

GOVERNMENT OF WEST BENGAL
DIRECTORATE OF COMMERCIAL TAXES,
14, BELIAGHATA ROAD, KOLKATA-700 015.

Trade Circular No. 10 /2010

Date: 14.09.2010

Sub : Input tax credit admissible on purchase of coal.

Dealers, registered under the WBVAT Act, 2003 and officers of the Directorate are very much aware of the fact that the W.B. Finance Act, 2010, has amended the negative list, appended to section 22 of the Act. Entry No. 12 of the negative list which was originally inserted to the list w.e.f. 1.8.06 had practically disentitled all registered dealers from claiming ITC on purchases of coal, furnace oil, or any other fuel, used for any purpose. The use of coal, for any purpose, connected with the regular business activity of a registered dealer, simply put the item 'coal' w.e.f. 1.8.06 in the restricted category on purchase of which no ITC could be claimed by any dealer and could be allowed also. However, purchase of coal for the purpose of trading was kept outside the purview of this restriction. But W.B. Finance Act, 2010 has appreciated the fact that there is specific use of coal as raw material in some industries such as sponge iron industry and those industries should be entitled, as a matter of principle, to enjoy their legitimate claim of ITC on purchase of coal for that purpose only. Therefore, the total restriction is found relaxed at least in part w.e.f. 1.4.10 and it is prescribed that when coal is purchased by a registered dealer for use of it as raw material, that registered dealer will be entitled to claim ITC for that part of purchase of coal, used mainly for that purpose. By issue of Trade Circular No. 2/2010 dated 1.4.10, the matter was brought to the notice of all registered dealers and to all officers of the Directorate.

But to my surprise, it has come to my notice that the dealers, at large, have now started claiming ITC on total purchase of coal irrespective of the purposes for which those are purchased. Relying on the judgment of Hon'ble Supreme Court in the case of Deputy Commissioner of Sales Tax (Law), Board of Revenue (Taxes), Ernaculam –vs- Thomas Stephen & Co. Ltd. reported in 69 STC 320 (1988) and on the judgment of the said Court in the case of Coastal Chemicals Ltd. –vs- CTO, A.P. & Others reported in 117 STC 12 (2000), it can well be appreciated that coal is not generally consumed in the manufacturing process as raw material or as other components which go directly into the making of the end product but rather is commonly used for ancillary purposes like fuel in the process of manufacture or in other words, is used as an aid in the manufacture of goods. Use of coal as fuel, in major part and as raw material, in minor part is the common feature of certain industry and sponge iron industry is one of them. The West Bengal Finance Act, 2010 has taken this matter seriously and has taken care of the problem of non allowance of ITC, faced by such industries. Amendment in the negative list has, therefore, been brought in w.e.f. 1.4.2010. But it is very unfortunate that industrial units have started claiming ITC on total purchases of coal being oblivious of its use as fuel in those units. Under no circumstances it can be

presumed that an industrial unit can use its purchased coal entirely as raw material.

It is, therefore, decided that appropriate authorities of this Directorate shall examine immediately each and every such case separately to justify the veracity of the claim of ITC of dealers of a particular industry with special reference to its proportional requirements of coal as raw material and as fuel and also as wastage in that industry. This may vary from unit to unit in the same industry.

This may vary from industry to industry according to the requirements of types of final products. Appropriate authority will allow ITC to a dealer after being satisfied that such claim of ITC relates to the extent of purchase of coal which is used as raw material and not for any other purpose. Registered dealers are requested to review their stand, if any taken wrongly by them, without further delay. The dealers who have already made such illegal claim in the first quarter of 2010-11, are requested to take immediate step so that undue claim of ITC is duly reversed and due tax and interest are duly paid by them. We are constrained to point out that failure to reverse input tax credit will attract penal action u/s. 93(1)(a) of the VAT Act.

It is expected that the dealers and the officers will rise to the occasion to get the matter set at its initial stage and recurrence of the same is avoided for ever.

(H.K. Dwivedi)
Commissioner,
Commercial Taxes,
West Bengal

Memo No. 573(500)CT/PRO
Date:14.09.2010
3C/PRO/2008

Copy forwarded for information and necessary action to:

- 1) the Principal Secretary, Finance (Revenue) Department, Government of W.B.
- 2) Special Commissioner, Commercial Taxes, W.B./
Additional Commissioner, Commercial Taxes, W.B
- 3) the Special Officer, Bureau of Investigation.
- 4) the Sr. Joint Commissioner, Commercial Taxes, (HQ)
- 5) Sr. Joint Commissioner, Commercial Taxes,
.....Circle/Range/Central Section/.....
- 6) Joint Commissioner, Commercial TaxesCircle/Charge
- 7) the Public Relations Officer, Directorate of Commercial Taxes, W.B.
- 8) N.I.C., 14, Beliaghata Road, Kolkata – 15.
- 9) Trade Bodies.....

for Commissioner
Commercial Taxes,W.B