

## RECOVERY BRANCH

Recovery Branch at the Mumbai location went operational from February 2007 and is currently headed by one Joint Commissioner, two Deputy Commissioners, seven Assistant Commissioners, fifteen Sales Tax Officers and a supporting staff comprising of Sales Tax Inspectors and clerks.

This Branch has the jurisdiction consisting of Mumbai City and Suburban areas which stretches to Mulund in the East and to Borivali in the West. Recovery Branch at other locations all over the State have the same objects and functions described below.

### **Objective**

To recover arrears by taking recovery actions in the cases referred to the Recovery Branch by various other functional Branches.

### **Functions.**

- To attach u/s 33 the bank account of the dealer or his debtors to recover the arrears.
- To apply the provisions of Maharashtra Land Revenue Code, 1966 including issuance of R.R.C.'s to other districts/states.
- To levy and recover post assessment interest.
- To write-off arrears in confirmed non recoverable cases after exhaustive and thorough scrutiny.
- To grant installments to the arrears in the deserving cases and monitor the payments.
- To launch prosecutions under MVAT Act, 2002 section 74 (2) and 74 (3) (g) for willful non payment of taxes.
- To create a charge on asset of the defaulters under section 38 of the MVAT Act, 2002.
- To grant Tax Clearance Certificate and Tax Dues Certificate to dealer after proper scrutiny.

### **A) Process**

**1. Generation of recovery** : - Action of recovery is initiated in following circumstances:-

**Short payment in Return:** - Dealer file returns showing details of turnover, taxes to be paid, taxes paid along with return and balance taxes payable. In the case where taxes are shown payable but are not paid, Return Branch issues a notice **u/s. 20** of the MVAT Act, 2002 and demand gets generated.

**Statutory orders:** - Similarly, demand is raised through assessment order/corrective order and a demand notice gets issued with directions to the dealer to pay the required amount within thirty days of receipt of the said notice. On failure to comply and non preference of appeal the arrears get created.

Return Branch, Business Audit Branch and other branches where the arrears get

generated send such cases to the Recovery Branch after sixty days from service of the demand notice/form no. 213. During this period of up to sixty days the concerned Branch officer takes actions to recover the dues by way of attachment u/s 33. Enforcement Branch & L.T.U. operate on one window system and therefore recovery cases from these Branches are not pursued in this Branch.

The cases so obtained get distributed category wise among various authorities in the Recovery branch. Arrears are to be recovered as per the provisions of the MVAT Act and corresponding provisions of the MLRC Code. Post assessment interest is also to be levied wherever necessary. Case is closed after proof of payment of recovery including that of statutory interest payment.. The fact of closure is communicated back to the Branch, from which arrears were received.

## **2. Recovery Procedure**

**Allotment of cases:** - Case is received in the office of the Joint commissioner. Reference number is generated and then the case is forwarded to the respective Deputy Commissioner as per the Jurisdiction who in turn allots the same to the respective Assistant Commissioner or Sales Tax Officer as per the administrative convenience and work load. Assistant Commissioners of Sales Tax & Sales Tax Officers are empowered to initiate further recovery actions for the recovery of pending arrears.

**Bank and debtors Attachment:** - Defaulter is contacted on phone or through reminder to obtain information regarding payment of taxes. If the dues are not then action of Bank attachment gets initiated u/s 33. On failure of this action information of dealer's current debtors and assets is procured. Notice u/s.33 of the MVAT Act, 2002 on all debtors gets issued. If the arrears still remain pending then action under MLRC gets initiated against the movable and a immovable property..

### **MLRC procedure**

Maharashtra MLRC code is in operation since 1966. The arrears are recovered by invoking various sections of the said Code and actions up to the level of Auction.

**Closure of the recovery proceeding:** - The cases are returned back to the respective Branches after recovery, including interest, of the arrears when dealer pays the amount & produces proof of payment. The proof of payment is verified & then case is closed. The entry in the Recovery Register is closed before sending the file to concern branch.

**3. Powers of Recovery officer:** - Recovery officer can issue summons **u/s 14** of MVAT Act, 2002 for requiring personal attendance of defaulter and those who owe money to the defaulter or any person who knows details of property, whereabouts of the defaulter or any other person relating to the proceedings under the Act. If any person fails to attend without reasonable cause then action under Criminal Procedure Code may get initiated in suitable cases i.e. issue of bailable arrest warrant against the defaulter or the person. Sections 183 & 184 of MLRC, 1966 also provide for the arrest and imprisonment of the defaulter.

**B) Grant of instalments:** - Grant of installments is one of the jobs assigned to the

Recovery branch. Powers under proviso of **section 32(4)(v)** of the MVAT Act, 2002, have been delegated up to the level of Sales Tax Officer in Mofussil Areas and up to the level of Deputy Commissioner in Mumbai for granting installments in appropriate cases. The power is to be exercised by these authorities considering the preset monetary limits. Installment schedule shall not go beyond period of twelve months. At the same time it is seen that the recovery target does not fall short of the annual target.

Installments application should be accompanied by following documents.

1. Copy of return/ A.O. for which installments is sought.
2. Up to date debtors list.
3. Reasons for installment such as natural calamities, disallowances of claims.

**C) Procedure for giving tax clearance certificate:** The dealer will apply in prescribed **form 414**. On receipt of this form, the concerned recovery officer will make inquiry by way of unofficial reference with Return branch, L.T.U. branch, enforcement branch, business audit branch etc. Concerned branch should give report of dues within stipulated time i.e. within 2 days. If the concerned branch does not respond within two days, the Recovery Branch officer will issue a Tax Clearance Certificate to the dealer in **form 415**. After that entire responsibility will vest with that branch which has not given a report to recovery branch.

**D) Recovery Module** It is pertinent to note that the automation of the department is underway and many logistical issues (i.e. Receiving of cases in the Recovery Branch, allotment of cases, inter Branch information sharing, electronic service of notices, etc.) will be taken care of by the Recovery Module which is being developed for the said purpose. Therefore the above process should be read in that context.