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# EXCEL ENTERPRISES

MANUFACTURERS OF : P.S.C. Poles, Pillars & Other Allied Products.

Regd. Office :  
603, 6<sup>th</sup> Floor  
Bhuvaneshwar Plaza  
Off Buddha Marg, New Market,  
Patna - 800 001  
Ph. No. 0612-2224691, Mob. : 9334279402

Tin No. - 10203985035  
Cst No. - 10203985132  
Et No. - 10203985229

Factory :  
vill. - Rasalpur (Manpur)  
Gaya-Nawada Road  
Gaya - 823 003  
Ph. No. : 0631-2450081  
email : gayaexcel@gmail.com

Ref. ....

To, *17/3/13, 2013* Date *14/3/2013*

To,  
The Principal Secretary Industries cum IDC  
Government Of Bihar  
Patna

*sum of the amount to be taken up for work*

*1528/IDC  
14.3.13*

Sub. :- VAT Reimbursement under Industries Policy 2006 declared by Government of Bihar.

Dear Sir,

With reference to above subject we have to submit that we are a registered S.S.I unit under MICRO Industries vide Registration no.- 10035110495 dated 20.02.2009 as issued by G.M, DIC, Gaya (copy attached).

*1. This B.N.I. Passbook  
2. PL put up file to take this matter also before classification committee  
3. This is similar to CST issue relating to micro enterprises*

We are running our industries for manufacturing of P.S.C Poles at Manpur Gaya successfully, inspiteoff all constraints. We have availed vat reimbursement under the above declared incentive policy by your department for financial year 2007-08,08-09 & 09-10 for which a Passbook was issued by DIC as required and also a Eligibility Certificate from the same.

In compliance with the declared Government Policy the Assistant commissioner of commercial taxes, Gaya reimbursed the VAT incentive as per rule vide Bill No.- 75/2010-11,76/2010-11 & 77/2010-11 dated- 18.02.2011.

During the course of inspection by the audit team of Commercial Tax Department for the above mention period the audit team has pointed out vide a "Para 2 (a)" that the above claim of VAT reimbursement by us is not admissible, as then our industry fell into category of MICRO Industries as our investment in fixed assets was less than 25 Lacs and thus the money should be recovered back by us.

Further to support our claim and to satisfy the audit objection raised by the audit team, we cited them the Govt. of Bihar, Industries Department (Sankalp) letter No.- 3124, Patna Dated- 28.08.2006, which clearly states under Para 2 that all **SMALL /TINY** units shall be eligible for the VAT reimbursement.

Inspiteoff our all documentary evidence and request our Plea has not been accepted by the audit team of Commercial tax dept. stating that the same has not been notified by the commercial tax Department.

*3. Baillet  
14.3.13*

In their support they have cited letter No.- Sale Tax/ Sansodhan-05/2006/88/CCT/Patna Dated - 21/09/2007 of commercial tax department, (copy attached). In which only Large, Medium &

*2017/01  
15/9/13  
15/3/13*

*Serial no - 06  
15.03.13*

P.T.O

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**Ref.** ...Small Industries are mentioned, which is completely against the spirit of Industrial Policy 2006, Government of Bihar.

**Date** .....

There for it is requested that a suitable instruction may kindly be issued from your department to enable us and also other **MICRO/ TINY** Industries also to avail all the incentives.

Thanking you

Your's faithfully

For Excel Enterprises

  
(Partner)

VAT of Rs.1479130 during the year 2007-08, 2008-09 and 2009-10 i.e. the VAT deposited during these years as detailed below:-

Period	VAT paid	Reimbursement claimed/paid	Bill No.
2007-08	662827	530262	75/2007
2008-09	256475	205180	76/2010
2009-10	550828	440662	77/2010-11
<b>Total</b>	<b>1470130</b>	<b>1176104</b>	

The Unit had started production from May 2007 and their investment in fixed assets was Rs 0.12 crore and therefore as per classification of MSME Act, 2006, the industries having investment in plant and machinery worth Rs 25 lakh and below are categorised as micro industry.

It is worth to mention here that under the new Industrial Policy 2006, implemented by the Government of Bihar, as per Para 2(vi) all the new units will avail 80% reimbursement against the admitted VAT amount deposited in the account of the Government and this subsidy/incentive will be available to Small/Large/Medium industries only.

But this unit fall into micro category and was not eligible to avail reimbursement under Industrial

Policy, 2006 and therefore, reimbursement paid of Rs 1176104 was irregular and should be recovered from the dealer at the earliest alongwith the statutory interest @ 11.5% p.m.

After this was pointed out in audit the circle in-charge replied that the case will be examined. The result of examination may please be intimated to audit.

**(2)(b) Incorrect availing of concessional rate of tax under CST Rs. 1.67 lakh**

In the instant case on scrutiny of the CST and VAT returns of the dealer it was noticed that the dealer had made interstate sale at the rate of concessional rate of 1% during the first quarter of 2009-10 of Rs 1452875.

The concessional rate of 1% was prescribed under the S.O. 146 dt. 12.11.2006 for interstate sale by small and medium industries only. But as per the classification of industry given in section 7 of Micro, small and medium industries Act, 2006, the industries having investment in plant and machinery worth Rs.25 lakh and below are categorised as micro industry. As the dealer's investment in plant and machinery was only Rs. 0.12 crore therefore it would be classified under micro industry and he was not eligible for concessional rate of 1%.

Further, it was also noticed that the dealer, did not furnish any declaration in form 'C' to substantiate the claim of interstate sale, though, it was required, to be submitted within three months.

Therefore, the dealer was liable to pay the difference tax as calculated below:-  
Difference tax @11.5% (12.5--1) on Rs. 1452875 = Rs 167080.60

Beside the aforesaid amount of Rs.167080.60 the dealer was also liable for interest @.1.5% p.m. under the provision of section 39(4) of CVAI Act, read with section 9(2) of CST Act, 1956.

After this was pointed out in audit the circle in-charge replied that the case will be examined. The result of examination may please be intimated to audit.

**Para No. : 3 Irregular Claim of deductions, Rs 3.39 lakh**

Name of the dealer: - M/s Multi Engineering & Scientific Corporation

TIN VAT: 10201653038

Period: 2007-08, 2008-09 and 2009-10

The dealer is engaged in Civil & Engineering Construction, and filed his annual return as given below:-

Description	2007-08	2008-09	2009-10 (189)
Gross Turnover	42039696.50	52287569.06	41162221
Interstate Sale(-)	10631399.00		1318191.00