

Office of the Commissioner of Sales Tax
Maharashtra State, 8th floor,
Vikrikar Bhavan, Mazgaon,
Mumbai -400 010.

TRADE CIRCULAR

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No.MMB-1000/107/Adm-5
Cir. No. 30 T of 2007

Mumbai, dt. 03/04/2007

Sub: - Administrative relief in respect of sale and lease of
“Copyright” of “Cinematographic films including video
films” under The Bombay Sales Tax Act,1959 and The Lease
Tax Act,1985.

Ref :- १. शासन निर्णय, वित्त विभाग क्र. विकअ-११.००/प्र.क्र.१५०(अ)/कराधान-१,
दि. २१.०५.२००५.
२. शासन निर्णय, वित्त विभाग क्र. विकअ-११.००/प्र.क्र.१५०/कराधान-१,
दि. २१.०५.२००५
३. शासन निर्णय, वित्त विभाग क्र. विकअ-११.००/प्र.क्र.१५०(अ)/कराधान-१,
दि. १६.१०.२००६
४. शासन निर्णय, वित्त विभाग क्रमांक मुवक १५०७/प्र.क्र.१३/कराधान-१,
दि. २० मार्च २००७.
५. शासन निर्णय, वित्त विभाग क्रमांक मुवक १५०७/प्र.क्र.१३/कराधान-१,
दि. २९ मार्च २००७.

Gentlemen/Sir/Madam,

The sale and the lease of copyrights of cinematographic films are subject to tax w.e.f. 1st May, 2000 under the Bombay Sales Tax Act, 1959 and the Lease Tax Act,1985.

02. The Cinematograph Exhibitors' Association of India had requested for administrative relief in respect of the above levy. After considering the said request, the Hon. Finance Minister in his speech on the budget estimates for the year 2005-06 had announced the government decision to grant administrative relief in respect of sale and lease of copyright of cinematographic films including video films for the period upto 31/3/2005.

03. Pursuant to the Budget announcement, the State Government had issued two Govt. Resolutions referred at Sr.No. 1 and 2, dt. 21/5/2005. It was intended to grant administrative relief for the period from 1/5/2000 to 31/3/2005 in respect of sale under the Bombay Sales Tax Act,1959 as well as lease under the Lease Tax Act,1985. However, there was an ambiguity in the words as appearing in the Govt. Resolution mentioned at Sr.No. 1, because of which the administrative relief under Bombay Sales Tax Act, 1959 was not available. Also, it was mandatory under the Government Resolutions to obtain a registration under the Maharashtra Value Added Tax Act,2002 before 30th September,2005 in order to avail of the administrative relief. The said date was extended to 31st October,2006 by the Govt. Resolution dt. 16/10/2006.

04. The various Cinematographic Associations then represented to the Government:-

(a) to extend the date of obtaining registration under the Maharashtra Value Added Tax Act,2002, so that all genuine dealers can take the benefit of the administrative relief.

(b) to specifically provide for the administrative relief under the Bombay Sales Tax Act,1959 till 31/3/2005 on par with the administrative relief under Lease Tax Act, which was unintendedly denied due to lack of clarity in the earlier Govt. Resolution.

Considering the above request of the association, the Government has now, in supersession of the earlier Govt. Resolutions issued on 21st May,2005, 16th October,2006 and 20th March 2007 has issued Govt. Resolution dt. 29th March, 2007 (referred to at Sr.No.5) hereinabove.

05. The salient features of the Govt. Resolution are as follows:-

(a) The tax which would have been levied for the period from 1/5/2000 to 31/3/2005 in respect of sale or lease of copyrights of cinematographic films including video films under the Bombay Sales Tax Act,1959 or under the Lease Tax Act,1985 shall not be recovered for the said period, as an administrative relief.

(b) Interest and penalty on the above tax shall also be not recovered and shall be treated as administrative relief for the above period. However, all those cases wherein tax, interest or penalty has already been collected or paid by the dealer entirely or in part, the administrative relief shall be granted only to the extent of the un-collected or un-paid tax, interest or penalty as the case may be (whichever is less). In any case, the administrative relief shall not be granted in respect of any amount paid prior to the issue of the above Govt. Resolution dt. 29th March, 2007.

(c) In order to be eligible to avail of the benefits of this administrative relief, the dealer must obtain a registration certificate under the Maharashtra Value Added Tax Act, 2002 on or before 30th April, 2007.

06. Conditions for availing of this administrative relief are as given below:-

i) All the cases wherein any proceedings including assessment or appeal proceedings are pending for the above period shall be eligible for administrative relief.

ii) The dealer shall apply to the registering officer for availing of the administrative relief.

iii) The dealer shall enclose proof regarding the registration under the Maharashtra Value Added Tax Act, 2002, obtained on or before 30th April, 2007.

iv) In the application, the dealer should clearly mention the amount of tax, interest and penalty for each period separately, for which administrative relief is sought.

v) On receipt of the said application, the assessing officer shall ascertain that the registration under the Maharashtra Value Added Tax Act, 2002 is obtained on or before 30th April, 2007 and if the application is found to be in consonance with the aforesaid Govt. Resolution, he shall pass an order within 15 days of the application.

vi) If it is found that the dealer is eligible for administrative relief, then, no assessment order is required to be passed for the period ending upto 31st March, 2005.

07. Since the Government has announced administrative relief for the above period, Stay granted by the Government on 5th June 2000 automatically stands vacated. It may be noted that the dealers are liable to pay VAT from 1st April, 2005 onwards under the provisions of the Maharashtra Value Added Tax Act, 2002 and administrative relief does not extend in respect of any period ending on or after 1st April, 2005.

08. It is hereby clarified that the above administrative relief is applicable only in respect of sale and/or lease of copyrights of cinematographic films including video films only. The administrative relief is not applicable in respect of other incidental copyrights arising out the cinema or video cinema such as audio right, music right, satellite right etc.

09. You are, requested to kindly bring the contents of this Circular to the notice of the members of your Association.

Yours faithfully,

(B.C. KHATUA)
Commissioner of Sales Tax,
Maharashtra State, Mumbai.