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TRADE CIRCULAR

Sub: VAT on natural gas, clarifications regarding

- Ref:** 1) Finance Deptt. Notfn. No. VAT-1517/CR-136(A)/Taxation-1/24th Aug. 2017
2) Trade Circular No. 39T of 2017 dated 8th Sep. 2017
3) Finance Deptt. Notfn. No. VAT-1517/CR-136(a)/Taxation-1/13th Oct. 2017
4) Trade Circular No. 3T of 2018 dated 16th Jan. 2018

No.VAT/MISC/2017/20/Adm-8

Trade Cir. 32T of 2018

Mumbai Dt: 13/11/2018

Background

Sale of natural gas is liable to VAT @ 13.5% [Sch. Entry B-15]. However, with effect from 24th August 2017, natural gas sold to a manufacturer, certified by the Joint Commissioner of Sales Tax became liable to a lower rate of 3%, by virtue of a newly inserted schedule entry B-16 [Notfn. at reference 1]. Benefit of this lower rate of 3% is available only if the purchasing manufacturing dealer is certified by the Joint Commissioner of Sales Tax in Proforma 'A'. Earlier, by Trade Circular No. 39T of 2017 dated 8th Sep. 2017, provisions of the said schedule entry were explained. Subsequently, the said schedule entry B-16 was amended on 13th Oct. 2017 [Notfn. at reference 3] and Trade Circular No. 3T of 2018 was issued on 16th Jan. 2018 to explain the amendments and also to modify the clarification issued vide Trade Circular No. 39T of 2017 dated 8th Sep. 2017.

This office has received some more queries on various issues, pertaining to taxability of natural gas under MVAT. These queries are being clarified as follows:

2. Queries and clarifications:

- (i) **Query 1:** A dealer holds a single VAT registration but has multiple GST registrations in Maharashtra. Whether certificate in Proforma 'A' is necessary for all such places of business [POBs] in the state or only a single Proforma A would be sufficient ?

Clarification: In case, purchasing manufacturer is having a single VAT registration but multiple GST registrations for his multiple POBs in the state, he may apply for proforma 'A' to the Joint Commissioner, in whose jurisdiction,

the principal POB, as per VAT RC, falls. Benefit of schedule entry B-16 is available only if the purchaser uses the natural gas as a raw material or as fuel in manufacture of goods.

In case, all such POBs fall within the jurisdiction of the said Joint Commissioner, then he shall issue a single certificate in Proforma 'A'. In this proforma 'A', he shall denote only those POBs, at which the conditions of entry B-16 are complied.

In case, some of such POBs fall within the jurisdiction of some other Joint Commissioner, then the Joint Commissioner, having jurisdiction over the principal POB shall call for a report from those other Joint Commissioners, immediately. After receipt of such reports, Joint Commissioner shall issue a certificate in proforma 'A' denoting the eligible POBs.

(ii) Query 2: Purchaser, having a single POB, holds single VAT registration but has obtained multiple meters from the natural gas company i.e. GAIL, MGL etc. Gas supplying company issues separate invoices as per meter numbers. Whether only a single proforma 'A' should be obtained or whether separate proforma 'A' should be obtained qua-meter?

Clarification: In this situation, the purchaser may obtain proforma 'A' for the meters, in respect of which the gas is being used for purposes mentioned in entry B-16. Joint Commissioner shall also denote eligible gas meter numbers in proforma 'A'.

(iii) Query 3- Purchaser has multiple POBs in Maharashtra but the manufacturing activity is carried out only at some POBs. Whether, proforma 'A' can be obtained for all POBs ?

Clarification: As stated earlier, only a single proforma 'A' shall be issued in this case. Proforma 'A' can be obtained only for such POBs, at which the natural gas so purchased is put to permissible use, as per entry B-16.

(iv) Query 4- Before 1st July 2017, a dealer was registered only for Service Tax but was not registered under MVAT Act, because it was not liable being only a service provider etc.

Clarification: Entry B-16 requires that the natural gas purchased should be used as a raw material or fuel in the manufacture of goods.

On this background, some examples of purchasers, who would be eligible/ineligible are as follows:

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➤ Restaurants:

Supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink, where such supply or service is for cash, deferred payment or other valuable consideration, provided by a restaurant, eating joint etc. is considered as a "service" under the GST Law.

However, for the purposes of MVAT, a restaurant supplying food etc. cooked by it, is treated as a manufacturer and hence is eligible for the benefit of proforma 'A'.

➤ Hoteliers, providing accommodation etc. :

A hotelier, providing accommodation, may use natural gas (PNG) for heating water in bathrooms. Such a hotelier is not eligible for the benefit of proforma 'A'. If such a hotelier uses natural gas in kitchen to cook food, then he could be eligible, only if he has obtained separate gas meter for kitchen.

➤ Job-workers, using natural gas for job-work:

A job-worker, using natural gas for any job-work activity, is not eligible for Proforma 'A'.

3. It may be noted that in case, proforma 'A' has been already issued to an ineligible person, then such proforma 'A' is liable to be cancelled.


(Rajiv Jalota)

Commissioner of Sales Tax
Maharashtra State, Mumbai

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Copy forwarded to the Joint Commissioner of Sales Tax (Mahavikas) with a request to upload this Trade Circular on the Departments web-site.


(S.H. Umale)

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