

No. C7/35395/06/CT

Office of the Commissioner
Dept of Commercial Taxes,
Thiruvananthapuram,
Dated 9/10/2006

CIRCULAR No.31/2006

Sub:- Kerala Value Added Tax Act, 2003- registration of medicine dealers – further instructions –reg.

As per section 8(e) of the said Act, an importer or a manufacturer of medicines and drugs falling under entry 36 of the third schedule to the Act can opt for payment of tax at four percent on the MRP of such goods. The registered dealers in medicines who purchase such goods from another registered dealer or manufacturer where the tax on MRP was paid in the State on an earlier sale are exempted from payment of tax under section 6(1) of the Act, and are also entitled to recover from the buyers the amount of tax paid by him at the time of purchase of such goods, and the turnover of such goods shall not be included in the total turnover for the purpose of section 6(5), if the dealer opts for payment of presumptive tax in accordance with section 6(5) of the Act, in respect of goods other than medicine and drugs.

A doubt has been raised as to whether the second and subsequent dealers in medicine who make their purchases from registered VAT dealers who have opted for payment of tax under section 8(e) of the Act, and collecting the suffered tax along with MRP but paying presumptive tax on their non-medicinal turnover should have TIN registration or PIN registration.

The matter has been examined in detail. Obviously, such dealers are permitted to collect tax from their buyers to the extent of tax paid by them to their suppliers, by virtue of the proviso to section 8(e) of the said Act. They are also eligible for payment of presumptive tax under section 6(5), on their non-medicinal turnover, subject to eligibility. Nevertheless, the dealers holding PIN registration and paying presumptive tax under section 6(5) of the Act, as a rule, cannot collect tax from their customers. The deviation from the general structure of the statute in this case is due to the special treatment given to the medicine dealers, permitting them to pay tax on MRP at the first sale point. Therefore, the situation does not warrant a deviation on the general concept that PIN holders are not entitled to collect any tax from the customers.

In these circumstances, the following instructions are issued:

Dealers in medicine who make their purchases from registered VAT dealers who had opted for payment of tax under section 8(e) of the Act, and collecting the suffered tax along with MRP, but paying presumptive tax on their non-medicinal turnover subject to eligibility, shall take TIN registration. The TIN status of such dealers shall not disqualify them from opting to pay tax at presumptive rate under section 6(5) of the said Act for non-medicinal items, subject to eligibility.

All earlier instructions issued in this regard stand modified to the above extent.

Commissioner

To
All Officers