

(Issued vide no. 1917/ST-1, dated 3.7.2006)

ORDER OF CLARIFICATION MADE BY SHRI L.S.M. SALINS, FINANCIAL
COMMISSIONER & PRINCIPAL SECRETARY, GOVERNMENT OF
HARYANA, EXCISE AND TAXATION DEPARTMENT
UNDER SECTION 56(3) OF THE HARYANA
VALUE ADDED TAX ACT, 2003

Querist: Dev Raj Advocate, Hisar

The question is whether interest u/s 20(8) of the Haryana Value Added Tax Act, 2003 ('the Act') is payable to a dealer on account of refund as a result of acceptance or partly acceptance of appeal in respect of penalty imposed u/s 31(8) from the date of actual payment to the date of refund or not?

Regarding applicant's query, a reference to sub-section (8) of section 20 of the Act is necessary. The said sub-section is reproduced hereunder:-

“Any amount ultimately found due to any person, which he paid as a result of an order passed under this Act, shall be refunded to him with simple interest at the rate of 1% per month for the period from the date of payment to the date when refund is given to him.”

The provision quoted above is a fiscal provision and has to be interpreted and implemented strictly.

Upon strict interpretation, which is the settled rule, it is clear that the interest payable will have to be calculated at the rate of 1% from the date the assessee made payment in compliance of an order made under the Act (in the present case order made under section 31 (8)), to the date of payment of refund. There is no conflict of sub-section (5) with sub-section (8) of section 20 of the Act. The former applies to those cases where some tax is paid voluntarily including as TDS but later, on appeal, revision or challenge before a court of law, some refund becomes due. Sub-section (8) covers those cases where certain amount has to be paid by force of an order passed under the Act which order is later set aside wholly or partly resulting in refund to the assessee.

Chandigarh
Dated:

(L.S.M. SALINS)
Financial Commissioner & Principal Secretary to
Govt. Haryana, Excise and Taxation Department