From

The Excise & Taxation Commissioner,
Haryana, Sector-5, Panchkula.

To

All the Deputy Excise & Taxation Commissioners (ST)
in the State.

Memo No. 674 /ST-1
Panchkula, dated the 7.5.2010

Subject: Instructions with regard to proceedings under section 49 of the Haryana Value Added Tax Act, 2003

As all the officers are aware, a provision empowering purchase of under-priced goods was introduced in the Haryana VAT Act, 2003 with the intention to deter the dealers from under-pricing their goods. This is an extremely potent provision which needs to be used very judiciously and with utmost care. The intention of the legislation is to curb malpractices of under pricing but at no stage it should be used in a manner that sends wrong signals. The purpose of these instructions, being issued u/s 56(2) of the HVAT Act, 2003, is to ensure that the law is implemented in its true letter and spirit. Following instructions may be kept in mind while undertaking proceedings u/s 49 of the Act:

i) The JETCs (R) and DETCs (ST) have been authorized u/s 49(1) of the Haryana Value Added Tax Act, 2003 to grant necessary approval to the officers working under their jurisdiction to make an offer to purchase the suspected under-priced goods vide order dated 6.5.2010 conveyed vide endst. No. 670/ST-1, dated 7.5.2010. Whenever it is required to proceed u/s 49 of the Act, approval of the competent authority i.e. DETC, should be sought within 24 hours of the detection of the case. In case the DETC is not present at the headquarter, the JETC(R) shall be the Competent Authority to grant such approval. It shall be incumbent upon the competent authority to approve or disapprove the proposal within further 24 hours.

ii) The officer proceeding under this section should then make an offer for purchase of goods as per the law to the owner of the goods within 24 hours of the grant of approval by the competent authority.

iii) The offer should clearly indicate the price of goods assessed by the officer, which will be taken into account while undertaking further proceedings under this section.

iv) A reasonable period of 2-3 days may be allowed to the owner of the goods to take a decision. However, if the owner turns up earlier than that, then the matter should be decided immediately.

v) In case the owner of the goods rejects the offer, or after accepting the offer fails to deliver the goods on the specified date and time and at the specified place, the officer should proceed to assess the tax and penalty as per the law.

vi) Under no circumstances, the goods should be detained only for the purpose of proceeding u/s 49 of the Act.

These instructions should be followed meticulously and should be conveyed to all the officers in the State.

(B.S.Dinodia)
Addl. Excise & Taxation Commissioner (T),
Haryana, Panchkula.

Endst.No. 675/ST-1, Panchkula, dated the 7.5.2010

A copy is forwarded to all the Jt. Excise and Taxation Commissioners (R) in the State of Haryana for information and necessary action.

(B.S.Dinodia)
Addl. Excise & Taxation Commissioner (T),
Haryana, Panchkula.

Endst.No.676/ST-1, Panchkula, dated the 7.5.2010

1. A copy of the above is forwarded to all the AETCs/ JETCs/ DETC/ JDLs and ETOs in the Head Office for information

2. A copy is forwarded to the PA/ETC for the inf. of Ld. ETC.

(B.S.Dinodia)
Addl. Excise and Taxation Commissioner (T)
For Excise and Taxation Commissioner, Haryana