

To, Shri V.N.Garg, I.A.S Executive Director, Udyog Bandhu, 12-C, Mall Avenue, Lucknow 3 UB/R-60/9163	To, Shri Chandra Bhanu, I.A.S. Secretary & Commissioner, Commercial Tax Deptt., Govt. of U.P, Vibhuti Khand, Gomti Nagar, Lucknow 3 VAT/R-60/9161	To, The Principal Secretary, Tax & Registration Deptt. Govt. of U.P, Secretariat Annexe, Lucknow 3 VAT/R-60/9162
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Sub: - The new notification no. 422 dated 31/03/11 and its anomalies – for suitable amendments.

Sir,

The commercial Tax Deptt. has issued a Notification no.422 dt. 31.3.2011 by virtue of which the Tax on Entry of Goods into Local Area on Iron & Steel has been subjected to five fold enhancement. Previously it was only 1% vide Notification no 2757 dt. 29.9.2008. A Notification no. 418 dt. 31.3.2011 issued to recompense the entry tax followed. This Notification though not apparently but in all its manifestations does not provide any relief to manufacturers but directly benefits the retailers only. The Rebate on Entry Tax has been made re-imbursible through payment in VAT. Thus 4 %VAT & 5% Entry Tax aggregates the Tax to 9% for manufacturer considering the restriction imposed by Sec. 15 of CST Act the Tax on purchases or Sales will not exceed 4%. This Cannot be assumed that Entry Tax is separate from commercial Tax/Sales Tax as rebate is channeled through VAT and is levied u/s 4 (Entry Tax Act) (9) on value of purchased scheduled goods. Moreover under section 13 (Entry Tax Act) XI (40 /Forty) Section of VAT Act apply to Entry Tax. Therefore, this Tax is being administered, levied, collected and recovered under commercial Tax Act and under the provision of commercial Tax Act section 15 of CST Act 1956 restricts the levy of Tax as is in excess of 4%. As such 5% Tax on Iron & Steel may not be considered tenable in the back ground. Your goodself can very well look to the off shoots of Notification which is only for retailers and may discriminate the manufacturers. While govt. is making all efforts to develop and promote the industrialization and this benefit is denied to manufacturers.

2. The department in its counter affidavit dated 07/01/09 in the matter of Gulabchand Vishwanath & Company vs Govt. of UP in W.P. no. 2090 Of 2008 swore, "That the impugned Act facially and patently indicates that the benefits which is quantifiable and measurable is given to the payers of entry tax **as a class.**" This clause in the counter affidavit was inserted to contest the charges of discrimination levied in the aforesaid W. P. It is interesting that to do away with the same discrimination which existed in the Act, a new notification no. 500 dated 28 Feb 2009 (Entry tax Act no.8 of 2009) was issued which was explained through circular no 0910006 dated 17/04/09. At serial no.3 of the notification, it is clearly mentioned that, ".....in section-6 of entry tax Act, the previous portion indicating liability of entry tax before entry in to a local area, has been deleted. (This was only the discriminatory portion). Now in both the conditions whether liability arises before entry or after, the rebate will be available." However in the present notification, that IIA desires to be considered for modification, the same discrimination has arisen. Because the rebate will only be available to the retailers and **not to the manufacturers of Iron & Steel as a class.** IIA hopes that the intention & spirit of the counter affidavit before honourable High Court will be complied in Toto.

3. Notification No. 422 Dt. 31.3.2011 which imposes modified rate says, "Iron & Steel as defined in Section 14 of CST Act excluding" The exclusions have also created some ambiguity as S.no. (iv) of exclusion commences from "wires rolled", whereas the entry in CST Act begins with wire rods & wires rolled, drawn, galvanized, aluminized, tinned or coated such as by copper.

Therefore, considering the intention of legislature wire rods & wires appears to have been missed out due to clerical error. Apart from this, Entry Tax has already been declared ultra-virus by Allahabad High court & other courts of various states. Final decision is pending before the Apex court, where all high courts have ruled for its abolition. Therefore, the State Govt. will do justice by abolishing Entry Tax.

Therefore, it is requested that considering the rigours of competitive era & goods as declared goods under caption “goods of special importance” as well as their importance in development of trade & commerce & infrastructure building the entry referred to Notification above may kindly be amended as under:-

(i) Entry Tax may kindly be abolished.

OR

(ii) Entry Tax rates on Iron & Steel be brought down to 1%.

(iii) Rebate should be made available irrespective of their re-sale in the same condition or manufacturing.

(iv) “Wire rods & wires” may kindly be added in the beginning of schedule of Entry Tax rate (vide amended aforesaid Notification) at S.No. IV of the notification as defined in section 14 of CST Act.

Thanking you,

Yours faithfully,



Manish Goel
Vice-President
&
Chairman-EAC

To,

Shri V.N.Garg, I.A.S Industrial development Commissioner Govt. of UP, Secretariat, Annexi Bhawan, Lucknow	Ref.No. 3 VAT/R-60/9161 Shri Chandra Bhanu, I.A.S. Secretary & Commissioner, Commercial Tax Deptt., Govt. of U.P,	23.05.2011
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Sub: - The new notification no. 422 dated 31/03/11 and its anomalies – for suitable amendments.

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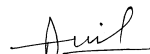
(ii) Entry Tax rates on Iron & Steel be brought down to 1%.

(iii) Rebate should be made available irrespective of their re-sale in the same condition or manufacturing.

(iv) “Wire rods & wires” may kindly be added in the beginning of schedule of Entry Tax rate (vide amended aforesaid Notification) at S.No. IV of the notification as defined in section 14 of CST Act.

Thanking you,

Yours faithfully,



Anil Gupta
President

Ref.No. 3 ID/R-60/9260

11.05.2011

To,
Shri V.N.Garg, I.A.S
Industrial development Commissioner
Govt. of UP,
Secretariat, Annexe Bhawan,
Lucknow

Sub: - The new notification no. 422 dated 31/03/11 and its anomalies – for suitable amendments

Sir,

Commercial Tax Deptt. has issued notification no.418 & 422 dated 31/03/11 on levy of entry tax on goods in a local Area. By these notifications entry tax which was levied at 1% up till now will instead be levied 5% henceforth. This amount to the extent of VAT paid i.e. 4% will be given as rebate to retailers only who sell Iron & Steel in the same form.

This benefit will go to the retailers only and manufacturers will be deprived of rebate and become incompetent.

Thanking you,

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Anil', written over a horizontal line.

Anil Gupta
President

To,

Shri Chandra Bhanu, I.A.S. Secretary & Commissioner, Commercial Tax Deptt., Govt. of U.P, Vibhuti Khand, Gomti Nagar, Lucknow	Ref.No. 4/2HO/R-60/9338 10-06-2011 Shri V.N.Garg, I.A.S Industrial development Commissioner Govt. of UP, Secretariat, Annexe Bhawan, Lucknow
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Subject: Imposition of 5% Entry Tax resulting in closure of large no. of Industries in U.P.

Sir,

Vide Notification No. KA.NI-2-422 dated 31st March 2011, Entry Tax on Iron & Steel has been enhanced from 1% to 5% for entry of goods in local area. As such, any product manufactured in U.P. using Iron & Steel imported from outside will attract 7% tax i.e. 2% CST + 5% Entry tax. Whereas if the same final product is imported from outside the state will attract 2% CST only.

Large number of industries in UP, manufacturing Iron & Steel products is almost at the verge of closure due to this notification and tax differential. Such industries include Manufacturers of Agriculture implements, Steel fabricators, Iron & Steel Component Manufacturers, Hardware & Mill store manufacturers, Railway component Manufacturers, Electrical goods & component Manufacturers, Auto parts Manufacturers, Capital goods manufacturers and many more.

Users of the products manufactured by UP industries now prefer to buy their requirements from outside UP . As such Govt. of UP is also losing heavy tax revenue.

In addition to the above, there are certain technical problems related to the implementation of Notification No.418 dated 31st March 2011.

In view of the above explanation, it is requested that the Notification No. KA.NI-2-422 dated 31st March 2011 may kindly be withdrawn in the overall public interest. However, if it is not feasible, the Iron & Steel Manufacturers in UP should be atleast exempted from Entry Tax.

Thank you.



Anil Gupta
President

To,
Shri Chandra Bhanu, I.A.S.
Secretary & Commissioner,
Commercial Tax Deptt.,
Govt. of U.P,
Vibhuti Khand, Gomti Nagar,
Lucknow

Sub: - Regarding amending/modifying notifications no. 418 & 422 dated 31/03/11 on entry tax on Iron & Steel and clearing way for rebate on Iron & Steel.

Sir,

IIA through its letters no. 3 VAT/R-60/9161, dated 09/04/11 and no. 3 VAT/R-60/9315, dated 06/06/11 had requested to reconsider the impact and adverse effects of entry tax on manufacturers of Iron & Steel and Iron & Steel goods. IIA had also sought an interview with your goodself which you were pleased to grant. During discussion on the above problem, your goodself desired to substantiate our cause through concrete evidence.

In the above context, IIA wish to inform you that we have made an in-house search and found that there is substantial fall in the turnovers of all manufacturers of agricultural implements, Hardware & Mill stores, Electrical goods and other goods manufactured out of Iron & Steel. It ranges between 10-15%. Consequently, the revenue generated under entry tax does also have a fall of an average of 5% or so. This is despite the fact that entry tax on Iron & Steel has been enhanced to 5 fold.

Under the above circumstances the Iron & Steel manufacturing industry feels that the business will not yield the results so far perceived. Thus it will be a great loss to the ex-chequer as well as to the industry which may not be compensated.

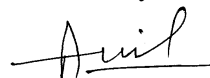
In the above context it is also to inform you that the State of Haryana which is our neighbouring State has exempted the importers of Iron & Steel exclusively manufacturing agricultural implements vide its notification no. S.O.81/H.O.10/2000, in the public interest. (Copy enclosed) Given the existence of this notification of exemption alongwith above factors renders the UP manufacturing units incompetent. If the present entry tax is continued in the same form, either the prices will escalate substantially or bring a closure to the manufacturing industry of Iron & Steel.

Therefore, it is requested that on Iron & Steel used for manufacturing of goods;

1. A rebate to the tune of entry tax paid may also be allowed without discrimination.
2. The rate of entry tax may be brought down to 1% as it existed before the aforesaid notifications.

Thanking You,

Yours Truly,



Anil Gupta
President

Ref.No. 3 VAT/R-60/9359

05.07.2011

To,
Shri Chandra Bhanu, I.A.S.
Secretary & Commissioner,
Commercial Tax Deptt.,
Govt. of U.P,
Vibhuti Khand, Gomti Nagar,
Lucknow

Sub: - Regarding amending/modifying notifications no. 418 & 422 dated 31/03/11 on entry tax on Iron & Steel and clearing way for rebate on Iron & Steel.

Sir,

This is with reference to our earlier letters no. 3 VAT/R-60/9161, dated 09/04/11, no. 3 VAT/R-60/9315, dated 06/06/11 and no. 3 VAT/R-60/9359, dated 24.06.2011 on the subjected matter of entry tax on Iron & Steel. The information and justification desired by your goodself in a meeting with IIA office bearers on 07/06/11 has already been sent to you by letter no. 3 VAT/R-60/9359. (Copy enclosed)

Keeping in view the urgency and revenue loss to industrialists as well as State Govt. due to the matter of entry tax on Iron & Steel, a delegation of IIA would like to meet you immediately to apprise the matter for an amicable solution.

Kindly provide us suitable date and time for the meeting at your earliest possible convenience.

Thanking You,

Yours Truly,



Manish Goel
General Secretary

To,

Shri V. N. Garg, I.A.S. Executive Director Udyog Bandhu, 12 C Mall Avenue Lucknow Ref.No. 3ID/R-62/9255 Dt. 11.05.2011	Shri Chandra Bhanu, I.A.S. Secretary & Commissioner, Commercial Tax Deptt. Govt. Of UP, Ref.No. 3VAT/R-62/9171 dt. 13.4.2011	The Additional Commissioner Commercial Tax Deptt. Govt. Of UP, Lucknow Ref.No. 3VAT/R-62/9209 dt 23.04.2011
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Sub:- Clarifications on Entry Tax on Iron & Steel.

Sir,

The Commercial Tax Deptt. has issued Notification No. 418 on entry of goods in to local area. By virtue of this notification the entry tax rate schedule has been amended and entry tax to the tune of 5% instead of 1% (which was previously levied) has been provided.

The above notification followed by Notification No.422 on rebate of entry tax has raised certain complicated problems for the tax payers which need immediate clarification so that they may not adopt their own interpretations due to complicated language of the notification.

The rebate on entry tax will be available to the extent of VAT payable. Which means that full rebate of 5% will not be available but instead it will be 4% which is in force on iron & steel under VAT Act. Thus, 1% entry tax deposited will always remain in ITC.

The entry tax rebate according to the notification will be available only when iron & steel purchased and is sold in the same form. This means the rebate will not be available for the manufacturers of goods from Iron & Steel.

When goods are imported from outside the state entry tax will have to be paid by importer of the goods then what would be the fate of the rebate if Iron & Steel is utilized in manufacturing and a product other than the Iron & Steel imported is manufactured and is classifiable under section 14 of CST Act.

Such questions and others are worrying the manufactures for which IIA is receiving representations for clarifying the complexities of the above two notifications. Therefore, in the interest of the business and revenue as well, an official clarification on the questions raised by honourable members is required to be issued as not to leave any room for discretionary interpretations by the different officers and Tax payers.

Therefore, an exhaustive circular and clarification on the following problems is immediately required to put both the notifications in to proper operation;-

In case of a trader of steel:

1. The trader purchases steel from a manufacturer in U.P. He pays a VAT of 4% and entry tax of 5% total 9%, for which he takes a credit i.e. a credit of 8% is taken in VAT.

When he sells them he pays a VAT of 4% and no entry tax, it means that a credit of entry tax shall always be available to him unless he sells the product at more than the double the purchase rate which is not possible. How the final settlement will be made?

2. The trader purchases steel from a manufacturer / trader from Ex U.P. He pays a CST of 2% and deposits entry tax of 5% and takes a credit of 4% i.e. entry tax deposited by him When he sells the product he pays a VAT of 4% utilising his VAT credit what will happen to 1% excess of Entry tax.

In case of a manufacturer who uses steel as a raw material:

1. The manufacturer purchases steel from a manufacturer of steel in U.P. He pays a VAT of 4% and entry tax of 5% total 9%, for which he takes a credit i.e a credit of 4% is taken in VAT. **(Whether the credit of entry tax can be taken by him or not and in which case the credit is available).** What will be the use thereof?

2. The trader purchases steel from a manufacturer / trader from Ex U.P. He pays a CST of 2% and deposits entry tax of 5%

(Whether the credit of entry tax deposited can be taken by him or not and in which case the credit is available)

1. As per the notification now the tax on steel is 4% VAT+5% Entry Tax total 9%.

2. As per the notification credit of entry tax can be taken in VAT. Now if we buy steel from a manufacturer within UP he shall charge VAT@4% and entry Tax @ 5% and we take the credit of both i.e. VAT and entry tax in VAT. How the balance will be treated?

3. If we buy steel from EX UP then entry tax has to be deposited by us @ 5%, in this case CAN we take the credit on entry tax deposited in VAT?

When a manufacturer sells the goods covered under section 14 of central sales tax Act (Steel) he pays 4% VAT and 1% (5% - 4%) as entry tax.

4. When a dealer purchase steel from UP he pays 4% VAT+1% entry tax.

5. When a dealer purchase steel from Ex UP he pays 2% CST (Non Vatable) and pays 1% (entry tax and 4% VAT when he sells the material the end user takes the credit of VAT, hence net tax is 7% - 4% =3%. What will be the afterwards process?

6. When a manufacturer purchases steel he pays 2% CST and 5% entry tax as he is not selling steel in the same form and pays total 7% tax.

What will be the equation in above cases?

7. It means every manufacturer has to route his purchase of steel through traders to reduce his burden of taxes.

The points on which the clarification is sought are of immense importance and require earliest solution. Your goodself is requested to procure official clarification from Commercial Tax Deptt. and an exhaustive circular classifying all the fine points of both the notifications as well as the clarification of the questions enumerated in this letter.

Thanking you,

Yours faithfully,



Manish Goel
Vice-President
&
Chairman-EAC

Efforts made so Far:-

- 1- Dated 23.4.2011 – A delegation of IIA met Additional Commissioner, Commercial Tax on 23.4.2011 and raised the problem with the new notification no. – 422 and 418 on entry tax on Iron & Steel.
The additional Commissioner was agree with the issues raised by IIA and ensured that in a meeting with Commissioner, Commercial Tax on 25.4.2011, the points will be discussed for an amicable solution.
- 2- President and Executive Director IIA met IDC on 11/05/11 and apprised him about the problems being faced by MSMEs in the State due to increase in entry tax.
- 3- A delegation of IIA lead by President met Secretary & Commissioner Commercial Tax to apprise him about the situation. The commissioner asked IIA to furnish the details of increase or decrease in revenue of affected industries.
- 4- A delegation of IIA again met IDC and requested him to expedite the matter. IDC assured that he will discus the matter with Commissioner Commercial Tax for an amicable solution.
- 5- IIA Head Office on 12/07/11 sent a mail to all IIA members to give their consent for filing the case in the High Court for relief.