

OFFICE OF THE COMMISSIONER OF COMMERCIAL TAXES, ODISHA,
CUTTACK.

NO. 13327 /CT DATED 07-06-13
VI(V)55/2013
CIRCULAR

Sub: Reorienting of activities in Enforcement wing and investigation wings thereunder.

Ref: This Office Circular No.VI (V) 108/09-14036/CT Dated.31.07.2009.

After introduction of Odisha Value Added Tax, 2004, there has been a paradigm shift towards voluntary tax compliance. Simultaneously, over the last few years, CTD has taken a number of steps to introduce e-governance and a large number of activities/processes have been made online. This has created an opportunity for the CTD to redesign strategy and reengineer procedures leveraging on IT.

Under any tax system, including VAT, tax evasion and tax fraud practices exist. The level of non-compliance depends mainly on the probability of detection and severity of penalty. To ensure that Enforcement activities impact on tax evasion, IT systems should be used to increase the probability of detection. The Enforcement Wing, therefore, should reorient its activities and follow a strategy of **intelligence and technology based tax collection and enforcement system which is both non intrusive and non-evasive.**

The Enforcement Wing of the Commercial Tax Department is carrying out functions as delineated in **Annexure-1**. As is seen from the functions outlined, broadly, the enforcement wing carries **Information collection and analysis and Enforcement activities** to detect tax evaders.

1. **Information Collection and Analysis:** Information is available from sources like informers, petitions, grievances, local inquiry, mobile checking and any other information gathered on one's own or from secondary sources which is

based on information available in VATIS. I.e. registration records of the dealers, returns, utilisation of way bills, statutory forms, information from other departments, history of previous tax compliance etc. To improve effectiveness, the following instructions should be adhered to.

- (a) The enforcement wing should be able to cross-check primary information with secondary sources of data, so that information on basis of which action is taken is credible and actionable. Training has been imparted on the same and it is expected that officers shall make efforts to familiarise themselves with the system and be able to do meaningful analysis of data available to identify risky dealers, evasion prone sectors and modus-operandi of tax evasion in these areas. An online system based scrutiny module has also been developed and a large number of relevant reports are generated in VATIS, which should also be made use of.
- (b) An Economic Intelligence Unit (EIU) is being created at the CCT (O) for a more scientific and thorough analysis of data. The EIU will forward the information for further action by the field offices wherever required. It will also assist the field offices in analysis wherever such requests are made.
- (c) To institutionalise collection, analysis and coordinated action of information, the officers in charge of the Enforcement Ranges shall document information collected through own sources and share it with the head office in the form of monthly confidential report of one or two pages by sending the same to the Spl. CCT (Enforcement) which shall contain details about; (a) major areas of evasion and evasion prone sectors (b) modus operandi of tax evaders (c) any information on specific dealers/transporters warehouses/godowns which may be suspicious. (d) any information which may have ramification for other ranges/circles etc. The enforcement wing at the Head Office shall collect and analyse this information and provide feedback to the CCT. This Confidential report will be in addition to the transmission of information through existing MPR's.

2. **Enforcement Activities:** Ideally, the way to increase probability of detecting and punishing tax evaders is to develop a strategy based on broad and swift audit U/s 41 of the OVAT Act. The audit coverage should be as broad as possible and the probability of enforcing penalties on the defaulters should be high. Recourse to inspection U/s 73(4) of the OVAT Act and search and seizure should be taken only on rare occasions. Such action should be based on substantive evidence of a large scale evasion or fraud. Success rate in such cases should be about 100 percent; otherwise, the credibility of tax administration is adversely affected. Officers not below the rank of Sales Tax Officer the Enforcement Wing have been delegated with powers to inspect the accounts and search of premises of any registered dealer with prior notice, or if considered necessary for the purpose of the act, make a surprise visit without prior notice. To ensure that surprise inspections to the dealer premises do not result in undue harassment for the dealers, the following procedures are to be strictly followed:

- (a) Before undertaking any surprise inspection of place of business or warehouse/godown of a registered dealer U/s 73(4) of the OVAT Act the DCCT in charge of Enforcement Range shall intimate the Spl. CCT/Addl. CCT (Enforcement) through an online system. In cases where there is a reasonable apprehension that delay may lead to huge loss of revenue or disposal of stock-in-trade the intimation may be sent post facto within twenty four hours of the completion of such visit.
- (b) On completion of inspection, the officer conducting the inspection shall intimate the Spl. CCT/Addl. CCT (Enforcement) through an online system within 48 hours of such inspection the detailed reasons and basis for conducting inspection and prima facie findings including revenue suppression detected during the inspection along with details of the documents/records or materials if seized during inspection.

(c) Sales Tax Officers in charge of Investigation Units shall similarly intimate the DCCT, Enforcement Range before conducting surprise inspection on registered dealers who in turn will intimate the same to the Spl. CCT/Addl. CCT (Enforcement). In this case, preliminary report shall be submitted both to the DCCT of the Enforcement Range and Spl.CCT/Addl. CCT (Enforcement).

(d)The books of accounts if seized during inspection shall not be retained for more than three months for investigation without prior approval of the CCT. The report on inspection must be submitted within three months positively.

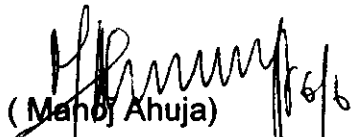
(A provision is being made in VATIS sending intimation and submission of preliminary information online.)

(e) The Enforcement wing should not work in a manner which is to the disadvantage of a registered dealer who is following the statutes and filling returns and paying taxes timely. A dealer/person carrying out fraudulent practices and not making tax payments due, not only cheats the exchequer but cuts into the profits of a dealer who is following the law diligently, thus adversely affecting his viability. A system should be able to incentivise honest and lawful behaviour. Therefore, Enforcement wing should focus its efforts on such unregistered dealers and fraudulent dealers so that there are strong disincentives for such practices. In general, in case of registered dealers with good track record, inspections by the Enforcement Wing should be avoided and information in such cases may be sent to the territorial circles for recommendation for regular audit after doing details scrutiny.

3. Coordination between different wings; There is a need for regular interaction between the territorial circles, Enforcement and the Vigilance Wing of the CTD. To ensure the same the following procedures are to be followed.

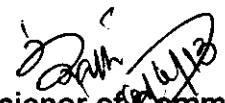
(a) Every month the Spl. CCT (Enforcement) shall review work of the ranges based on the MPRs, the confidential monthly report and a preliminary reports of surprise inspections undertaken.

- (b) A meeting should be convened once in 2 months by the JCCT's (Range), attended by enforcement officers and circle officers to coordinate and review activities and proceedings should be sent to Addl. CCT/Spl. CCT (Enforcement) by the 15th of the succeeding month.
- (c) A quarterly coordination meeting of the Enforcement Wing and Vigilance Wing will be taken by the CCT for general review of the work and coordination of activities between the three wings.


(Manoj Ahuja)
Commissioner of Commercial Taxes,
Odisha, Cuttack.

Memo No. 13328 /CT Dated 07-06-13

Copy forwarded to Spl. CCT (Enforcement)/ All Addl. CCTs (Zones)/Addl. CCT (Vigilance)/ all DCCTs, in-charge of Enforcement Range/All officers-in charge of Investigation Units/ all JCCTs of Territorial Ranges for information and necessary action.


Spl. Commissioner of Commercial Taxes
(Enforcement)

Memo No. 13329 /CT Dated 07-06-13

Copy to DCCT (IT)/ MASTEK to provide online facility in the enforcement module in VATIS within this month.

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Spl. Commissioner of Commercial Taxes,
(Enforcement)

ANNEXURE-I

FUNCTION OF ENFORCEMENT WING.

- (a) To co-ordinate, direct and control enforcement operations in the State.
- (b) To collect Intelligence relating to fraudulent activities, under invoicing, under-declarations etc. through sources, including secret sources.
- (c) To examine the nature of fraudulent activities and modus-operandi of the activity and suggest measures for dealing with these more effectively.
- (d) To analyse and to disseminate intelligence to field functionaries by analysing the data available in VATIS.
- (e) To study and suggest remedies for plugging the loopholes in law and procedures to combat tax evasion.
- (f) To co-ordinate and share information with other State Government and Central Government agencies/departments.
- (g) To refer cases registered under VAT/CST/ET Acts to REIC which have revenue implication for other tax departments.
- (h) To detect secret and undeclared go-downs/warehouses maintained by unscrupulous dealers either in their own names or benami with a view to evade tax.
- (i) To detect unaccounted for stock in possession of dealers and levy penalty.
- (j) To detect cases of tax evasion relating to inter-state transactions including verification of C-Forms and fictitious branch transfer and sale through commission agents.
- (k) To carry out survey of unregistered dealers required to be compulsorily registered under the VAT/CST/ET Act.

- (l) To detect habitual tax evaders including alleged casual dealers with no fixed place of business.**
- (m) To supervise effective functioning of check-gates and detect evasion or leakage of revenue and impose penalty wherever applicable.**
- (n) To carry out inspection of goods in transit to detect tax evasion if any.**
- (o) To detect forged invoice, non-issuance of tax invoice or retail invoice, as the case may be, by dealers.**
- (p) To keep statistics of prices/rates etc. for watching trends of under-invoicing.**
- (q) To detect under-invoicing of goods kept in stock or being carried by a dealer or any person on behalf of dealers.**
- (r) To monitor timely completion of assessment of the dealers by circle offices on reports submitted by enforcement or vigilance wing.**

(25) MASTIK
10-3-13