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Andhra Pradesh State Civil Supplies Corporation Ltd.

(A State Government Undertaking)

Regd. Office: 6-3-655/1/A, Civil Supplies Bhavan, Somajiguda, HYDERABAD -500 082

Y. NARASIMHA RAO
B.Com, L.L.B., PGD (IRPM)
GENERAL MANAGER (Finance)

CIRCULAR. NO 25

No Accts 65/VAT/2011

DT 5-09-2011.

Sub-APSCSCL- HO. Finance & Accounts-VAT –Statutory Audit for the year 2009-10 Observations of the Auditors, raised queries on recovery of VAT on transit and godown shortages & Service Tax on Rent Received. –Opinion Obtained from the expert, Communicated to implement the same -Reg.

Ref-1 Observations of the Statutory Auditors in the process of Audit for the Accounting year 2009-10.

2 Opinion offered by M/s Anjaneyulu & Co Chartered Accountants and Tax Consultants APSCSCL Dt 24-8-2011.

Attention of the District Managers are invited to the references cited, The Statutory Auditors for the Accounting year 2009-2010 have observed that some of the District Managers are not paid **VAT on transit Shortages and recovery of godown shortages recovered**, but Corporation has taken credit of VAT on the same. The Corporation has obtained Opinion from M/s Anjaneyulu & Co Tax Consultants they have mentioned that there is a specific clause relating to the said issue in respect of transit shortages vide clause No 13 of the Tender Document, after going through the contract agreement and the terms and conditions of sale as envisaged under provision of VAT. **No VAT is applicable on transit shortages and godown shortages.**

In the Query No 2 the Auditors have observed that **quality cuts** reduction from invoices has been made, and on accounts of its reduction from face of invoices requires the consideration of VAT on such reductions as per VAT Act.

The Tax Consultants opined that as per the quality standards /specifications for the supplies mostly includes exempted commodities, such as paddy, rice, and sugar, there are very negligible quantities of other taxable goods like pulses. Therefore the quality cut reductions on VAT will not arise, as the quantity purchased and sold is one and the same. Hence there is no necessity to recalculation of VAT.

During the Audit, the Statutory auditors observed that No service Tax has been remitted on the rental income, only provision has been made in few districts and in other districts provision was also not made though the rental income of the Corporation as a whole exceeding the limit as prescribed in the service Tax law.

The Tax Consultants has offered their Opinion that as per the Provisions of Sec 65 (105)(zzz) of the Finance Act 2007 Service Tax is applicable on renting of immovable property wherever the total income exceeds Rs 10,00 lakhs during the financial year. The District Managers attention is invited to this point to observe that the **Total income on rent means the over all income on Rent, Irrespective of the individual lessee**, the District Manager is directed to collect the service tax from the lessees as per the rate in prevail. The current rate of service tax is 10.30%. **Further the District Managers are directed to include the condition of payment of**

service tax in the terms & conditions with the lessees before leasing the premises.

Therefore all the District Managers are requested to **adhere the Circular and charge the service Tax on rent received.**

The receipt of the circular should be acknowledged by return of the post.



GENERAL MANAGER (FINANCE)



To,
All, the District Managers /Zonal Managers

ANJANEYULU & CO.,

CHARTERED ACCOUNTANTS
FRN. 000180S

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Fax : +91-040-27532295
30, Bhagyalakshmi Nagar,
Behind Kalpana Theatre,
Gandhi Nagar, Hyderabad - 500 080
E-mail : anj_co@rediffmail.com

24th August 2011

Ref. A

Dated : _____

To
The Managing Director,
A.P.State Civil Supplies
Corporation Limited,
Hyderabad.

Respected Sir,

Sub: Opinion on Queries raised by the Statutory Auditors for the Financial Year
2009-2010 towards VAT and Service Tax - Reg.

Ref: Your Letter dated 17/08/2011.

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With reference to your above cited letter, we have been asked to give our opinion on
the subject of liability on VAT and Service Tax on the following issues -

Query No.1 The Company has taken the credit of VAT on purchases. The proceeds of the
company are through sales, recovery of transit shortages and recovery of
godown transit. No VAT has been paid on recovery of Godown/Transit &
Shortages. Instances were found in the following districts - Warangal,
Chittoor, Prakasam, Guntur.

Query No.2 Quality cut reduction from invoice has been made and on account of its
reduction from face of invoices requires the consideration of VAT on such
reduction as per VAT act. Instances were found in the following Districts -
Warangal, Nellore.

Query No.3 It was observed the No Service Tax has been remitted on rental income only
provision has been made, while in case of other branches no provision of
service tax has been made. Since the last financial year rental income of the
corporation as a whole exceeding the limit as prescribed in the Service Tax
Law (West Godavari District).

It was noticed that No Service Tax was collected on Rent Received and the
same was not remitted to Government. The total rent received by
Corporation including West Godavari (WG) District amounts to
Rs.28,96,720/-. However provision is made only on the WG Rent.

Contd..2

Submitted for kind review of V&A
M. Put up file

24/8

24/8



We hereby give our opinion point-wise -

Opinion on Query No.1

As per the provisions of VAT, Paddy and Rice are fully exempted from VAT.

Further, we have gone through the required documents such as Tender Documents of Transport Contractors towards the issue of in-transit shortages and Circular No.A&V, dated 31.12.2007 towards the issue of Godown shortages.

We found that there is specific clause relating to the said issue in respect of in-transit shortages, vide clause No.13 of the Tender Document, wherein it states that -

13. LOSS SUSTAINED BY CORPORATION: The Transport Contractor shall indemnify the Corporation for any loss or damage sustained by it due to the improper performance of the work done by the Transport Contractor under this Agreement. Such loss sustained by the Corporation may be recovered from the bills payable to the Transport Contractor, from the Security Deposit and Bank Guarantee furnished by the Transport Contractor, under this agreement or under any other agreement irrespective of the contract period of the Transport Contractor with the Corporation. Should the above sums be not sufficient to cover the full amount recoverable, the Transport Contractor shall pay the Corporation on demand the balance amount due. Otherwise, the Corporation is at liberty to recover the amount due under R.R.Act.

Under the provisions of Section 2(28) of VAT Act, 2005,

"the term sale means with all its grammatical variations and cognate expressions means every transfer of the property in goods whether as such goods or in any other form in pursuance of a contract or otherwise by one person to another in the course of trade or business, for cash, or for deferred payment, or for any other valuable consideration or in the supply or distribution of goods by a society (including a co-operative society), club, firm or association to its members, but does not include a mortgage, hypothecation or pledge, or a charge on goods."

From the above and after going through the contract agreement and the term sale as envisaged under the provisions of VAT, the word term sale applies were the transfer of property in goods arise, herein this case the entire is covered under the term of the contract and there is no transfer of property as directly or indirectly. Therefore we are of the considered opinion no VAT is applicable.

Contd..3



According to the internal Circular No.A&V, dated 31.12.2007 issued by the Corporation, states that -

“recover the value of shortages, treating as misappropriation of funds of the Corporation property, recover from employees and simultaneously taking disciplinary action in accordance with the rules.”

Therefore, it will not come under the definition of sale as envisaged under the provisions of the VAT.

Opinion on Query No.2

With regard to the quality cut on the commodity purchased, as per the quality standards / specifications for the supplies from customers mostly includes exempted commodities, such as paddy, rice and sugar. There are very negligible quantities of other taxable goods like pulses. Though the quality cut is made on certain occasions, keeping in view of the material purchased. However there is no change in quantity. Therefore the quality cut reduction on VAT will not arise, as the quantity purchased and sold is one and same. There is no necessity to recalculation of VAT.

Opinion on Query No.3

As per the provisions of Section 65(105) (zzz) of the Finance Act, 2007, Service Tax is applicable on renting of immovable property wherever the total income exceeds Rs.10.00 Lakhs during the financial year.

This is for your kind information.

Thanking you,

Yours faithfully,

For ANJANEYULU & CO.,
Chartered Accountants,


(D V ANJANEYULU)
Partner