PART III

DEPARTMENT OF EXCISE AND TAXATION
(EXCISE AND TAXATION-II BRANCH)

NOTIFICATION

The 6th December, 2013

No.G.S.R.63/P.A.8/2005/Ss.8-D, 8-E and 70/2013.- In exercise of the powers conferred by sub-section (1) of section 70 read with sections 8-D and 8-E of the Punjab Value Added Tax Act, 2005 (Punjab Act No. 8 of 2005), and all other powers enabling him in this behalf, the Governor of Punjab is pleased to make the following rules, to carry out the purpose of the said Act, namely:-

RULES

1. Short title, Commencement and application. – (1) These rules may be called the Punjab Value Added Tax (Incentives) Rules, 2013.

(2) They shall come into force on and with effect from the date of their publication in the Official Gazette.

2. Definitions. – In those rules, unless the context otherwise requires,-

(a) 'Acts' means the Punjab Value Added Tax Act, 2005; Central Sales Tax Act, 1956.

(b) 'Agro Industrial and Food Processing Industries' means units which add value to agricultural produce, their intermediates and residues, and edible animal products by processing or by improving storability or by providing the link from farm to the market or part thereof. Agro Industry also includes hi-tech agriculture, fish processing, honey processing, cold chain infrastructure, steel silos and warehouses for foodgrains;

(c) 'agriculture produce' means produce of agriculture, horticulture, agro forestry, floriculture and bio-mass/agro produce;

(d) 'competent authority' means the Chief Executive Officer of the Punjab Bureau of Investment Promotion;

(e) 'eligible area' means an area eligible for incentives as specified in the Fiscal Incentives for Industrial Promotion, 2013;

(f) 'Eligibility Certificate' means a Certificate granted by the competent authority;

(g) 'eligible period' means the maximum period during which an eligible unit can exhaust the incentive limit granted and it shall commence with effect from the date of approval of the unit;

(h) 'eligible unit' means a new unit which has to be set up at a new site. An existing enterprise which sets a new unit shall be eligible for incentives only if the new unit is located at an independent and distinctly separate site, may be in the same premises;

(i) 'existing unit' means any other unit which is not availing incentive under the Industrial Policy of 2013;

(j) 'Fixed Capital Investment (FCI)' shall include the investment of building (excluding land), plant and machinery and equipment in relation to an industrial unit, including miscellaneous assets, technical know-how and other cost components associated with the industrial activity as appraised and firmed up by Banks or Financial Institutions;

(k) 'Form' means a Form appended to these rules;

(l) 'Government' means the Government in the Department of Excise and Taxation;

(m) 'incentive limit' means the maximum cumulative quantum of tax incentive granted, which can be availed by an eligible unit during an eligible period;

(n) 'information technology' means information technology and telecommunication;

(o) 'Information Technology Industry' means information technology, hardware and software industries;

? (p) 'Integrated Steel Plant' shall mean a steel plant in which final end product is to be sold in retail sale such as sponge iron, billets, balooms, slabs etc. and is manufactured starting from iron ore or scrap and all the processes concerning such manufacturing are performed in the plant itself;

(q) 'Integrated Textile Unit' means which consists of composite process including spinning, weaving or knitting, processing and manufacturing of end products like fabrics, garments, towels, etc.;

(r) 'Interdepartmental Committee' means committee constituted as such by the State Government, which shall comprise representatives from the Department of Finance, Department of Industries and Department of Excise and Taxation;

(s) 'manufacturing' means a process by which the material is transformed into a different and distinct product with the minimum value addition of 25% in the value of the raw material, but does not include the process of treating, repairing, reshaping, reconditioning, assembling, electroplating, polishing, blending, cutting, dyeing, heat treatment, wire drawing and conversion of penultimate product into final product for the purpose of availing incentives;

(t) 'Negative List' means the list of units and goods specified in Annexure-A;

(u) 'Prescribed authority' means an Assistant Excise and Taxation Commissioner, incharge of the district;

(v) 'tax' means tax under the Acts, excluding surcharge under the Punjab Value Added Act, 2005;

(w) 'tax incentive' means the amount of tax collected and retained by the eligible unit but the retention of tax shall be restricted to that part of net tax liability accrued under the Acts (after adjusting it against input tax credit if any available), in case of the unit availing incentive scheme, which is adjustable against the incentive limit granted under the Industrial Policy of 2013. The net tax liability on account of surcharge accrued under the Punjab Value Added Act, 2005 shall not form the part of tax incentives;

(x) 'Zone I area' means an eligible area notified as such by the Industrial Policy of 2013; and

(y) 'Zone II area' means an eligible area notified as such by the Industrial Policy of 2013.

3. Conditions for eligibility and entitlement.- (1) The incentives shall be available to only the new manufacturing units which came or come into production on or after 1.4.2013. Section 8-B

(2) These incentives shall be available only after the unit commences its production. For the units which have come into production before the date of notification of these rules, the incentives shall commence from the date of notification.

(3) The new unit has to be set up at a new site. An existing enterprise which sets up a new unit shall be considered for incentives only if the new unit is located at an

independent and distinctly separate site, may be in the same premises.

(4) These incentive shall not be available to the goods specified in the Negative List given at Annexure 'A'.

(5) Tax Incentives shall be admissible to a unit which has been set up in an eligible area in respect of which an Eligibility Certificate has been granted.

(6) The maximum time period and maximum cumulative amount of incentive available for different kinds of industries and with different amounts of investment shall be as per the restrictions and tables.

(7) After the commencement of the production in the unit availing incentive, if in a quarter, the gross turnover of any already existing unit having stake holders in common with the unit availing incentive, comes down as compared to its base quarterly gross turnover, then for the purpose of determination of incentive, the gross turnover of the unit availing incentive in that period shall be deemed as equal to the amount by which the sum of gross turnovers of both the units in that period exceeds the base gross turnover of the already existing unit.

Explanation.- 'Base quarterly gross turnover' means an average quarterly gross turnover of the already existing unit over a period of two years preceeding the date of commencement of incentive for the eligible unit.

For the purpose of determination of incentive, the deemed gross turnover of the unit availing incentive shall be calculated as follows:- If the date of commencement of incentive for the eligible unit is 01.04.2014 and the already existing unit, having common stakeholders, is having an average quarterly gross turnover of rupees one lac only over a period of two years from 01.04.2012 to 31.03.2014 and subsequently, for the quarter 30.09.2014, a gross turnover of rupees seventy five thousand only is shown in respect of that already existing unit and a gross turnover of rupees two lac is shown for that quarter in respect of the unit availing incentive scheme.

Base quarterly gross turnover = Rs 1.00 lac
Sum of gross turnovers of both the units for the quarter ending 30.09.2014
= Rs (0.75 +2.00) lac
= Rs 2.75 lac

The deemed gross turnover of the unit availing incentive for the quarter ending 30.09.2014= Rs (2.75-1.00) lac=Rs 1.75 lac.

(8) If, any false declaration is given for the purpose of availing incentives or any incentives are availed for which unit was not eligible, the amount of incentives are liable to be recovered from the date of availment of such incentives along with interest compounded annually @ 18% per annum.

(9) The Government of India is in the process of introducing a uniform Goods and Services Tax (GST) regime throughout the country. In such event, the benefits related to incentives granted under the Acts or being availed would be suitably modified by the State Government in conformity with the Goods and Service Tax regime.

4. Quantum of entitlement.- (1) The tax incentives from the liability to pay tax under the Acts with regard to group of industries situated in different zones shall be available subject to the maximum benefits as per tables given below: Section 8-E

Incentives for new large manufacturing Sector units :

Eligible Area		Fixed Capital Investment from Rs.25cr to Rs. 100cr	Fixed Capital Investment from Rs.100cr to Rs. 500cr	Fixed Capital Investment above Rs.500cr
Zone I	Quantum of incentive available	60% VAT + 75% CST	70%VAT + 75%CST	80%VAT+ 75%CST
	Maximum cumulative quantum of incentive	60% of Fixed Capital Investment	70% of Fixed Capital Investment	80% of Fixed Capital Investment
Zone II	Quantum of incentive available	30% VAT+ 50% CST	35% VAT+ 50% CST	40% VAT+ 50% CST
	Maximum cumulative quantum of incentive	30% of Fixed Capital Investment	35% of Fixed Capital Investment	40% of Fixed Capital Investment
Eligibility from date of application in years		10	11	13

(i) Incentives for manufacturing sector units with Fixed Capital Investment from Rs 10 Cr to Rs 25 Cr:

Eligible Area	Fixed Capital Investment from Rs.10cr to Rs. 25cr	Maximum cumulative quantum of incentive	Eligibility from date of application in years
Zone I	50% VAT+ 75% CST	50% of Fixed Capital Investment	8
Zone II	25% VAT+ 50% CST	25% of Fixed Capital Investment	8

(ii) Incentives for manufacturing sector units with Fixed Capital Investment from Rs 1.0 Cr to Rs 10 Cr:

Eligible Area	Fixed Capital Investment from Rs.1cr to Rs. 10cr	Maximum cumulative quantum of incentive	Eligibility from date of application in years
Within approved Industrial Focal Points, Industrial Estates and Industrial Parks	50% VAT+ 75% CST	50% of Fixed Capital Investment	7

(iv) Incentives for Integrated Textile Units.

Eligible Area		Fixed Capital Investment from Rs. 150 Cr to 500 Cr	Fixed Capital Investment above Rs. 500 cr
Textile Zone i.e.			
(a) districts of Mansa, Bathinda, Muktsar, Fazilka, Ferozepur, Faridkot, Moga, Barnala, Sangrur, Patiala, Amritsar and Tarn Taran	Quantum of incentive available	80%VAT+ 80% CST	90% VAT+ 80% CST

(b)	All approved Industrial Parks, Industrial Focal Points and Industrial Estates in all districts of the State.	Maximum cumulative quantum of incentive	80% of Fixed Capital Investment	90% of Fixed Capital Investment
Eligibility from date of application in years			11	13

(v) Incentive for Agro and Food Processing Industry.

Fixed capital Investment	Fixed Capital Investment (Rs. 1Cr to < Rs.25 Cr)	Fixed Capital Investment (Rs. 25 Cr to < Rs.100 Cr	Fixed Capital Investment (Rs. 100 Crore and above).
Incentive	80%VAT+ 75% CST	85% VAT+ 80% CST	90% VAT+ 85% CST
Maximum cumulative quantum of incentive	80% of Fixed Capital Investment	85% of Fixed Capital Investment	90% of Fixed Capital Investment
Eligibility from date of application in years	10	10	12

(vi) Incentive for Electronic Hardware and Information Technology Industry.

Sector	Software Sector	Hardware sector
Investment	Fixed Capital Investment (Rs. 1 Cr and above)	Fixed Capital Investment 5 Crore and Above
Area	Mohali and Amritsar Only	Whole of State of Punjab
Incentive	80%VAT+ 80% CST	80%VAT+ 80% CST
Maximum cumulative quantum of incentive	80% of Fixed Capital Investment	80% of Fixed Capital Investment
Eligibility from date of application in years	10	10

(2) The maximum quantum of incentives from the liability to pay tax under the Acts shall be calculated at the prevalent rates of tax payable on the taxable turnover of the concerned units.

Section 8-D

5. Mode of availing tax incentive.- (1) An eligible unit shall make an application the competent authority for the grant of Eligibility Certificate for availing tax incentives. On receipt of the application, the competent authority shall refer the matter to the Interdepartmental Committee, constituted by the State Government, for the purpose of determination of Fixed Capital Investment.

(2) The Interdepartmental Committee shall determine the actual Fixed Capital Investment after taking into account the project appraisal report of the Bank or Financial Institution, certificate of Chartered Accountant, invoices of the purchases of capital goods and the industry norms regarding capital investment etc.

(3) Since the total Fiscal incentives cannot be more than 100% of the Fixed Capital Investment, therefore, the eligible unit shall inform the competent authority about the quantum of tax incentives it wants to claim, subject to the aforesaid cap of total Fiscal incentives.

(4) Keeping in view the provisions of rule 4, sub-rules(2) and (3) of this rule, the competent authority shall quantify tax incentives and issue an Eligibility Certificate to the eligible unit.

Section 8-D

6. Conditions regarding availability of input tax credit to a person purchasing goods from a unit availing incentive scheme,-(a) The unit availing incentives shall issue a VAT invoice/ Retail invoice, as the case may be, as is issued by a unit which is not availing incentive scheme. The provisions regarding availability of input tax credit as applicable to person purchasing goods from a unit which is not availing incentive scheme shall apply mutatis mutandis to a person purchasing goods from a unit availing incentive scheme:

Provided that if the goods sold by a unit availing incentive scheme on VAT invoice are subsequently sold or used in manufacturing, processing or packing of goods for sale, by a taxable person in the course of inter-state trade or commerce or in the course of export outside India, that taxable person shall be entitled to claim input tax credit only to the extent of tax actually deposited by the unit availing the incentives, in the State Treasury.

(b) Minimum period required for availing benefit of incentives,-

(i) if the unit availing the benefit of incentives dis-continues its business before the expiry of the incentives period or before the exhaustion of the incentive limit granted, it shall be liable to deposit the entire amount of incentives availed into the Government Treasury along with interest compounded annually @ 18% per annum; and

(ii) the unit availing incentives shall be required to continue its operation till it pays into the Treasury a cumulative tax amount equal to at least 50% of the amount of incentives availed. If any unit closes its business before the happening of such an event, it shall be liable to deposit the differential of the amount of incentives availed and the cumulative amount of tax paid into the Government Treasury, along with interest compounded annually @ 18% per annum.

7. Withdrawal of incentives.- The entire tax incentives granted in respect of an eligible unit, including the availed amount, shall be liable to be withdrawn by the Commissioner, if it is found that,- Section 8-D

(i) the Eligibility Certificate has been obtained by fraud, deceit, mis-representation, mis-statement or concealment of any material fact; or

(ii) the unit availing incentives has indulged in any type of malpractice like bogus billing, bogus claim of input tax credit; or

(iii) the unit has concealed any particulars from any return furnished by him; or

(iv) the unit has deliberately furnished incorrect particulars therein; or

(v) the unit has concealed any transactions of sale or purchase from his account books; or

(vi) the unit has not maintained intelligible accounts, which prevent the Commissioner or the designated officer to assess the tax due from him; or

(vii) the unit has availed input tax credit to which he is not entitled to; or

(viii) the unit has claimed refund which was not due to him; or

(ix) the unit has claimed credit in respect of tax, which was not actually paid,

In addition, the Commissioner may direct that the person who has been found to be indulging in any of the above irregularities or malpractices, shall pay by way of penalty, a sum equal to twice the amount of incentive availed by him. The provisions of section 56 of the Punjab Value Added Tax Act, 2005, shall also be applicable to such person. However, no order shall be passed by the Commissioner without affording opportunity of being heard.

8. Filing of returns.- (1) The unit holding Eligibility Certificate shall continue to file the returns in the manner as provided under the Acts and the rules made thereunder. Section 8-D

(2) Notwithstanding anything contained in these rules, the unit holding Eligibility Certificate,

shall attach an attested copy of the Eligibility Certificate and Treasury Receipts as proof of payment of amount of tax, which is outside the incentive scheme, alongwith the return. Such a unit shall continue to do so till the incentive is fully availed of or the period of incentive under these rules, expires, whichever is earlier.

Section 8-D

9. Assessment of tax.- (1) The assessment of an eligible unit in respect of which an Eligibility Certificate has been granted shall be made in accordance with the provisions of the Acts and the rules made thereunder, but it shall preferably be made within a period of one year from the date of filing of the annual statement or due to be filed, whichever is earlier. The additional demand so determined, if any, shall be paid into the Government Treasury as per the provisions of the Acts and the rules made thereunder.

(2) If an order of withdrawl of the incentives is passed before the Eligibility Certificate is due for expiry, the entire amount of tax incentive availed by the unit shall become payable immediately in lump-sum and the provisions relating to recovery of tax, interest and penalty, if any, under the Acts, shall be applicable in such cases. The provisions of section 35 of the Punjab Value Added Tax Act, 2005 shall also apply mutatis mutandis regarding recovery of tax, interest and penalty due under these rules concerning first charge of State on the property of the unit availing incentive.

Section 8-D

10. Registers to be maintained by the Prescribed authority.- The Prescribed authority shall maintain a register in respect of units availing incentive and entries regarding the grant of Eligibility Certificate shall be made in the register so maintained.

Section 8-D

11. Settlement of disputes.- If any dispute arises regarding eligibility of the unit or the quantum of incentives to be granted, the matter shall be referred to the Financial Commissioner (Taxation), whose decision shall be final and binding on the unit.

Annexure-A

[See rule 2(t)]

Negative List

1. Distilleries, Breweries, Bottling Plants and Canning Plants
2. Manufacturing of Tobacco products, cigar /Cigarettes and Gutka.
3. Traditional Brick/Tile Kilns except ceramic tile manufactured from basic stage.
4. Manufacturing of Cement
5. Vanaspati Ghee Mills
6. Rice Shellers (With Fixed Capital Investment of less than Rs. 10 Crore)
7. Refining of petrol products
8. Iron and Steel Industry except Integrated Steel Plants having Fixed Capital Investment of more than Rs. 100 Crore

D.P. REDDY,
Financial Commissioner Taxation and
Secretary to Government of Punjab,
Department of Excise and Taxation.

379/12-2013/Pb. Govt. Press, S.A.S. Nagar

Annexure-A

[See rule 2(t)]

Negative List

1. Distilleries, Breweries, Bottling Plants and Canning Plants
2. Manufacturing of Tobacco products, cigar /Cigarettes and Gutka.
3. Traditional Brick/Tile Kilns except ceramic tile manufactured from basic stage.
4. Manufacturing of Cement
5. Vanaspati Ghee Mills
6. Rice Shellers (With Fixed Capital Investment of less than Rs. 10 Crore)
7. Refining of petrol products
8. Iron and Steel Industry except Integrated Steel Plants having Fixed Capital Investment of more than Rs. 100 Crore

D.P. REDDY,
Financial Commissioner Taxation and
Secretary to Government of Punjab,
Department of Excise and Taxation.

379/12-2013/Pb. Govt. Press, S.A.S. Nagar