

## **CALCUTTA CHAMBER OF COMMERCE**

### **MEMORANDUM ON STATE BUDGET: 2008-09**

The Calcutta Chamber of Commerce is pleased to submit a Memorandum on State Budget 2008-09 highlighting the points and suggestions for your kind consideration.

#### **1. VALUE ADDED TAX – RATES OF TAX**

- i) General rate of tax has been fixed at 12.5%, which includes commodities, which were taxed under WB Sales Tax 1994 Act at rates between 6% & 10%. Three financial years after introduction of VAT have shown substantial increase in revenue collection compared to collection under earlier Sales Tax Law. In Direct Taxes collection, it has been noticed that wherever the rate of tax had decreased, the revenue collection had increased. Following the same analogy, it can be estimated that if the general rate of tax is brought down from 12.5% to 10%, revenue will increase, besides this measure will boost business, trade and industry.
- ii) Input tax credit for a manufacturer registered dealer is not available under present law for use of goods in power and fuel, for example coal, furnace oil etc. used for manufacturing of taxable goods intended for sale in West Bengal. (Sec.22 (4) of WB VAT Act 2003).
- iii) In West Bengal, the rates of sales tax are the highest for Petroleum Products. It should be noted that LPG, Kerosene are mass consumption items and hence sales tax rates should be low. All the petroleum products are excluded from the VAT.

#### **iv) VALUE ADDED TAX – INPUT TAX CREDIT**

Presently a manufacturer registered dealer is not entitled to claim input tax credit or rebate on purchase of spare parts and accessories for repair and maintenance of machinery and equipments, since it is not within the purposes specified in Sec 22 (4) of WB VAT Act. Under the WB Sales Tax Act 1994, concessional rate of purchase was allowed on such product by way of use of declaration form but this facility has not been denied under the VAT Act. It requires review and it is suggested that input tax credit should be allowed to registered manufacturer on such purchase.

#### **v) Refund of input VAT tax to exporters and 100% Export Oriented Units (EOUs) :**

Third year is coming to be completed after implementation of VAT Law replacing the old Sales Tax Act. Under the old Act, exporters were not required to pay Sales Tax on their purchases but under the VAT Law, exporters have to pay VAT on

input purchases required for export and thereafter claim refund from the Sales Tax Department. While introducing the VAT in the State, it was announced by the then Commissioner, Commercial Taxes in various meetings that exporter would get refund of input tax credit within 3 months of filing of claim through VAT Returns but the actual facts are almost opposite, very few exporters have so far received refunds for VAT paid on input purchases for goods exported.

We strongly suggest that in line with provisions under Central Excise Law of furnishing the bond by the exporter, under the VAT law all purchases by the exporters should be exempted on execution of a bond by the exporter before the appropriate authority and such exporter shall furnish a certificate against their purchasing invoice to the selling dealers as may be prescribed by the government. If the particulars of bonds executed and the purchase invoice match with certificate (as proposed herein before), no tax should be charged from the exporter dealer and there would be no cause of concern for such exporter dealers that their working capital will be blocked for payment of input VAT tax and claiming of refund.

It is further suggested that just as EOUs and SEZs units have been placed under zero rated tax category (Schedule AA) 100% exporter dealers other than EOUs and SEZs should also be placed under the same category on fulfillment of aforesaid suggested condition.

vi) **Rationalisation of classification of product used for Information Technology:**

At present, Schedule C Part II (Sl. No. 42 of Part I) prescribes items under the category of IT products. In the organised sector where voluminous activities are carried on, computer systems are installed under Local Area Networking (LAN). For data transmission between the computer server(s) and different computer terminals (nodes), two types of cables are laid on in the premises. First is a copper cable and the second is optical fibre cables. While optical fibre cables have been inserted in Part II of Schedule C vide Sl. No. 27, copper cables do not find any place in the said Schedule C or in part thereof. Therefore, it attracts general rate of tax i.e. 12.5%.

It is suggested that in order to bring level playing field and parity and rationalisation, products and commodities generally used for computer systems and peripherals should be included in Schedule C for levying of concessional rate of tax 4%.

2. **WAY BILL**

- (i) Under the new VAT regime all the registered dealers have a unique Registration No. on all India basis. As per the law, the registered dealers are required to mention the ST Registration No. on invoice. Transaction of a particular invoice can be tracked down through the help of computer as to under whose jurisdiction the same dealer is being assessed.

**Under these circumstances, it is suggested that the requirement of Way Bill at the entry point of every State may not be required, as no transaction backed by invoice of registered dealer will be untraceable. Moreover, inter-state sales transaction is being computerized on all India basis whereby all inter-state movement of goods would be under control and the purpose of way bill would be achieved by this computerization itself.**

- (ii) Recently Commercial Tax Department has announced scheme for Electronic Filing of return under the implementation process of e-Governance. It is suggested that filing of application for Way Bill and issue of Way Bill may be brought under computerised media for faster disposal of applications and convenience of the dealers till the time the rule of Way Bill is not available.

3. **WIDE DISPARITY OF TAX RATES**

Wide disparity of tax rates between different states under the VAT Law is found which is in the knowledge of government. It is strongly suggested that there should be uniform rate of tax of all commodities through out India. For this purpose, the forum of Empowered Committee should be utilised and all State Governments should be pursued for maintenance of uniform rate of tax.

4. **NEED FOR RATIONALIZATION**

Definition of sale price under VAT Act include delivery, freight, installation and insurance charge. These were not included in the term sale price under earlier act, i.e. W.B.S.T. 1994. All this charges are presently suffering levy of service tax. Thus, there is a double taxation on such charges - (i) under Service Tax and other (ii) under VAT Law.

5. **WORKS CONTRACT**

Works Contract are executed by small dealers. Often they cannot maintain regular books of accounts. Rate of tax prescribed is very high for small dealers up to a prescribed limit of total turnover during the year, should be in the range of 1 – 4%.

6. **OTHER LOCAL LEVIES**

- (i) It was proposed in the White Paper that on introduction of VAT, other local levies will be withdrawn, but at the present moment luxury tax and consumption tax are still continuing. It is, therefore, suggested that levy should be abolished.
- (ii) Levy of consumption tax on machinery and equipments required for manufacture of goods for sale is viewed by industry as anti-industrialisation policy of the government. The dealer is paying Central Sales Tax and thereafter for obtaining way bill for export, such machinery and equipments dealer has to pay tax under WB State Tax on consumption or use of Goods Act 2001 which is 12.5% in many cases, for example knitting machine and embroidery machine, scientific instruments, cables etc.

7. **PENAL PROVISIONS**

It was suggested in the White Paper that penal provision under VAT Act should not be more stringent than the existing State Sales Tax Act.

But the provision under VAT Act for levy of penalty as included the term for imprisonment have been included which is much more stringent than the provision under W.B.S.T. Act, 1994. Although our Chamber does not support any tax evader, it definitely would like to ensure proper justice to all the dealers in terms that the promises made by the Empowered Committee to Indian citizens through White Paper.

Therefore, it is strongly suggested that the provision for imprisonment, (Sec. 93 etc) should be deleted from offences like maintenance of accounts, (Sec.63), reversal of input tax credit (Sec.22). Non payment of security (Sec.26), Payment of tax & interest, way bill provisions (Sec.73) apart from seizure & levy of penalty), and so on and it should contain only payment of fine to a prescribed sum. Imprisonment provisions under FERA had no place in FEMA (Foreign Exchange Management Act).

8. **GRIEVANCES**

It is suggested that a Grievance Cell should operate in the office of the Commissioner of Commercial Taxes to be headed by a separate officer for redressal of any grievance of dealers like Grievance Cell operating at Income Tax Department.

9. **CENTRAL SALES TAX (CST)**

(i) While the White Paper on state level VAT has accepted in principle the need of phasing out of CST. But on implementation part, it is silent for one or other reasons. At the same time the Government is citing examples of different countries where VAT has been successfully implemented, but on the point of implementation of VAT, we are dividing the whole concept into different parts. Some of the vital parts are left out and CST is one such vital part.

It is suggested that CST should be reduced to 2% in the year of implementation and should be reduced to nil in the very next year against declaration forms as the same was proposed by the earlier Union Finance Minister.

10 **ENTERTAINMENT TAX- MULTIPLEX VS AMUSEMENT PARKS**

The Govt. of West Bengal is encouraging the construction of multiplexes and has provided exemption and initiatives to new multiplexes. On the other hand, the amusement parks have been put under negative list for the purpose of West Bengal Incentive Scheme for development of tourist centre. Further, the entertainment tax is levied @20% on the amusement parks, which is of substantial amount. The comparison of present rate of entertainment tax in various States is as under:

<b>West Bengal</b>	<b>20%</b>
Uttar Pradesh	Nil
Bihar	Nil
Orissa	Nil
Goa	Nil
Himachal Pradesh	No tax for first 10 years
Rajasthan	No tax for first 5 years
Uttaranchal	No tax for first 5 years
Karnataka	No tax for entry up to Rs.250
Maharashtra	No tax for 5 years, thereafter 10%
Gujarat	Entertainment and Electricity Tax holiday for 5-10 years
Kerala	Entertainment and Electricity Tax holiday

We are enclosing a note submitted to Hon'ble Minister for Finance, Govt. of West Bengal dated 13.12.2007 by a member of our Chamber which highlights various points for granting exemption from entertainment tax and to extend various incentives to amusement parks.