

GOVERNMENT OF ASSAM
OFFICE OF THE COMMISSIONER OF TAXES :::: ASSAM ::::: KAR BHAWAN
DISPUR, GUWAHATI.

Circular No. 7/15

No. CTS-81/2007/397

Dated, Dispur the 24th June, 2015

Sub : Production of Tax Clearance Certificate" or "Despatch Note" at Check Posts for despatch of taxable goods and demand of additional security

It may be recalled that in compliance with the directions of Hon'ble Gauhati High Court in some court cases, instructions have been issued repeatedly regarding procedure to be followed for realization of security. In this context, the circular No. CTCA-51/2006(2)/87 dated 20th April, 2007 (Circular No. 5/2007) and circular No. CTCA-51/2012(5)/36 dated 19/10/2012 (Circular No. 24/2012) may be referred to.

Recently, in some court cases, it has been contended by the petitioners that in respect of inter-State movement/despatch from Assam of taxable commodities like supari, despite production of "Tax Clearance Certificate" (Form 63) the Check Post Officers have been insisting upon the production of "Despatch Note" (Form XI). It has further been contended that advance Central Sales Tax/ additional security is being demanded before issuing Despatch Notes.

Given the above background, to facilitate the inter-State despatch of taxable goods across the Border Check Posts on the strength of "Tax Clearance Certificate" (Form 63) or "Despatch Note" (Form XI) and to streamline the process of demanding additional security to secure the tax payable in respect of despatch of taxable commodities to outside the State of Assam, the following instructions are issued:

1. Section 7(3A) of the Central Sales Tax Act, 1956 authorizes the Tax Authority granting Certificate of Registration to demand additional security for the purpose of proper realization of tax payable and for proper custody & use of the statutory forms i.e. Form 'C', Form 'F', Form 'E-1'. The order for demanding such security must be in writing and for reasons to be recorded therein and such order shall not be passed without granting an opportunity of being heard.

Therefore, it is very much clear that the power to demand additional security is vested in the Tax Authority granting the Certificate of Registration and not with the Check Post Authority.

2. When a dealer approaches the Registering Authority for issuance of a "Tax Clearance Certificate" (Form 63) under the Assam VAT Rules, 2005, for a particular time period, the Tax


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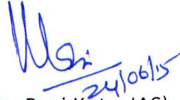
Authority granting Certificate of Registration, shall ascertain the purpose for which such "Tax Clearance Certificate" is required, which is already mentioned at serial No. 11 of "Tax Clearance Certificate" (Form 63). If a "Tax Clearance Certificate" is required to facilitate inter-State movement of taxable goods, such Registering Authority shall also require the dealer to furnish the details of the name of commodity, quantity and value of goods to be despatched during a particular period for which such "Tax Clearance Certificate" is applied for. Based on such particulars, the Registering Authority shall calculate approximate/ accruable tax liability. Thereafter, the Registering Authority shall proceed to record the reasons that for the purpose of proper realization of such tax payable, the realization of additional security has become necessary. The Registering Authority shall then issue a notice as to why additional security shall not be realized from the dealer and after giving proper opportunity of being heard, the Registering Authority shall realize such additional security equivalent to tax liability.

3. As per provision of Rule 4A(a) of the CST (Assam) Rules, 1957 a dealer has the option of obtaining "Despatch Note" (Form XI) for making inter-State despatch of taxable goods. Therefore, if a dealer produces a "Despatch Note" (Form XI) before a Check Post Authority, the production of "Tax Clearance Certificate" (Form 63) shall not be insisted upon or vice versa.
4. If a dealer approaches his Registering Authority for issuance of certain numbers of "Despatch Note" (Form XI) under the CST (Assam) Rules, 1957 for the purpose of making inter-State transactions of goods, such Registering Authority shall ensure that the dealer also furnishes the details of the name of commodity, quantity and value of goods to be despatched against each of the Despatch Notes. Based on such particulars, the Registering Authority shall calculate the approximate/ accruable tax liability. Thereafter, the Registering Authority shall proceed to record the reasons that for the purpose of proper realization of such tax payable, the realization of additional security has become necessary. The Registering Authority shall then issue a notice as to why additional security shall not be realized from the dealer and after giving proper opportunity of being heard, the Registering Authority shall realize such additional security equivalent to tax liability.

The above instructions should not, however, be construed to mean that the Check Post Authority does not have the power to realize tax & penalty when despatch of taxable of goods to outside the State of Assam is not supported by either "Despatch Note" (Form XI) or "Tax Clearance Certificate" (Form 63).


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All the Assistant Commissioner of Taxes/ Superintendent of Taxes are hereby directed to follow the above instructions to avoid any further legal complications. Any deviation of the above instructions shall be viewed seriously.



(Dr. Ravi Kota, IAS)
Commissioner of Taxes, Assam

Memo No. CTS-81/2007/397-A

Dated Dispur, the 24th June, 2015.

Copy to :-

1. The Principal Secretary to the Government of Assam, Finance (Taxation) Department, Dispur, Guwahati-6 for favour of kind information..
2. The Addl. Commissioners of Taxes/Joint Commissioners of Taxes (All), Head Office for information.
3. The Deputy Commissioner of Taxes (All Zone) for information and necessary action.
4. The Assistant Commissioner of Taxes/Superintendent of Taxes (All Unit and Check Post) for information and necessary action.
5. Circular file.


Commissioner of Taxes, Assam,
Guwahati-6.