

OFFICE OF THE COMMISSIONER OF COMMERCIAL TAXES. ORISSA:  
CUTTACK.

No. VII (Rev)-1/10-3037/CT

Dated 11.02.2010

To

All Addl. Commissioners of Commercial Taxes in charge of Zones/  
All Joint Commissioners of Commercial Taxes in Charge of Ranges/  
All Asst. Commissioners of Commercial Taxes in charge of Circles.

**Sub: Guideline for disposal of refund application in pursuance of order of Hon'ble High Court of Orissa in case of Onkarmal Nanakram Vrs. Commissioner of Sales Tax, Orissa, O J. C. No. 11203/1997.**

Sir,

It has come to my notice that a large number of refund applications, both under OST & OVAT Act, are pending in different circles resulting in filing of large number of writ petitions in the High Court. In many cases, the Hon'ble High Court has been directing to dispose refund application along with interest to be borne by the concerned officer. Section 14-C of the OST Act deals with grant of refund within 90 days of filing of refund application during which no interest is payable. The calculation of interest starts from the 91<sup>st</sup> day. Thus, the revenue has been granted reasonable time to process the refund application of the dealer during the period of 90 days. Similarly, the period of 60 days of interest free period has been granted U/s 57 of the OVAT Act 2004. The revenue is expected to grant refund during this period. The object of the provision is that the refund period should not spill over the prescribed period & that the Government will not be saddled with interest burden on account of the laches & negligence of the concerned officer. In this regard, the decision of the Hon'ble High Court in case of Onkarmal Nanakram -Vrs. - Commissioner of Sales Tax, Orissa, O J. C. No. 11203/1997 may be referred to. The Para 12 of the order states as follows:-

**“Merely because a lesser rate of interest is provided for a period of ninety days, and no interest is payable for the preceding ninety days period which is prescribed for dealing with refund applications, the concerned Sales Tax Officer should not sit over the matter. Legislature in its wisdom prescribed a period of ninety days for disposal of refund application. In the normal course, therefore, the refund applications are to be disposed of within ninety days, unless compelling reasons exist for not doing so. The reasons for not disposing of the refund applications within ninety days’ period should be clearly recorded. The Commissioner of Sales Tax would do well to issue instructions to all concerned officers to deal with refund applications within the prescribed period so that the State Exchequer is not burdened with interest payable under Section 14-C of the Act. Any non-compliance in that regard should be seriously viewed and necessary departmental action shall follow. That shall bring in prompt action on the part of concerned officers.”**

The order of the High Court in Onkarmal Nanakram Case is a valid law & is squarely applicable in the matter of disposal of refund application both Under OST & OVAT Act. The concerned authorities are directed to grant refund within the prescribed period failing which the propositions of Onkarmal Nanakram Case shall be invoked.

Yours faithfully,

Sd/-

(N. B. Dhal, I.A.S.)

Commissioner of Commercial Taxes,

Orissa