

**GOVERNMENT OF NCT OF DELHI
DEPARTMENT OF TRADE AND TAXES
VYAPAR BHAWAN, IP ESTATE, NEW DELHI**

CIRCULAR NO 06 OF 2012-13

CHARGING OF INTEREST UNDER THE DVAT/CST ACTS

A dealer registered under Delhi Value Added Tax Act, 2004 is liable to pay tax as per the time limit prescribed under Section 3(4) of the Act.

Section 3(4)

"the net tax of a dealer shall be paid within twenty-one days of the conclusion of the dealer's tax period."

Section 42(2) of the Act makes a dealer liable to pay interest from the date of default in making the payment of due tax, penalty etc.

Section 42(2)

"When a person is in default in making the payment of any tax, penalty or other amount due under this Act, he shall, in addition to the amount assessed, be liable to pay simple interest on such amount at the annual rate notified by the Government from time to time, computed on a daily basis, from the date of such default for so long as he continues to make default in the payment of the said amount."

Section 32(3) of the Act also prescribes that where assessment is made under the Act, further tax so assessed is due and payable on the same date as date on which the net tax for the tax period was due.

Section 32(3)

"Where the Commissioner has made an assessment under this section, and further tax is assessed as owed, the amount of further tax assessed is due and payable on the same date as the date on which the net tax for the tax period was due".

These two sections of the Act are to be read with Rule 36(3) and (4) of the Delhi Value Added Tax Rules, 2005 which prescribe the period for calculation of interest as from the date of such default and that interest shall be included in the DVAT 24 which is the notice of the assessment.

Rule 36(3)

"The Commissioner shall, at the time of making an assessment under section 32, calculate the interest payable under sub-section (2) of section 42 for the period commencing from the date of such default for so long as the dealer continues to make default in payment of the amount tax, penalty or other amount due under the Act."

Anahme

Rule 36(4)

"The amount of interest payable under the preceding sub-rule, shall be included in the notice of assessment in Form DVAT 24."

As per Section 9(2B) of the Central Sales Tax Act, 1956, provisions of the Delhi Value Added Tax Act, 2004 regarding delayed payment of tax shall apply to the tax liability under the Central Act.

Section 9(2B) - CST

"[.....all the provisions for delayed payment of such tax and all the provisions relating to due date for payment of tax, rate of interest for delayed payment of tax and assessment and collection of interest for delayed payment of tax, of the general sales tax laws of each State, shall apply.....]"

The Kerala High Court in the case Terumo Penpol Ltd. (2011)42VST147(Ker) dated 11.10.2010 and Allahabad High Court in the case of Control Switch Gears Company Ltd. (2011) 10 VSTI 18 (All), dated 14.07.2010 have adjudicated the issue of chargeability of interest for non submission of declaration form under the CST Act.

The above provisions of DVAT and CST Act and the Rules thereunder read together mean that dealers defaulting and failing to furnish central declaration forms, as per the provisions of Act, are liable to pay interest along with tax assessment made.

In view of the above provisions of the Acts, all the Assessing Authorities are required to assess the interest liability accordingly.

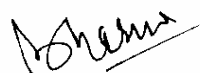

(Rajendra Kumar)
Commissioner, VAT

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5. Programmer (System), Department of Trade & Taxes, with the request to upload the circular on the website of the department.
6. President, Sales Tax Bar Association (Regd.) Vyapar Bhawan, I.P. Estate, New Delhi
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(T. C. Sharma)
VAT Officer (Policy)