tax applicable to plastic and synthetic Tarpaulin as the said items are not specially covered by entry 86 of the Fourth Schedule to APVAT Act.

In this connection they are informed that the above said items are basically meant for packing or otherwise and they are deemed to have been covered under Entry 86 of Fourth Schedule. Therefore Tarpaulin made up of Plastic and Synthetic is taxable @ 4%.

4. CCT's Ref. A III (2) / 201 / 2005, dt. 01-08-2005

Sub : A.P. VAT Act 2005 – Certain clarification on Paddy and Rice under VAT Act – issued – Regarding.

Ref : CCT's Circular Ref A1 (1)/92/2004, dated 23-11-2004.

The attention of all the Deputy Commissioners (CT) in the State is invited to the subject and reference cited.

It has been observed that in the course of desk audit of VAT Returns filed by Rice Millers and comparing with the RD1 Returns (RD Cess returns) it is noticed that the Rice Millers are not reporting the entire sale turnover of Rice made to the FCI and it is also found that some of the Rice Millers are not

reporting the amount deducted by the FCI towards RD Cess payments, in some cases the Rice Millers are also deducting the turnovers of stitching enrages and AMC paid from the rice sale turnover.

The circular instructions issued vide reference cited, is relevant for assessment of Rice Mills under the provisions of APGST Act only. The exemption from levy of Sales tax under APGST Act on the RD Cess component of the purchase value of the Paddy is under totally different context in the APGST scenario where tax was levied on the purchase turnover of Paddy. The said circular is not relevant under the provisions of the AP VAT Act 2005.

With a view to ensuring uniformity in assessments taking due cognizance of the issues involved as noted below and established case law, following instructions are issued under A.P. VAT Act for compliance.

1. **Rural Development Cess.—** As per G.O.Ms.No. 951, Revenue Department, dt. 10-09-2003 exemptions was granted from levy of sales tax on the R.D. Cess component present in the sale turnover of Rice. The above notification is valid under APGST Act 1957 and the sale benefit of exemption cannot be allowed under A.P. VAT Act 2005. As per the A.P. VAT Act provisions in respect of Rice Millers, under sections 2 (38) and 11 (2) read with Rule 19 (2), only the VAT paid or payable alone, is eligible for deduction from the total sale consideration of rice sale made to the F.C.I. Hence, the R.D.Cess paid by Food Corporation of India to the Commercial Taxes Department on behalf of the Rice Millers forms a part of sale turnover of Rice, liable to tax under VAT Act.

2. **Agricultural Market Cess.—** The Hon'ble High Court of A.P. in the case of State of A.P. v. Sri Lakshmi Traders (7 STJ 265) relying on the decision of the Supreme Court in *Anand Swaroop Mohan Kumar* v. *Commissioner of Commercial Taxes* (46 STC 477) which was again reiterated in *Central Wines* v. *Special CTO* (65 STC 48) held that the Market Cess collected under the statutory obligation cannot form part of taxable turnover.

The above Judgments were delivered when AMC was levied on purchase of Paddy under APGST Act. Under A.P. VAT Act, AMC paid will become part of value addition and form part of turnover when rice is sold to FCI. Hence exemption need not be given on AMC under VAT as it constitutes taxable turnover only.

3. **Stitching Charges.—** Stitching Charges are pre-sale expenses and therefore form part of taxable turnover. Hence, exemption cannot be allowed on this turnover.

4. **Freight Charges.—** As per the A.P. VAT Act provisions in respect of Rice Millers, under sections 2 (38) and 11 (2) read with Rule 19 (2), only the

VAT paid or payable is eligible for deduction from the total sale consideration of rice sale made to the FCI. In these transaction freight charges becomes part of sale expenditure only, since the quality check of rice is done at the FCI premises. Freight is to be added to taxable turnover as the situs of sale is at FCI premises / godown, after inclusion of transportation charges on supply of rice.

5. **Export Sales of Rice under section 5(3) of CST Act.—** For claiming zero rates sales, the transactions under section 5(3) of CST Act the following documentary evidence is required :—

(a) Form H declaration;

(b) Purchase order from the exporter; and

(c) Evidence of export in the form of transport documentation as above.

In the case of direct export, items (b) and (c) must be produced to establish the claim of zero-rating. In the case of claims of zero-rating in the course of export, the dealer / penultimate exporter must produce any of the above documentary evidence to the concerned assessing authority stating that the goods purchased are intended for export.

All the Deputy Commissioners (CT) requested to bear in mind the legal positions as explained above.

Detailed instructions for making provisional assessments in this regard will be issued shortly.

This instructions issued under the provisions of the section 77 of the A.P. VAT Act 2005.

The receipt of the Circular shall be acknowledged.

5. CCT's Circular No. AIII (2)/191/2005, dt. 18-08-2005

Sub : Filling of VAT Form 225 also by the Vat Dealers doing business in Chillies, Cotton, Pulses and Dhalls.

In exercise of the powers conferred under section 77 read with Rule 23(8) of the A.P. VAT Act and Rules 2005, the Commissioner of Commercial Taxes, do hereby notifies that the VAT registered dealers doing business in

Chillies, Cotton, Pulses and Dhalls shall submit a return in VAT Form 225 for each tax period, i.e., for every calendar month in addition to the return in VAT Form 200.

The notification shall come into force with immediate effect.

6. CCT's Circular No. A III (1)-1, dt. 22-09-2005

Sub : Amendment to A.P. VAT Act, 2005 – Re-notification of HSN Codes Industrial Cables – Clarification – Issued – Reg.

The Government recently amended the Schedules to the A.P. VAT Act, 2005 and among other things, the HSN Codes included in the Schedule-IV for IT Products have been deleted. A notification for HSN Codes was issued separately vide G.O.Ms.No. 1615, Revenue (CT-II) Department, dt. 31-08-2005. In the light of the above changes, the queries have been raised by members of the Electrical Trade regarding electric cables meant domestic use, as they are now taxable @ 12.5%, whereas industrial cables are taxable at 4%. The issue has been examined and it is hereby clarified that "Aluminium and Copper Cables excluding single core wires upto 6 sq.mm" will be treated as industrial cables. That means all single core cables upto 6 sq. mm will be taxable @ 12.5%. This change is effective from 01-09-2005.

All the Deputy Commissioners are requested to communicate this circular to their subordinates under their jurisdiction and to important Trade Associations and dealers of these products.

7. CCT's Circular No. A III (1)-2, dt. 22-09-2005

Sub : Amendment Rule 17 (4) of A.P. VAT Rules, 2005 – Instructions – Reg.

All the Deputy Commissioners (CT) are hereby informed that Rule 17(4) of A.P. VAT Rules has been amended with effect from 01-09-2005. A new clause namely (1) has been inserted in Rule 17 (4). All VAT dealers engaged in construction and selling of residential apartments, house buildings and commercial complexes who opt for composition shall pay 1% of the total consideration received or receivable or market value fixed for purpose of stamp duty whichever is higher. In the new clause (1) to Rule 17 (4) provision for tax collection at source is now made at the time of registration and this payment shall be made by way of demand draft in favour of Commercial Tax Officer / Assistant Commissioner concerned and the instrument has to be presented at

the time of registration of the property to the Sub-registrar who is registering the property, duly furnishing TIN and full postal address of the Commercial Tax Officer / Assistant Commissioner on the reverse of the demand draft. The sub-registrar shall then send the same to the Commercial Tax Officer / Assistant Commissioner concerned every week.

The Deputy Commissioners (CT) are requested to see that the above amendment is complied with. They are also requested to direct the assessing authorities to coordinate with the sub-registrars concerned of Registration Department and ensure that the amounts are collected and remitted property from time to time.

The receipt of the above circular may be acknowledged.

8. CCT's Circular No. A III (1)-3, dt. 22-09-2005

Sub : A.P. VAT Act, 2005 – Video Conference held with DCs on 05-09-2005 – Certain Clarifications – Issued – Regarding.

During the course of video conference on 05-09-2005, the Deputy Commissioners (CT) have raised certain issues and clarifications were sought for. The following clarifications are issued.

1. Rate of tax on Tobacco Oil.— As per Entry 67 of Schedule – IV to the A.P. VAT Act, 2005, all kinds of vegetable oils are taxable @ 4%. Tobacco oil also falls under this entry and hence is taxable @4%.

2. Is purchase of coal for steam generation eligible for input tax credit.— The steam from coal can be used for generating power or for other purposes. In case steam generated from coal is used for power generation, then input tax credit should be restricted. However, if the steam is used for purposes other than power generation such coal will be eligible for input tax credit.

3. Sale of sim cards and recharge cards.— Sale of sim cards and recharge cards are taxable. The goods actually sold in case of recharge cards is the air time. As the goods are intangible goods tax should be levied at the rate of 4%.

4. What is the proforma for seizure and confiscation of goods.— As per section 45 (6) and Rule 56 (1) (a) goods can be detained and for this purpose Form 610 can be used. However, a query has been raised whether this form can be used for seizure and confiscation of goods under section 45 (7) (b) and Rule 56 (2). It is hereby clarified that Form 610 can be used only for

detention of goods. As no form is prescribed for seizure and confiscation of goods the officers can issue a notice quoting the provisions of the Act. The same procedure may be followed wherever specific forms are not prescribed and the enforcement of the Act requires issue of notices.

The receipt of the above circular may be acknowledged.

9. CCT's Ref. No. AIII (1)-4, dt. 26-09-2005

Sub : A.P. VAT Act 2005 – Levy of VAT on Sales of Ready Mix Concrete Manufactured and sold – instructions – issued – Regarding.

Ref : Note by DC (CT) Abids Division, dt. 21-09-2005.

The attention of Deputy Commissioners (CT) in the State is invited to the subject cited, it is observed that the count output value is not being declared by dealers and a portion of sale consideration is converted into other expenses. One such instance was noticed in Abids Division, wherein a manufacturer "Ready mix Concrete" claimed exemption on amounts charged and collected by him toward freight and unloading charges from his customers on the sale of "Ready Mix Concrete". It is clearly known that ready mix concrete cannot be accepted by customers unless it is prepared at the site of customer in proper condition. "Sale Price" includes all the amounts charged in the bill and it shall include any other sum charged for anything done in respect of goods sold at the time of or before the delivery of goods. That means even transportation, freight, loading / unloading charges collected in the bill form part of "Sale Price" liable for VAT.

Therefore all the Deputy Commissioners (CT) are requested to verify similar cases in their divisions, and take immediate action for collection of VAT and penalty / as interest as applicable and report compliance.

The receipt of this circular shall be acknowledged.

10. CCT's Circular Ref. No. AII (2)/407/2005, dt. 04-10-2005

Sub : Guidelines for finalization of assessments under Rule 6(3) (1) of the APGST Rules 1957 – Reg.

In supercession of all the earlier guidelines and instructions, issued with regard to the finalization of the assessments under Rule 6(3)(1) of the

APGST Rules 1957, the following guidelines are issued :—

1. Rule 6(3)(1) reads as follows :—

> "In cases where the execution of a works contract extends over a period of more than one year, the total turnover for the purpose of sub-rule (2) for that year shall be deemed to be the value of goods purchased for being supplied or used in the execution of such contract in that year"

2. In the case of *Gannon Dunkerly & Co.* v. *State of Andhra Pradesh,* 23 APSTJ 195; the Hon'ble High Court of Andhra Pradesh held as follows :—

> "In W.P.No. 17415/1995, the validity of Rule (3) and (4) questioned. As sub-rule (4) has already been omitted by G.O.Ms.No. 788, Rev. (CT-II), September 21st, 1996, the challenge has to be confined to Rule 6 (3). It was submitted that the first portion of the sub-rule imposes a tax on the value of the goods purchased for being supplied, where the contract extends more than a year, even though it may not be ultimately used in the contract. There appears to be some force in this contention. The Supreme Court has held in the case of *State of Madras* v. *T. Narayana Swamy Naidu* (18) that the stock in hand may or may not be sold or consumed and could even be destroyed, and therefore, unless the taxable event has occurred, it can not be taxed perhaps, the intention of this sub-rule, was only that, but it is not happily worded. If the words "for being" is substituted by the word "and", it would be clear that only the value of the goods purchased and supplied or used in the execution of such contracts in that year would be liable to be taxed. It must be remembered that in respect of the goods used in the execution of contracts, there is no sale price as such, and therefore, the turnover pertaining to the goods involved in the execution of the contracts refers only to the purchase turnover. The purchases so made will not be liable to tax unless actually supplied or used in the execution of such contracts. Accordingly, the turnover must be limited only to such supply or use, and cannot, extend to the stock in hand at the end of the assessment year as held by the Supreme Court. Instead of declaring the rule to be invalid, we are of the opinion that it would be appropriate to read the rule to mean only that and no more".

3. It may be observed from the above that while making a general observation that there is no sale price as such in respect of the goods used in

the execution of the contracts, the Hon'ble Court observed that the turnover in the case of works contract is only the purchase turnover. These observations are not with reference to Rule 6 (3) (1), but with reference to the concept of taxation of works contracts as such. The Hon'ble Court has however not referred to the measure of tax in this context, as the simple question for decision was whether the value of all goods purchased during the year is to be taxed or the value of goods purchased and used alone is to be taxed. Hence, the essence of the above decision is that the turnover should be limited only to such supply or use and could not be extended to the stock in hand at the end of the assessment year. The court read the rule to mean only that and no more. Therefore, it cannot but be said that the value of the goods purchased and supplied or used in the execution of a contract is nothing but the value of the goods at the time of incorporation, since the measure for imposition of tax was left untouched by the above said decision of the Hon'ble A.P. High Court.

4. This interpretation of the said decision of the Hon'ble High Court gains strength from the decision of the Hon'ble Supreme Court in the case of *Gannon Dunkerly* v. *State of Rajahstan,* 88 STC 204, wherein it is held as follows :—

> "Though the tax is imposed on the transfer of property in goods involved in the execution of a works contract, the measure for levy of such imposition is the value of the goods involved in the execution of a works contract. We are however, unable to agree with the contention urged on behalf of the contractors that the value of such goods for levying the tax can be assessed only on the basis of the cost of acquisition of the goods by the contractor. Since, the taxable event is the transfer of property in goods involved in the execution of a works contract and the said transfer of property in such goods takes place when the goods are incorporated in the works, the value of the goods which can constitute the measure for the levy of tax has to be the value of the goods at the time of incorporation of the goods in the works and not the cost of acquisition of the goods by the contractor".

5. It is categorically held in the said decision that the measure for the levy of tax has to be the value of the goods at the time of incorporation and not the cost of acquisition of the goods by the contractor. Hence, the turnover, on a harmonious interpretation of both the above decisions, is neither the purchase value nor the sale value but the value of the goods at the time of incorporation.

6. The words, "purchase turnover" in the above said decision have been used by the Hon'ble High Court of A.P. only in the above context and only

to draw a contrast between the sale turnover and the turnover involving the value of the goods at the time of incorporation. It is not said therein that tax shall not be levied on incorporation value. In view of the decision of the Supreme Court, mentioned above, it is only the value of the goods at the time of incorporation that has to be considered for the purpose of levy of tax under Rule 6(3)(1).

7. The next question would be whether Rule 6(3)(1) granted any concession to adopt lesser value for the purpose of that rule. The rule simply says that in the given circumstances the total turnover for the purpose of sub-rule (2) for that year shall be deemed to be the value of the goods purchased and used and thus simply says what should be the total turnover for the purpose of Rule 6(2) and nothing more than that. Rule 6(2) speaks that tax shall be levied under section 5-F of the Act and the procedure for arising at the turnover. It is settled law that under section 5-F, tax has to be levied only on the value of the goods at the time of incorporation.

8. In the above-mentioned decision, the Hon'ble High Court held that "section 5-F was a conscious effort to increase the revenue by levying separate tax on goods involved in works contract". Such being the case, there is no intention made known through Rule 6(3)(1) that tax would be levied on a lesser turnover, resulting in decrease in the revenue.

9. Further in Rule 6(3)(1), the word, "value" in the expression "value of the goods, purchased and supplied or used" should be interpreted in the light of the provision in section 5-F of the Act, as interpreted by the Hon'ble Supreme Court of India in the case of *Gannon Dunkerly* v. *State of Rajahstan* (88 STC 204), since the Rule is silent on the question whether the value is "purchase value" or "value at the time of incorporation".

10. In the above background, particularly in the absence of any specific observation by the High Court against the adoption of the value of the goods at the time of incorporation, the charge created by section 5-F, is necessarily on the measure for the levy of tax, as determined by the Hon'ble Supreme Court in *Gannon Dunkerly's* case. The Rule 6(2) and 6(3) were also inserted immediately after the said decision of the Hon'ble Supreme Court. The contents of the Rule 6(2) are extracted word by word from the said decision of the Apex Court. In view of the said binding decision of the Supreme Court and High Court on the interpretation of measure for the levy of tax, for the purpose of Rule 6(3)(1) also, the value of the goods at the time of incorporation has to be considered.

11. All the authorities, concerned, may keep in mind the above legal position. They are requested to examine all the cases of assessments, finalised

or to be finalized, in the light of the above discussion and take appropriate action by exercising their independent judgment with respect to the individual circumstances of each case.

11. CCT's Circular Ref. No. S1/888/2005-06 dt. 24-10-2005

Sub : A.P. VAT Act – Adoption of Gross Revenue as Net Revenue realized Plus Refunds – Certain instructions issued – Regarding.

As discussed in recent Deputy Commissioners (CT) conference, revenue performance of divisions will be judged on the basis of Net Revenue receipts under A.P. VAT Act 2005 plus refund amount paid during the same month.

Therefore all the Deputy Commissioners (CT) are requested to separately show Net VAT revenue remitted and refund amount if any while submitting monthly statistical information. They will be given credit for the total of net VAT revenue plus refunds paid.

12. CCT's Ref. No. A III (1)-5/2005, dt. 27-10-2005

1. Prioritization of credit returns to be verified.— All the credit returns have to be segmentised into different categories, basing on the nature of transactions, amounts of credits involved and commodities, involved. Such credit returns in cases, in which the inputs are taxable @ 12.5% and outputs are taxable @ 4%, the inputs are taxable @ 12.5% and outputs are involved in inter state sales or exempt transactions, the inputs are taxable @ 4% or 12.5% and the outputs are exported, where sales tax relief has been claimed etc., may be eliminated from the total credit returns and the remaining credit returns have to be segmentised into slab-wise and commodity-wise. All the returns, involving claim of credit, more than Rs. 50,000/- in case of small divisions and more than Rs. 1 lakh in case of larger divisions have to be examined with reference to the sensitiveness of the commodities involved in those returns and priorities the returns to be verified. Such prioritized returns shall be thoroughly verified by conducting specific audits and intimate the results. There shall be fifteen (15) VAT audits conducted by each circle in the month of November, 2005. These audits must be allocated between CTO and DCTOs in the circle.

2. Verification of NIL Returns.— The NIL returns have to be segregated into those, filed by the dealers, continuing to exist on transition

from APGST regime to VAT regime and those filed by the newly registered VAT dealers. The NIL returns filed by the newly registered VAT dealers have to be analyzed with reference to their antecedents i.e., whether earlier they had APGST registrations and cancelled to obtain new VAT registrations in their place so as to distract the attention of the Department to their earlier business activities. The newly registered VAT dealers of such a category, who have been continuously filing NIL returns, have to be selected for audit and thorough verification has to be made. Simultaneously steps have to be taken to cancel all the newly issued VAT registrations in the case of dealers, who have been filing NIL returns consecutively for more than 3 months.

3. **Enforcement of filing of additional returns along with monthly returns.—** In the absence of additional returns (i.e., Form 200-A, 200-D, 200-E, 200-G, 225 etc.) to be filed long with monthly returns, it is proving difficult to verify some aspects like excess ITC, claimed by certain dealers. Therefore, filing of the additional returns along with monthly returns should be enforced strictly in all sensitive and large tax cases.

4. **Issue of statutory forms to the newly registered dealers.—** It is noticed that in several case, statutory forms were issued indiscriminately to the newly registered dealers, who have been surprisingly filing NIL returns continuously. Registrations are also issued to a large number or people indiscriminately without verifying whether all the statutory requirements are fulfilled or not. As result, there is necessary proliferation of RC's and NIL returns. Therefore, all the cases, where statutory forms were issued, but NIL returns are continuously filed have to be audited on priority basis. Before issuing statutory forms to newly registered dealers, advisory visit should be made to ascertain the genuineness of the purpose, for which the issue of statutory forms was sought.

5. **Identification of pending APGST assessments, having revenue potential.—** The CTO's may be directed to review all the pending assessments under APGST and identify top 20 assessments in terms of revenue potential and finalise them by the end of December 2005.

6. **Identification of cases of assessments of works contractors, resulting in substantial amounts of demands.—** All the assessments, pending in respect of Works Contracts, shall be reviewed in general and also in the light of the recent circular instructions, issued on the application of Rule 6(3)(i) of the APGST Rules to the Contracts, extending for more than one year and identify the top 5 or 10 assessments in terms of demand involved. Such assessments should be taken up for assessments or revisions, as the case may be and finalised by the end of December 2005.

7. Identification and collection of 10 best cases of Old Arrears.— All the cases of old arrears in all the circles have to be reviewed separately and 10 best cases of old arrears in terms of amount, involved, and collect ability should be identified and the collection of the arrears in such identified cases shall be closely monitored as to complete the collection positively by the end of December 2005. All the cases, shown as covered by Stays, granted by various authorities and also shown as covered by proceedings of BIFR shall be reviewed and the information thereof should be updated with a view to ascertain their collectability.

8. Enforcement of 100% filing of AA9 Returns.— Filing of AA9 returns and payment of tax due thereon cent percent has to be enforced, since it is already long overdue. This item of work should be completed by November 2005. The cases, where TOT returns were filed, but AA9 return was not filed may be identified and audits may be conducted in such cases.

9. Issue of Registration Certificated under VAT to new dealers.— Registration Certificated under VAT are issued indiscriminately without observing the statutory requirements. Proper scrutiny of the information, provided in the Form VAT-100 and entry into VATIS is not being done. In many cases, taxable sale is not taking place within 45 days from the EDR. Therefore, all the CTO's should observe all the requirements before issuing RC's. In all sensitive cases, pre-registration visit shall invariably be made.

13. CCT's Ref. No. A III (1)-6/2005, dt. 27-10-2005

Sub : A.P. VAT Act 2005 – New Registrations – Precautions to be taken – Instructions issued – Regarding.

It has come to the notice of the Commissioner (CT) that VAT Registrations are being issued in the circles without following the due procedures and without taking minimum precautions. In certain cases TIN's were issued after 01-04-2005 and investigations have revealed that they are bogus. Such situations can be avoided to a large extent if minimum care is taken at the time of issue of R.C. The procedures to be followed are already mentioned in the Registration Manual supplied to all the officers. In addition, it is advised that the following procedures be adhered to by the field's officers.

1. Whenever VAT 100 application is received, certain minimum checks need to be carried out. The Processing Officers / Registering Authorities should verify the date of first taxable sale declared. If such date is beyond 45 days of date of application, the application may be rejected and the dealer may be advised to apply within

the eligible time frame i.e., 15 days prior to the date of first taxable sale and not prior to 45 days of first taxable sale. For eg. The application is received on 01-06-2005, and the date of first taxable sale is shown as 01-08-2005, i.e., the gap between the date of application and date of first taxable sale is more than 45 days. In this case TIN can be rejected (except for start-up business).

2. In case the dealer has not started his business and if the declared taxable turnover in a year is less than Rs. 40 lakhs, the dealer may be persuaded (wherever possible) to apply for registration after commencing the business. In some cases, even though there is no "sale" in the hands of the applicant, applications for TIN's are being received. The dealers may be counseled in such cases.

3. Pre registration visits may be carried out wherever the Processing Authority / Registering Authority is doubtful about the particulars given in the VAT-100 application. Special care needs to be taken in case of sensitive commodities.

4. Whenever a pre registration visit / advisory visit is to be conducted by an officer other than the Registering Authority, the Registering Authority shall give a written authorization to the officer designated for conducting the visit.

5. In case advisory visit is conducted after issue of registration, the file needs to be updated with the latest particulars collected during the visit and should also be fed into the VAT is program in the computer. The visiting officer should give a clear report in writing as to what his findings are.

6. If the dealer has not given any details of bank account in the VAT-100 application, the bank account should be insisted atleast at the time of advisory visit to the dealer. If the dealer fails to give particulars of his bank account within a fixed time frame, then the Registering Authority may proceed to cancel the R.C. on such grounds after giving an opportunity to the dealer.

7. The first VAT return filed by the dealer should be compared with the estimated turnover declared on Form VAT-100. If the turnover appears to be less, the reasons may be ascertained. If the second VAT return filed by the dealer is "NIL" i.e., there is no taxable sale even at the end of 60 days, then the R.C. may be cancelled after giving notice to the dealer.

8. Whenever a new dealer applies for statutory forms, the CTO/AC may exercise caution in issuing the same. As far as possible an advisory, visit may, be carried out before issue of any statutory forms. If the dealer applies for statutory forms, subsequently, the utilisation details of the forms issued earlier may be compulsorily obtained and compared with the returns filed, if any.

9. The Registering Authorities are advised to exercise due care at the time of issue of R.C., by following various methods like examining available records, pre registration / advisory visits, counselling / advising the dealer.

10. Instead of issuing R.Cs indiscriminately and cancelling some of them at a later date, it is preferable that R.Cs are issued with due-caution.

11. It is suggested that the Deputy Commissioners (CT) should review the status of new registrations issued in their divisions every month, whether the first return has been filed and whether any statutory forms were obtained in the new cases.

12. Disciplinary proceedings will be initiated against those officers who do not exercise due care and diligence in adhering to the procedure discussed above.

14. CCT's Ref. No. A III (1)/388/2005, dt. 27-10-2005

Sub : A.P. VAT Act 2005 – Action plan for VAT implementation and Circular on precautions to be taken for new registrations / issue of statutory forms – Certain instructions – Issued – Regarding.

Please refer to the discussions during the Deputy Commissioners (CT) conference held on 19th and 20th October, 2005.

The need to focus on verification of credit returns, "NIL" returns as well as exclusive due diligence while issuing statutory forms was emphasized.

Please find attached,—

1. Action Plan for VAT implementation.

2. Circular on precautions to be taken for new registrations / issue of statutory forms.

All the Deputy Commissioners (CT) should ensure that the Action Plan is scrupulously followed. Further the circular relating to registrations and issue of statutory forms should be meticulously complies with. Deputy Commissioners (CT) should ensure compliance in all offices under their jurisdiction.

All Senior Officers are requested to monitor compliance with these instructions during their visits to the divisions in November, 2005.

15. CCT's Circular No. AIII (1)/7/2005-06, dt. 28-10-2005

By G.O.Ms.No. 1564, Revenue (CT-I) Department, dt. 17th August, 2005 published in A.P. Gazette dt. 18th August, 2005, some changes have been made to the entries in the schedules to A.P. VAT Act, 2005. One of the important changes made is with regard to the Entry 52 dealing with Readymade Garments. The following words "bed sheets, pillow covers, towels, blankets, traveling rugs, curtains, crochet laces, zari, embroidery articles and all other made ups" have been added to the Entry 52.

It is noticed that many dealers are not paying taxes on the items mentioned above though they were hitherto falling under the residuary entry in Schedule-V to the A.P. VAT Act, 2005. To reduce the tax burden on these items and also to avoid confusion, specific items were added by an amendment to the Entry 52 of Schedule-IV. There is substantial revenue potential in these items because the dealers were earlier camouflaging the sales of these items as sales of cloth attracting AED.

It is, therefore, felt necessary to clarify that any processing done to textiles subsequent to production through power looms will categorise them into "made ups" and no AED is attracted subsequent to the production of cloth from the power looms. All the officers working at the field level are requested to identify the dealers dealing in such items, scrutinize their VAT returns carefully and also to verify the transactions during the course of VAT audits and ensure that the tax @ 4% on sales of these items is collected.

While implementing these instructions, the officers should also take into account the entry 21 in Schedule-I to the Act dealing with the "goods produced from handlooms" and the circular issued earlier in this regard. The products coming out of handlooms are to be treated as exempted under the provisions of A.P. VAT Act, 2005. At the same time any cloth produced from power looms and processed at a subsequent stage, for example, a sari coming out of a power loom processed further by some zari work or hand work etc., shall be liable to tax @ 4%.

The Deputy Commissioners (CT) of the divisions are requested to see that the instructions are fully complied with and the taxes involved are collected at the earliest.

16. CCT's Ref. No. AII (2)/722/2005, dt. 23-11-2005

Sub : Instructions before issue of Statutory Forms – Regarding.

Ref : 1. FAPCCI Ref. No. 1243, dt. 21-10-2005.

2. Andhra Pradesh Plastic Manufacturers Association Ref. APPMA/2005, dt. 18-10-2005.

All the Deputy Commissioners (CT) in the state are hereby directed to issue instructions to all the authorities concerned to issue statutory forms, i.e. way bills, "C" Forms etc., promptly and in sufficient number to prevent inconvenience caused to the dealers. However, before issuing such Statutory Forms, they may be scrupulously abide by the following guidelines :

1. The utilisation of Statutory Forms issued previously should be thoroughly verified with reference to the return filed and taxed paid.
2. Waybills received from the check posts should be reconciled with reference to the returns filed regularly.
3. Restriction of scope of forms need be considered, only when the sensitive goods are involved.
4. The C/F/H forms filed by the dealers in the last quarter must be thoroughly scrutinized with reference to the returns filed.

17. CCT's Ref. No. A III (1) 184 / 2005-9, dt. 06-12-2005

Sub : A.P. VAT Act and Rules, 2005 – Guidelines to improve the compliance levels and to prevent the leakage of revenue – Issued – Regarding.

During the course of reviews made by Senior Officers in the month of November, 2005, several omissions and shortcomings were noticed with regard to implementation of VAT at field level. An action plan was already issued vide our Circular No. A III (1)-5/2005, dt. 27-10-2005 giving guidelines

for the steps to be taken to improve compliance levels and to prevent the leakages of revenue. The Senior Officers visits have revealed that more emphasis needs to be put on the following areas for better results :—

1. Prioritisation and verification of credit returns.— Physical verification of stocks is essential for credit return audit and this must invariably be conducted.

2. Verification of NIL returns.— Last years tax payers in some cases had filed NIL returns this year.

3. Filing of additional returns and restricting input tax credit / transition relief whenever branch transfers and consignment sales occur.

4. Finalising revenue yielding pending APGST assessments on priority.

5. Works contracts assessments.

6. Verifying applications for fresh registrations carefully to restrict bogus dealers. All assessing authorities are requested to focus on these issues. Further, new areas of revenue mobilization need to be carefully followed up. These include :—

1. Tax on sale of food in hotels, clubs sweet shops and other eating establishments.
2. Tax on sales made up textile industry, bed sheets, pillow covers, curtains, worked saris etc.
3. Tax on sales of food in private residential schools / colleges to students.
4. Tax on leases of TV and commercial films.
5. Tax on sale of good and goods in hospitals.

In this background the following further clarifications are issued.

1. Cross Check References.— It is seen that cross check references are being sent indiscriminately. One CTO was sent more than 1,000 invoices in one dealer's case for verification to another CTO. This situation has led to overload of cross check and must be curbed. The references are also found to be issued in a casual manner in some cases where invoice values are below Rs. 1,000. The VATIS audit facility is now available. This should be utilised invariably in cross check.

The two types of invoices should be selected. The first category is of priority nature called "urgent". The second category is of "routine" in nature where the verification could be taken up at the other end as a part of normal VAT audit in due course. The officers should follow the guidelines in Chapter-5 (5-10) at page 27 of the Audit Manual. While sending the references, the concerned circle must be identified by using the facility in VATIS package so that the reference goes only to the officer concerned and not to other officers.

2. Dealer ledger for way bills / "C" Forms is not being maintained at circle level. This should invariably be done. So that utilization of way bills / "C" Forms is monitored effectively. Further, while issuing APGST assessment orders, all assessing authorities will devote a specific paragraph to examination of issue and utilisation of all statutory forms.

3. Irregularities noticed in ITC claims :

(a) ITC claimed on the of delivery challans issued without issue of any invoice (i.e., seller has not paid tax).

(b) Freight charges not added to final value of product; separate invoice issued for freight charges.

(c) Credit notes not accounted for specially in fertilizers, drugs, paddy and rice, agencies resulting in vary large number of credit returns.

(d) Purchases of Paddy and Rice by Rice Millers : It is observed that rice millers are showing purchases of paddy and rice from other VAT dealers and claiming input tax credit. This *prima-facie* requires verification as rice millers rarely purchase from each other. Generally Paddy is purchased only from farmers and the value of such purchases should be reflected in Box No. 6-A. Officers must carefully scrutinize VAT returns of Paddy and rice dealers to see whether any value is reflected in Box No. 7A of VAT return and such cases must be immediately taken up for VAT audits and for cross verification.

4. Assessment procedures.— It is observed that while making an assessment by issuing 305-A and 305, the orders are not speaking orders which may affect the sustainability of such orders in appeals. It is, therefore, to be ensured that the reasons for levy of additional tax over and above the tax declared in the returns must be clearly spelt out in a detailed manner and

VATIS provides such a facility to incorporate the speaking order in 305-A and 305. The quantum of output tax and input tax identified must be clearly mentioned for each month separately in 305-A and 305.

5. **Transitional Relief.—** It is observed that the work is not yet completed in some of the divisions. The pendency is very high in respect of divisions like Kadapa and Vizianagaram. This must be completed by 15th December, 2005 without fail as all claims must be fully paid by February, 2006. Further verification of transitional relief claims must continue as an ongoing basis along with audit. Certificates should also be insisted upon from chartered Accountants for the amount of transitional relief claimed in terms of earlier instructions.

6. **AA-9 & APGST Returns.—** It is observed that the compliance of AA-9 returns is not satisfactory in terms of number of returns received and in terms of accuracy and verification of return filed. This aspect will be reviewed and any short fall will be viewed seriously. Further for APGST returns above Rs. 40 lakhs amount the deadline for receipt of CA reports is completed on November. These reports should be insisted upon and Rs. 1 lakhs penalty invariably levied on late filers.

7. **Allocation of VAT Audits.—** It is observed that DCTOs are not being given adequate number of audits to be done. Every DCTO should be given atleast two VAT audits per week. Similarly, AC (Audit) is found to be not showing initiative to take up audits.

8. **Levy of Penalty.—** It is observed that penalty is not being levied according to the penalty structure prescribed in VAT Law. Any instances of failure to levy the correct quantum of penalty will be viewed seriously.

9. **Advisory Visits.—** It is observed that the number of advisory visits taken is inadequate and the collection of data during advisory visits and updation of database in the VATIS package are also not being done properly. The objectives of advisory visits are :

(i) Guiding tax payer to know his VAT obligations.

(ii) Collecting the data to analyse the business of the VAT dealer.

(iii) Updation of the data base.

Receipt of this circular should be acknowledged. Deputy Commissioners (CT) are requested to review performance of their subordinates based upon VAT Implementation Plan issued earlier and these instructions.

18. CCTs Ref. A.III (1)/184/2005-08, dt. 09-12-2005

Sub : APVAT Act 2005 - Ordinance further to amend the Andhra Pradesh Value Added Tax Act, 2005 - Issued - Amendment to sub-section (9) of section 4 of the Act - Instructions issued - Reg.

Ref : 1. Andhra Pradesh Ordinance 24 of 2005, dt.24-11-2005

An Ordinance to amend the APVAT Act was promulgated vide reference cited, where in existing sub-section (9) of section 4 of the Act was substituted as under.

> "(9) Notwithstanding anything contained in the Act, every dealer running any restaurant, eating house, catering establishment, hotel, coffee shop, sweet shop or any establishment by whatever name called and any club, who supplies by way of or as part of any services or in any other manner whatsoever of goods, being food or any other article for human consumption or drink shall pay tax at the rate of twelve and half percent (12.5%) on sixty percent (60%) of the taxable turnover, if the taxable turnover in a period of preceding twelve months exceeds Rs. 5,00,000/- (Rupees five lakhs) or in the preceding three months exceeds Rs. 1,25,000/- (Rupees one lakh twenty five thousand)."

It is clarified that all the dealers covered under revised section 4(9) and liable to be registered compulsorily for VAT. They are also eligible to claim input tax credit based upon valid VAT invoice. Consequent to this amendment, certain action has to be initiated by the department to identify all these dealers, ensure that they are registered, file monthly return & pay taxes regularly. The following instructions should be scrupulously adhered to.

1. The provisions of the sub-section (9) of section 4 of APVAT Act are applicable to every dealer running any restaurant, eating house, catering establishment, hotel, coffee shop, sweet shop or any establishment (Bar & restaurants, canteens, messes etc.) by whatever name called and any club.

2. The CTO, has to identity such dealers mentioned in point 1 above whose taxable turnover in last 12 months is more than Rs. 5,00,000/- or more than Rs. 1,25,000 during the last 3 months period.

Such dealers can be identified by verifying the Turn over Tax returns filed by them for last two quarters and / or by verifying the AA9 returns filed

by them for the year 2004-2005. In addition for persons who have not filed returns earlier, the CTO concerned should obtain the particulars of expenditure incurred on purchase of gas (commercial use), purchases of cool drinks, ice creams, milk, electricity consumption and expenditure on establishment of the dealer including rent to estimate his sales turnover and determine his eligibility for registration under VAT.

3. All such dealers should be issued VAT registration with EDR from 01-12-2005.

4. Such dealers will have to pay tax @ 12.5% on 60% of the taxable turnover which amounts to 7.5% on taxable turnover, and are eligible to claim Input Tax Credit on eligible inputs.

These dealers shall collect tax @ 12.5% on 60% of the bill amount. Alternately these dealers can collect tax @ 7.5% on total value of the bill from the customer.

For Example :	If the Total value of the bill is	Rs. 100
	60% of the value	Rs. 60
	Tax @ 12.5% on Rs. 60* 12.5%	Rs. 7.50
	Total value (bill value Rs 100 + Tax Rs. 7.50)	

Alternate method

Total value of the bill	Rs. 100
Tax @ 7.5% on Rs. 100* 7.5%	Rs. 7.50
Total value	Rs. 107.50

Since 7.5% is not a VAT rate following the former method where a tax of 12.5% is shown is desirable.

In case, the amount collected is inclusive of VAT, then the dealer should bifurcate his turnover for the purpose of calculation of out put tax assuming that the total value of the bill is inclusive of tax @ 7.5%.

The tax element by applying tax fraction i.e., X* 7.5 / 107.50. Where X is the total bill value. Since the dealer has to pay @ 12.5% on 60% value he has to take the total value of the bill less tax element and takeout 60% of the remaining turnover and arrive at output tax @ 12.5%.

For example :

A.	The total value of the bill including tax	Rs. 100
B.	Tax fraction 100 x 7.5 / 107.5	Rs. 7

C.	Value of the food items (A-B)	Rs. 93
	output tax in this case is	Rs. 7
D.	60% of C is (93 x 60%)	Rs. 56
E.	Tax @ 12.5% on 60% value i.e. Rs 56	Rs. 7
F.	Output tax in this case is	Rs. 7

The provisions of the amended section are now applicable to bar and restaurants also. However to arrive at taxable turnover, for the purpose of calculating output tax, the turnovers relating to sale of liquor served in bar and restaurant shall be excluded. The remaining turnover should be treated as taxable turnover and subjected to calculation as mentioned above to arrive at output tax.

5. Hither to the dealers with taxable turnover exceeding Rs. 5 lakhs but below Rs. 40 lakhs were paying tax @ 1% on their taxable turnover. All these dealers are how liable to pay at the revised rate due to increase in tax rate. For example : A Hotel with Rs. 10,00,000/- food sales for a period was liable to pay Rs. 10,000/- only as tax prior to the amendment whereas the same hotel has to pay now Rs. 75,000/- towards tax due on same turnover less input tax credit eligible.

It may be noted that consequent to the amendment, there are only two categories of hotels, eating establishments :—

(a) those with turnover below Rs. 5 lakhs per annum which are totally exempted;

(b) those above Rs. 5 lakhs per annum which will pay 12.5% on 60% of the turnover and avail input tax credit. There is non-composition scheme for restaurants, eating houses, hotels, clubs etc.

6. Effective steps should be taken by all assessing authorities to register all dealers to arrest evasion and to ensure proper filing of returns and prompt payment of taxes.

The Deputy Commissioners should issue suitable instructions to the subordinate officers and shall monitor the progress of implementation of the instructions periodically and report compliance.

The receipt of these instructions should be acknowledged by return Mail.

19. CCT's Ref. No. AIII (1)/2005-12, dt. 05-01-2006

Sub : A.P. VAT Act 2005 – G.O.Ms.No. 2201, dt. 29-12-2005 – Issued amending the A.P. VAT Rules 2005 – Certain Clarifications Issued – Regarding.

Ref : 1. G.O.Ms.No. 2201 Revenue (CT-II) Department, dt. 29-12-2005.

In the G.O. cited above certain amendments were made to the APVAT Rules, 2005. In this regard following clarifications are issued for proper implementation of the G.O.

I. Rule 16.— Clause (e) in sub-rule (3) is inserted explaining the procedure to adjust credit notes issued for discounts or sales incentives. This comes into effect from 01-12-2005 procedure prescribed earlier for adjustment of credit notes in case of sales returns may be followed. All credit notes date from 01-12-2002 on wards issued by selling dealers in respect of post-sale discounts / incentives shall not disturb tax component in the original invoice.

II. Rule 20 (2).— Clause (h) is substituted, in which "Natural Gas, Naphtha and Coal unless the dealer is in the business of dealing in these goods" are made intelligible for input tax credit. In this (entries) Natural Gas and Naphtha are made ineligible w.e.f. 01-04-2005.

Entries in clause (n), (o), and (p) added are made ineligible for claiming input tax credit w.e.f. 01-04-2005.

III. Rule 37 (2).— The sales tax credit authorized by the CTO is now allowed to be claimed by the VAT dealer from August 2005 to March 2006 in 6 equal installments but in consecutive months, instead of August 2005 to January 2006 prescribed earlier.

Accordingly it is clarified that revised returns (in From VAT 200 only) may be obtained in case of VAT dealers where authorization of claim made is delayed; from August 2005, if possible or at least from October 2005 so as to allow the dealer to claim in 6 consecutive months. Accordingly the returns filed earlier can be modified by the CTO, since assessments for the months from August 2005 have not been taken up.

Forms 200-G and 200-H are inserted to be filed by the VAT dealers liable to restrict Sales Tax Credit as per conditions in Rule 20 by using formula AxB/C. In this A is $1/6^{th}$ value of sales tax relief, B is the taxable sales turnover and C is the total sales turnover during the tax period or during the last 12 tax period as the case may be (This is w.e.f. 01-12-2005).

IV. Rules 55, 56, 57 are procedures relating to transportation of goods in a goods vehicle, vessel or a Passenger Bus. It is instructed that these procedures are to be followed scrupulously. These are w.e.f. 01-12-2005.

V. Rule 67(3) by the deletion of the words mentioned in the G.O. those units availing Industrial Incentives having Exports in excess of Rs. 10 Lakhs in a tax period, and unit having inputs 12.5% and outputs in @ 4% like plastic dealers, are made eligible to claim refund in the same month if such units have any excess input tax credit. This is w.e.f. 01-04-2005.

The officers are therefore requested to process refund claims of Deferment cases in case they fall under exports, plastics or inputs 12.5% and outputs (including CST) 4% categories.

20. CCT's Ref. No. PMT/P & L / A.R.Com / 245 / 2005, dt. 06-01-2006

Ref : 1. CCT's Ref. No. PMT/P&L/A.R.Com/2005, dt. 24-09-2005.

2. CCT's Ref. No. PMT/P&L/A.R.Com/2005, dt. 24-11-2005.

3. This office notice section 67(5) of A.P. VAT Act, 2005.

ORDER

Pursuant to the notice issued in reference 3rd cited above, the applicant along with the Sri. S. Krishna Murthy, Advocate and Sri. P.S.R. Swamy, Company Secretary appeared and contented that the decision of Hon'ble High Court of Kerala at Ernakulam in the case of Malankara Orthodox Syrian Church v. Sales Tax Officer and Another (STC 135 P. 22) holding that supply of medicines as part of treatment and the consequent liability of the dealer for registration as well as for sales tax was rendered in light of the definition of the word "dealer" under section 2(viii) of the Kerala General Sales Tax Act. It was further contended that the definition of "dealer" under A.P. VAT Act, 2005 does not include supply of any goods by way of or part of any service, and that the applicant was not a dealer within the meaning of the definition under section 2(10) of A.P. VAT Act, 2005. However, no written submissions were made either by the applicant or counsel for the applicant.

We have considered the above stated contentions. In the above-mentioned decision, the Hon'ble High Court of Kerala among other things also held that supply of medicine in the course of medical treatment has to be taken as one of the main activities in a hospital. Therefore the supply of

medicines in the course of treatment is not mere incidental but integral part of treatment and supply by itself or sale of medicine as such is part of business in the hospital. It was further observed by the Hon'ble Court that hospitals are billing and charging for the medicines supplied and going by the value of the medicines involved in treatment, it was held that the value of such medicines was substantial and not mere incidental. The Hon'ble Court further repelled the contention of the petitioner regarding the service nature of the hospital holding it as irrelevant after the 46th amendment to the Constitution of India.

In the light of above decision of the Hon'ble High Court of Kerala, we have re-examined the facts of the applicant.

Some of the invoices issued by the applicant have also been examined by us and we find that the applicant charged for the drugs and medicines supplied to the patients and the value of such medicines is separately mentioned on the invoice. Likewise, some invoices also show value of the costly implants like stints and catheters separately on the invoice. In the light of decision of the Kerala High Court, we hereby clarify and issue a ruling that the applicant is liable to tax to the extent of sale of drugs and medicines and such other items / disposables / implants used as part of surgical procedures and invoiced distinctly, at the rate applicable to such items as listed in the schedules to the A.P. VAT Act, 2005.

As regards other issues on which ruling was already issued in the reference 1st cited above and as modified in reference 2nd cited above the ruling holds good.

21. CCT's Ref. No. AIII (1)/5/06, dt. 10-01-2006

Sub : A.P. VAT Act, 2005 – Delegation of powers under section 37 of A.P. VAT read with Rule 59 – Authorisation to Area CTO – Orders Issued – Regarding.

Ref : DC (CT) KNL. Rc. No. /S/31/99-00, dt. 18-11-2005.

In exercise of the powers vested under section 3(A) read with section 80 of A.P. VAT Act, 2005 and 59 (2) of A.P. VAT Rules, 2005, I, hereby authorise the Commercial Tax Officer of the circle concerned to do re-assessment and to pass the consequential orders on the original orders passed by the CTO (Int) under APGST Act, 1957.

22. CCT's Ref. No. Spl. Com/01/2005, dt. 16-01-2006

Sub : A.P. VAT Act 2005 – Verification of records of Corporate Hospitals certain lapses notices – Instructions issued – Regarding.

The tax liability of certain Corporate Hospitals located in the State has been reviewed. It is seen that in some cases certain unwarranted exemptions are being allowed which have serious revenue implications. To clarify all doubts on the liability of Corporate Hospitals for tax, the following instructions are communicated for strict compliance.

1. Certain Corporate Hospitals are claiming exemption on the turnovers of medicines, surgical disposables and implants such as stints and heart valves used in the course of treatment of patients. This exemption is based upon Advance Ruling given vide CCT's Ref. No. PMT / P & L / A. R. Com / 245 / 2005 dated 20-08-2005. This advance ruling has been reviewed by the same authority and revised ruling issued vide CCT's Ref. No. PMT / P & L / A. R. Com / 245 / 2005 dt. 06-01-2006. Copy of the revised ruling is enclosed.

The ruling should be strictly implemented and the turnovers shall be assessed to tax by disallowing the ineligible exemptions. This ruling is based upon the judgment of the Hon'ble High Court of Kerala in case of Malankara Qethdox Syrain Church v. Sales Tax Officers (Vol. 135 STC Page 224).

2. Some hospitals are not showing any exemption particulars in appropriate boxes of VAT 200 returns, but they are recording the exemptions in their books of accounts. VAT 200 returns should be consistent with the books of accounts.

3. Few hospitals supply medicines and other implants, purchased from other States, and claim exemptions under package scheme of operations irregularly. Being outside State purchase, the scheduled rate of tax, without allowing any Input Tax Credit, should be realized in such situations.

4. Some hospitals have filed nil returns even though they have regular sales and purchases of medicines and other items. It should be ensured that forms are filled in correctly after thorough verification of records.

5. Some hospitals have not taken any registration under A.P. VAT Act, but they indulge in purchases and sales of medicines to patients. Such hospitals are to be identified and are to be got registered at the earliest and legitimate taxes are to be realised.

6. Many hospital have not shown the correct turnovers of food sales made at their canteens. The value of food, supplied to inpatients by canteens,

has not been reported. Some of the canteen lessees do not report the turnovers of food supplies especially those made to inpatients. The value of food shown in consolidated bills, is liable, to tax.

7. In some cases without any registration under A.P. VAT Act, 2005, the canteens are run by private people and they receive amounts from hospital authorities towards food supplied. These amounts are not reported to the Department. Such practices should be curbed and all dealers registered.

8. Some canteens have not reported any turnovers for previous years and they are paying only current taxes. Necessary action should be initiated to recover past dues.

9. Other irregularities noticed are—

(a) Professional Tax is not being paid properly by certain hospitals.

(b) Certain hospital canteens are paying TOT, even though their sales turnover is more than Rs. 40 lakhs.

(c) Some corporate hospitals are not paying Luxury Tax on the accommodation provided to the patients, where charges of Rs. 500/- or more are collected per day.

These practices should be strictly curbed.

All the Deputy Commissioners are requested to ensure that the assessing authorities of their jurisdiction follow the above instructions scrupulously. Compliance report be submitted on or before 15-02-2006.

The receipt of the Circular may be acknowledged by the return of post.

23. CCT's Ref. No. AI (3)/72/2006, dt. 23-01-2006

Sub : Commercial Tax Department – Providing services to the dealer s through Dealer Service Centers – Issue of waybills promptly and in sufficient numbers – certain instructions – Issued – Regarding.

Ref : 1. CCT's Ref. AI (3)/687/2003 dt. 06-01-2004.

It is noticed that the waybills are not issued promptly and in sufficient numbers at the Dealer Service Centers even to the highly tax compliant dealers. There are instances of inordinate delay in issuing waybills to the dealers without any justification. It is also still noticed that, in certain divisions, the waybill books are maintained in the respective circles and the role of Dealer

Service Center is reduced to that of merely forwarding the applications for issue of way bills to the assessing authorities and transmitting the stamped waybills to the dealers, requesting for the same. Such a procedure defeats the very purpose for which the Dealer Service Centers were set up. Further it is noticed that unnecessary stamps like validity stamps are also affixed on the waybills, issued to the dealers, even though they are not statutorily required.

Therefore, in order to ensure the prompt issue of waybills in sufficient number to tax compliant dealers and not to cause undue hardship to them, the following instructions are issued in modification of the earlier instructions, issued in the reference, cited :

1. The Assessing Authorities shall prepare a positive list of dealers in respect of whom there need not be any restriction on the issue of waybills and furnish it to the Dealer Service Center. Against each dealer the assessing authority will indicate the maximum number of waybills that can be issued at a time. The maximum limit of waybills in terms of number shall be fixed on the basis of the requirement of the waybills by the dealer for 3 months. In these cases, the duty of stamping of the dealers details on the waybill can be delegated to the dealer concerned and need not be done at Dealer Service Centre. However the office seal of the Circle shall be affixed. In order to avoid delay, the Dealers Service Center shall be provided with waybills, pre-stamped with the office seal of the circle concerned. In all cases, where the waybills are issued without the stamp of the dealers details an application from the Authorised Signatory shall be insisted on with attestation of the signature of the representative, who receives the waybills in person.

2. Issue of statutory forms to all dealers not in the positive list shall be as under :

Wherever such dealers, apply for issue of waybills, by the DSC's shall obtain prior clearance of the assessing authority, concerned, regarding number of forms to be issued. Stamping of dealers details on the statutory form should be ensured at the DSC prior to handing over such forms.

3. The positive list, mentioned above, shall be updated regularly by the assessing authorities and such updated lists shall be provided to the DSC from time to time.

4. Status of statutory forms shall be maintained in the DSC under proper security. Issue of statutory forms should be done only after proper entry in Form Track Software at the DSC level.

5. The particulars of utilisation of the waybills, submitted by the dealers at the time of filing the application for issue of waybills, shall be forwarded by the DSC's to the assessing authorities, who in turn should verify those particulars with reference to the turnovers, reported by the dealers in their returns within 7 days of the receipt of such particulars from the DSC and file them along with the returns for record. If, on such verification, it is found that there is disproportionate variation between the turnover, involved in the transactions, reported in the particulars of utilization of the waybills and the turnovers, reported in the returns filed, the assessing authority should take up VAT audit immediately.

These instructions shall come into effect from 01-02-2006.

All the assessing authorities and Dealer Service Centers shall adhere to the above instructions scrupulously and see that no hardship is caused to the tax compliant dealers and quality services are extended to them promptly.

SALES TAX RELIEF

1. CCT's Circular No. PMT/P & L / 2005-2, dt. 12-04-2005

Sub : A.P. VAT Act 2005 – Guidelines issued for processing / approving transitional relief claims – Reg.

The attention of all the Deputy Commissioners (CT) in the State is invited to the subject cited above. The transitional relief claims submitted by VAT dealers in the field offices are to be processed and approved by the CT Department within 90 days from the date of implementation of VAT. As it is not possible for the officers to physically verify the genuineness of the claims made by the VAT dealers, it is felt that certain guidelines shall be prepared and issued to all the field officers involved in approving the claims. The guidelines, if followed strictly, would enable the department in identifying the wrong claims made. The guidelines are attached with this circular.

Therefore, all the Deputy Commissioners are requested to issue necessary instructions to all the CTO's under their jurisdiction to follow the guidelines scrupulously while approving the transitional relief claims.

The receipt of the circular may be acknowledged immediately, and also a copy of the instructions issued in this regard to the subordinate officers should be furnished to this office.

Guidelines for approving transitional relief made on Form VAT 115 (Sales Tax Relief)

Following guidelines shall be followed while approving transitional relief / sales tax relief claim made on Form VAT 115 :

1. Please check whether the goods on which credit is claimed are falling under the items listed below :

   (a) Goods listed in Schedule - I

   (b) Goods listed in Schedule - VI

   (c) Negative list goods – Rule 20 of A.P. VAT Rules

If the goods are falling under one of the above, the dealer is not eligible for any sales tax relief. Hence, the officer approving shall verify this aspect first and restrict the claim accordingly. *Preferably, a copy of all the above three lists shall be kept by the side of the officer approving the claims.*

2. The date of invoice shall be checked to ensure that the goods have been purchased between 01-04-2004 to 31-03-2005.

3. Where the dealer has claimed tax relief on raw material corresponding to finished goods or semi-finished goods, the officer approving the claim can verify the quantum of raw material required by ascertaining the same from business / industry sources. In some industries where established input / output ratios are available like rice mills (100 units of Paddy – 70 units of Rice, 100 units of G.N. Seed – 40 units of oil + 60 units of GN Cake etc.) the same norms shall be followed.

4. Where the dealer is claiming sales tax relief was availing some kind of set-off under APGST Act, the officer approving shall verify the last APGST Return to ascertain whether set-off under APGST has been claimed on the stocks mentioned in Form VAT 115. If set-off of tax has already been claimed under APGST Act, the dealer is not entitled for any sales tax relief now on the by products available if any, in the stock as on 31-03-2005. For example, if a rice miller has stock of 300 quintals of rice bran. Since, on set-off system available under APGST system, the tax paid on paddy was already availed as set-off on sales of rice, the dealer is not entitled to claim any relief on the stocks of rice bran. However, if such VAT dealer possesses any rice as stock on 31-03-2005, he is entitled to the relief of tax paid on the corresponding paddy. Hence, attention must be paid to all the claims of dealers who were availing some set-off under APGST Act. Examples of this are Vegetable oil industry, set-off on copper, re-rolling mills etc.

5. Check whether the dealer is claiming any relief of TOT. Remember the dealer is not eligible for relief of TOT.

6. Also check whether the dealer is claiming any relief of CST. Remember the dealer is not eligible for relief of CST.

7. Where the dealer is claiming sales tax relief on purchase point goods, check whether such tax has already been paid by the dealer under APGST Act or not. This is easily done, as the dealer's APGST file is also available in the same office. Example, agricultural goods like paddy, chillies etc.

8. The officer shall verify the APGST file (A2 return file) to satisfy himself that the dealer has tax paid goods in stock. In the event of dealer having paid any tax under APGST Act on certain purchases from outside the state and such goods are in stock as on 31-03-2005.

9. If an hotelier, who is a VAT dealer, has filed a claim on Form VAT 115 and subsequently also files Form VAT 250 in April, reject the claim, as the dealer is not eligible for relief. *Remember any VAT dealer opting for composition is not eligible for input tax credit.*

10. The officers approving relief claims shall pay attention to the claims of works contractors and hoteliers. If such dealers opt for composition later, dealer shall pay tax according to provisions in Rule 37(5).

11. The officer approving shall also pay attention to the purchases made from Tax holiday units. Any purchase from a tax holiday unit is not eligible for sales tax relief. As the officer is not in the know-how of list of tax holiday cases, he should enquire from the dealer or other sources wherever he gets a doubt.

    For example : Invoice issued by a manufactured but no tax element is shown. A list of tax holiday units is issued to all DCs / CTOs. Whenever in doubt, verify this list.

12. If the VAT dealer claiming relief on VAT 115 happens to be a manufacturer, he would have purchased bulk of his material @ 4% against G-Forms. Check such cases where the manufacturer is claiming more than 4% on his purchases.

13. Wherever possible, the approving authority shall check the quantum of stock available with the Audit Reports filed by the dealer for earlier years. In cases of huge discrepancy, verification shall be made.

14. All the doubtful cases shall be noted down by the approving authority and shall be taken up for verification with the approval of Deputy Commissioner concerned. The DC shall limit such verifications to 10-15 cases per circle.

2. CCT's Circular No. PMT/P & L / 2005-5, dt. 07-06-2005

Sub : A.P. VAT Act 2005 – Instructions issued for processing / approving transitional relief claims – Reg.

Ref : CCT's Circular No. : PMT / P & L / 2005-2, dt. 12-04-2005.

The transitional relief claims submitted by VAT dealers are to be processed and approved by the CT Department within 90 days from the date of implementation of VAT i.e. by 30th June 2005. Since it is not possible for the

officers to physically verify the genuineness of the claims made by all the VAT dealers, certain guidelines were issued to all the field officers in reference cited.

In continuation of the guidelines the following instructions are issued for the approving the claims of sales tax relief made by the VAT dealers :

1. The approving authority can select the doubtful cases or cases of wrong claims, as per the guidelines issued for the purpose of scrutiny/audit. From among the so identified cases the approving authority can make a visit to the business premises of the claiming dealer in 10 cases. The Deputy Commissioner can select any cases over and above 10 in any circle and get them verified by entrusting to the Assistant Commissioner.

2. In remaining cases, the approving authority has to conduct desk audit by calling for the information from the claiming dealer.

3. In case the approving authority finds any discrepancies in the claim he has to either reduce the claim or reject the claim and issue show cause notice in Form VAT 117.

4. In case of issue of Form VAT 117 the reasons for either reduction or rejection should be captured in the notice in Form VAT 117. It is also advised to take a copy of report of "View errors" and attach to the notice in Form VAT 117 in case it is identified as calculation errors. This should be done before 20th of June 2005.

5. In cases where the approving authority finds no inconsistencies he can approve the claim in to and authorize the claim in Form VAT 116 after 20th June 2005. The date of issue of Form VAT 116 will be intimated before 20th June 2005.

The Deputy Commissioners are requested to issue necessary instructions to all the approving authorities under their jurisdiction to follow the instructions scrupulously while approving the transitional relief claims.

The receipt of the circular may be acknowledged immediately.

3. CCT's Circular No. PMT/P&L/2005-8, dt. 20-07-2005

Sub : A.P. VAT Act 2005 – Guidelines to verify the sales tax relief claims – Reg.

Ref : 1. CCT's Circular No. PMT / P & L / 2005-2 dt. 12-04-2005.

2. CCT's Circular No. PMT / P & L / 2005-5 dt. 07-06-2005.

3. Video conference with Deputy Commissioners on 18-07-2005.

It is noticed that the volume of sales tax relief claims on transition stocks are very large. There is a need to thoroughly verify the claims carefully to restrict the false claims from being approved by the authorities concerned. The following guidelines should be kept in mind while processing the sales tax relief claims made by the dealers.

The Deputy Commissioners are requested to instruct the field officers to follow the following instructions while approving the claims made by the dealers.

1. Stock taking statement taken by the dealer may be verified with reference to the claim made by the dealer on Form VAT 115. In case if the dealer is not in possession of such statement, the claim made by the dealer may be rejected. (Rule 37(2) (e))

2. While verifying the claims the field officers may take recourse FIFO (First In First Out) method. For example a dealer of Electrical goods is having 100 bundles of electrical wire of particular brand. He is having the purchases from both within the State and from outside the State. He purchased 200 bundles from outside the State on 25-02-2005 and 300 bundles from local dealers on 26-01-2005. He might have claimed the closing stock for sales tax relief as purchases from local dealers. But as per FIFO method the closing stock is related to the purchases from outside the State since these purchase are later than the local purchases.

This analogy may be applied to other goods and arrive at the eligibility of the goods for claiming the sales tax relief.

3. It is noticed that there are instances of circular bill trading in case of sales tax relief claims particularly in trades like Iron and Steel and Paddy and Rice. In cases of large claims the Deputy Commissioners concerned should get verify the bills so traded and trace their origin point in co-ordination with the Deputy Commissioners concerned. They must verify the point where local tax was paid.

4. In cases of claims above Rs. 10 lakhs, the Deputy Commissioners concerned are directed to verify all the cases even if the claim has been approved. In all other cases where claim is below Rs. 10 lakhs the AC LTU / CTO concerned should verify the claims on the basis of above guidelines in addition to the guidelines already issued. (Enclosed for ready reference).

5. The field officers are requested to stop authorizing the claims on Form VAT 116 or Form VAT 126 unless they confirm that verification is completed and necessary conclusions are being made. You are however authorized to issue Form VAT 117 notices.

6. The Deputy Commissioners are provided with the report on sales tax relief claims in the link MIS > Tax incidence > Report on sales tax relief dealer wise > Division > Circle wherein he / she can view and take print of the dealer wise details of sales tax relief claimed and approved. This will be useful to monitor the claims in the division.

Deputy Commissioners must ensure that he is satisfied with the verification of claims above Rs. 10 lakhs before accepting the claim. Assistant Commissioners LTU / Commercial Tax Officers concerned must ensure that proper verification is carried out before approving the claims below Rs. 10 lakhs.

In case of any lapse on the part of approving authority which results in excess claim been approved, the authority will be held responsible and suitable disciplinary action will be initiated against him / her.

4. CCT's Circular No. PMT/P&L/2005-10, dt. 16-08-2005

Sub : A.P. VAT Act 2005 – Guidelines to verify the sales tax relief claims – Hiring of the services of Cost Accountants in Auditing of the claims – Reg.

Ref :
1. CCT's Circular No. PMT/P&L/2005-2 dt. 12-04-2005.
2. CCT's Circular No. PMT/P&L/2005-5 dt. 07-06-2005.
3. CCT's Circular No. PMT/P&L/2005-8 dt. 20-07-2005.
4. CCT's Circular No. PMT/P&L/2005-9 dt. 11-08-2005.
5. CCT's Ref No. PMT/P&L/2005 dt. 17-08-2005.

Attention of the Deputy Commissioners is invited to the references cited, wherein instructions were issued for the processing of sales tax relief claims filed by the dealers on Form VAT 115. The Deputy Commissioners were instructed to verify the claims exceeding the tax amount of Rs. 10 lakhs in the division, vide reference 3 cited above. All the claims are to be approved or rejected by 31st August 2005 positively, so as to facilitate the dealer to claim

the approved amount of sales tax relief in the return of August 2005 to be filed on or before 20th September 2005.

To facilitate the quick and effective approval / rejection of the sales tax relief claims, Deputy Commissioners are now requested to engage the services of the Cost Accountants, *wherever they feel necessary*. They are requested to contact Sri A.V.N.S. Nageswara Rao, Ex-Officio Member. The Institute of Cost and Works Accountants of India, Hyderabad Chapter on his telephone Nos 040-27225591® 9849299070 (Cell) to help the Departmental Officers in auditing the sales tax relief claims. The Cost Accountant who is attending the auditing of the sales tax relief claims, as engaged by the Deputy Commissioner, shall be paid Rs. 750/- per audit and Rs. 200 as daily charges in cases if audit is taken up in the same place (city / town / village) where the Cost Accountant is located. If the place of audit is other than the place where the Cost Accountant is located, an amount of Rs. 500/- shall be as daily charges along with the basic Rs. 750/- per audit. The Deputy Commissioners are requested to make arrangements for the payment of the same from their budget provisions. Necessary orders in this matter will be communicated.

Further the Deputy Commissioners are requested to utilise the services of the Cost Accountants especially in arriving at the stock variation with reference to the Trading Account of the dealer as on the date of audit which is as following :—

1.	Opening stock as on 01-04-2005 (Closing stock as on 31-03-2005 as per books of accounts)*	Rs.
2.	Add purchases during the period	Rs.
3.	Total purchases (1+2)	Rs.
4.	A. Sales up to the date of audit	Rs.
	B. Less Gross Profit (Average to the dealer / trade)	Rs.
	C. Purchase value of the goods put to sale (4A – 4B)	Rs.
5.	Stock to be available on the date of audit (3 – 4C)	Rs.
6.	Closing Stock (Physical Stock available on the date of audit)	Rs.
7.	Deficit / Excess of Stock (5-6)	Rs.

* Wherever necessary, closing stocks declared during the sales tax relief claim, bank statements made for closing stocks and insurance charges for stock held can be verified.

The same method may be used to arrive at the stock variation in quantities also.

The Deputy Commissioners are requested to utilize the services of the Cost Accountant to the fullest extent and hasten up the process of approving / rejecting the sales tax relief claims. The result of the audit should be intimated to the undersigned on or before 5th September 2005.

5. CCT's Circular No. PMT/P&L / 2005-12, dt. 31-08-2005

Sub : A.P. VAT Act 2005 – Processing and finalization of approvals in case of Sales Tax Relief – Instructions issued – Reg.

Ref : 1. CCT's Circular No. PMT/P&L/2005-2 dt. 12-04-2005.

2. CCT's Circular No. PMT/P&L/2005-5 dt. 07-06-2005.

3. CCT's Circular No. PMT/P&L/2005-8 dt. 20-07-2005.

4. CCT's Circular No. PMT/P&L/2005-10 dt. 16-08-2005.

Instructions for processing of Sales Tax Relief claims have been issued in the references cited to be followed strictly by the authorities concerned. These instructions have extended the scope of verification and resulted in further restriction of the amount of claim made by the dealers. This has necessitated reissue of Form VAT 116 and Form VAT 117s to the dealers. To avoid the delay in reissue of these Forms a window has been made operational from 29-08-2005. This window is available in CT login in the General module under the heading "Generate VAT 116 or VAT 117". Path : CT Login > General Module > Generate VAT 116 or VAT 117. Procedure for using the window is made available in the Home Page (PPT explaining the navigation of the window is mailed to all the DCs, ACs and CTOs).

Since one sixth of the approved amount of sales tax relief has to be claimed by the dealer, in the return for the month of August 2005 to be filed on or before 20th September 2005, the process of approval should be completed immediately. It is hereby informed that the issue of Form VAT 116 (approval of claim by the authorizing authority), and Form VAT 126 (authorization of the claim by the authorizing authority after Form VAT 117) shall be speeded up and completed before 10th September 2005 so that the dealer can claim in the return for the month of August 2005. The AC LTUs and CTOs are hereby requested to issue Form VAT 116 or Form VAT 117 if they satisfy that the claims made by the dealer are in order, even though the physical verification of the dealer is not taken up due to paucity of time. In such cases it should be

ensured that verification for all major large volume cases is completed by 10th September 2005. The smaller cases can be verified after 10th September and action to restrict credit can be taken for these cases in subsequent returns. For all large volume cases Deputy Commissioners and Commercial Tax Officers should ensure that verification is completed by 10th September to ensure that 1/6th claim made in the return related to August 2005 to be filed in September 2005, is only as per eligibility after verification.

The dealer who have claimed Sales Tax Relief and who does business in exempt goods or engage in exempt transactions along with taxable goods or who opted for composition have to file the Additional return in Form VAT 200G along with regular return in Form VAT 200 and VAT 200 A every month (along with the returns filed for the months of August 2005 to January 2006), restricting the sales tax claimed amount. The dealers have to file additional return in Form VAT 200H along with the return in Form VAT 200, for the month of March 2005. The AC LTUs and CTOs are requested to obtain the above said forms every month from those dealers as specified above and ensure that the sales tax relief is restricted to the extent of sale of exempt goods and exempt transactions. (The procedure to calculate input tax credit in case of transitional relief (TR) during first year of implementation and the Forms VAT 200G and VAT 200H are attached for ready reference).

All the AC LTUs and CTOs are requested to finalise the process of issuing final approval of Sales Tax Relief claims so as to enable the dealers to know the quantum of relief available to them and to facilitate them to claim the one sixth of the same in the return for the month of August 2005.