

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI
DEPARTMENT OF TRADE AND TAXES
(POLICY BRANCH)
VYAPAR BHAWAN, I.P.ESTATE, NEW DELHI-110 002

No.F3(378)/Policy/VAT/2013/ 238-244

Dated: 04/08/2014

CIRCULAR NO. 06 of 2014-15

Sub – Processing of Refund claims.

As you are aware that Value Added Tax (VAT) is a multi-point tax levied at each point of sale, on sale of goods, by State Government in exercise of the powers conferred by Entry No. 54 of List II of VII Schedule of the Constitution of India. It envisages to provide set-off of the tax paid on purchase generally known as Input Tax Credit (ITC) and to pay the balance tax on sale (Output Tax) of goods in a tax period. If ITC exceeds the output tax liability in a tax period, the dealer can adjust the excess tax credit towards CST liability, carry forward the same as credit in the next tax period or claim refund. Thus, refund becomes a vital activity in the VAT regime. Dealer can exercise the refund option in the periodical return of a tax period and the same is treated as refund application. No separate application for refund is required to be filed for claiming refund accruing in a tax period by virtue of volume of sale and purchase.

2. In the era of self assessment, a return filed by the dealer is treated as self assessed. No verification of the claims made by dealer is made out in general but possibility of false claims made by unscrupulous elements cannot be ruled out completely. With the advancement of technology and with a view to minimize such incidents, filing of sale/purchase details online was started with the periodical return for some class of dealers from the year 2011-12. From the year 2012-13, it was made mandatory for all dealers to file dealer wise purchase/sale details online in Annexure 2A /2B along with the periodical return. The filing of such details make the processing of refund claim easy and the dealer is not asked to file such details separately as used to be done earlier.

3. Refund is usually caused due to inter-state sale at concessional rates, stock transfer to branch/consignee, export after making local purchases etc.. Though, it is a fact that Delhi is not a manufacturing State, still local purchase from distributors / wholesales by retailers can not be ruled out. It is also a fact that the number of times a goods changed hands, the goods become dearer in the proportion it changed hands.

4. Processing of refund claims consists of two components viz. verification of ITC and authentication of sale. Both the components are discussed separately in following paras. The simplest case of ITC verification is – if all purchases have been made by a refund claimant from the first seller of goods in Delhi and the seller has paid the due tax completely as accounted for in the periodical return. Likewise, the second component comprises of sale. If sale has been made against 'C' forms (say) and the forms have been filed completely at the time of processing the refund, then there is hardly any hurdle in releasing such refund. But, in practice, there are so many kinds of cases, complex as well as simple.

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5. Circulars on the subject have been issued in the past also. The refund cases prior to year 2012-13, if any, may be processed in accordance with the instructions contained therein. However, system reports may be utilized to verify tax payment, return filing, registration status etc. of sellers in the usual manner.

6. For processing the cases from the year 2012-13 and onwards, ITC may be verified by viewing mis-match report and running the actual tax payment report (ATR). Assessing Authorities may come across cases wherein there may not be any mismatch, but the seller may also happen to be a local buyer. In such cases, ATR may prove to be of great help to find out who has paid tax for which the refund claimant is claiming refund. If the ATR does not provide substantial payment of tax, then Assessing Authorities (AAs) are free to call additional documents to prove the authenticity of ITC claimed. But, all documents may be called in one go by issuing notice u/s 59 of DVAT Act, 2004. Notice may be issued online. System shall ensure pasting the same on web-page of the dealer. AAs are free to frame assessments for mis-match, if not framed already. In some cases ITC may have been carried forward from previous years. In such cases, verification may be done from the period from which it is carried forward. System may assist in generating mis-match report for receipt of debit/credit notes by matching Annexure 2C/2D.

7. Second component in refund cases pertain to verify the concessional sale claimed by refund seekers. Export transactions shall be verified by examining eBRC (electronic Bank Realisation Certificate) through the link available on DGFT web-site. If cause of refund is inter-state sale/stock transfer against statutory forms, then dealer has to file the details of such forms in Form 9 (earlier DVAT-51) online. The cases may not be processed immediately, if the dealer has opted to wait for receipt of forms in Annexure -2E of the relevant return. Shortfall of forms requires assessment to be framed. System will assist in framing such assessments and calculation of tax and interest instantly. However, transactions against 'H' forms and E-I/E-II forms may be verified wherever required.

8. As usual, all outstanding demand (un-stayed) pertaining to DVAT Act, CST Act during VAT regime and un-stayed demand under DST Act (including other local Acts), CST Act during DST needs to be adjusted out of the refund claim before releasing the same. But, demand which has already been recovered may not be adjusted to avoid duplicity. Un-assessed case for any previous years, if any, for shortage of forms or for any other default should be assessed before processing the refund claims.

9. All AAs are hereby directed to follow the instruction scrupulously in processing the refund claims received in accordance with the provisions of Delhi Value Tax Act, 2004 and rules framed there under.

10. This issues with the approval of Commissioner Value Added Tax conveyed vide Diary No. 951 dated 30/07/2014.

(Sanjeev Ahuja)
Special Commissioner (Policy)

All Assessing Authorities

Copy forwarded for information and necessary action to:

1. All Spl./Addl./Joint Commissioners, Department of Trade and Taxes, GNCT of Delhi, Vyapar Bhawan I.P.Estate, New Delhi-02.
2. Dy. Director (Policy), Department of Trade and Taxes, GNCT of Delhi, Vyapar Bhawan, I.P.Estate, New Delhi-02.
3. Programmer (EDP), Department of Trade and Taxes, GNCT of Delhi, Vyapar Bhawan, I.P.Estate, New Delhi-02 for uploading the circular on the website of the department.
4. The President/General Secretary, Sales Tax Bar Association (Regd.), Vyapar Bhawan, I.P.Estate, New Delhi.
5. All Assistant Commissioners/AVATOs Department of Trade and Taxes, GNCT of Delhi, Vyapar Bhawan, I.P.Estate, New Delhi-02.
6. PS to the Commissioner, VAT Department of Trade and Taxes, GNCT of Delhi Vyapar Bhawan, I.P.Estate, New Delhi-02.
7. Guard File.

(Rajesh Bhatia)
Assistant Commissioner (Policy)