MEMORANDUM ON STATE BUDGET: 2017-2018

The **Calcutta Chamber of Commerce** is pleased to submit a Memorandum on State Budget 2017-18 highlighting the points and suggestions for your kind consideration.

INTRODUCTION

EASE OF DOING BUSINESS IN WEST BENGAL

The Government of West Bengal has come up with a new Investment & Industrial Policy 2013 and various sector specific policies in the areas like Textiles, MSME, ICT, to provide fillip to the industrial investments in the State. Many significant measures have been taken to improve the 'Ease of Doing Business' in West Bengal by introducing time bound, process driven and ICT enabled systems to bring more transparency and reduce red tape.

Ease of 'starting a business' portrays the ease/difficulty with which an entrepreneur is able to establish a new business. A less cumbersome and less expensive process could result in prompt responses to starting a business and a larger tax base. However, it is known that starting a business involves getting a host of clearances and permits.

Approvals related to environment clearances, land procurement, construction permits, industrial safety permits and power connection are the obstacles in starting a business. Obtaining approvals and clearances is a time-consuming process involving multiple procedures; costs incurred in the whole process are significantly high.

Trade & Industries frequently face delays in obtaining tax refunds. So, there is a need to simplify complex tax processes and reduce the time taken for availing incentives. Various states have taken initiatives to ease paying of taxes and reduce the cost of tax collection. Time-bound subsidies and tax exemptions should be ensured to the units located in different zones.

It is also found that huge investment is blocked in VAT Refund for number of years, as the VAT assessment is not done. Refund of Value Added Tax (VAT) should occur automatically and in a time-bound manner. With regard to current refunds provisions have been made for e-application for refunds & system is working. But old period refunds are pending in spite of Hon'ble Finance Minister's announcement in Budget Speech for 2015-16 that post assessment refunds would be disposed off within September, 2015 an internal assessment is required about pendency of indisposed off cases for old post assessment refunds claimed by dealers.

The taxation and financial policies need to be streamlined with greater transparency.

1. VALUE ADDED TAX – INPUT TAX CREDIT

i) Artificial disallowances and restrictions in the Input Tax Credit (ITC) provisions of the VAT Law had complicated the entire issue for taxpayers as well as tax collectors. The law should be simplified. Rampant disallowance of input tax credit on the grounds of books and

accounts and stock register are prevalent at grass root level (even where books of accounts & stock registers, duly audited, were produced before assessing officer). Similarly disallowances of claim of ITC on the ground of misinterpretation of negative list are also widely prevalent in assessment proceedings. These are **root causes of substantial number of pending appeals and revision cases**.

ii) VAT Rules 19(8) provides for making payment in respect of purchases by buyer to the seller in the form of account payee cheque or draft or through electronic banking clearance, where such payment exceeds Rs.20,000/- a day. In such case where adjustment against the amount of any liability incurred by the payee for any goods supplied to the dealer to such payee input tax credit are not allowed. Such interpretation of this rule is very unreasonable and trade restrictive. There are similar provision under Income Tax Act 1961 vide Sec. 40A(3) which restricts payment of any expenditure otherwise than by an account payee cheque, but Income Tax Rules 6DD Para (d) exempts application of such provision where the payment is being made by way of adjustment against the liability incurred by the payee for any goods supplied or rendered by the assessee to such payee.

It is suggested that similar exemption should be allowed by considering claim of Input Tax Credit of a dealer.

iii) **ALLOWANCE OF INPUT CREDIT OF CONSUMABEL, STORES SPARE PARTS TO MANUFACTURER**

Presently a manufacturer registered dealer is not entitled to claim input tax credit or rebate on purchase of consumable stores, since it is not within the purposes specified in Sec 22 (4) of WB VAT Act. Under the WB Sales Tax Act 1994, concessional rate of purchase was allowed on such product by way of use of declaration form, but this facility had been denied under the VAT Act. Use of generator by trade and industry for captive generation is very common in the State of West Bengal. Still the negative list of input tax credit provide for disallowance of ITC claim on the same. It is suggested that **input tax credit should be allowed to registered manufacturer on purchase of consumable stores, factory premises, captive power generating units, consumable stores.** It is pertinent to note here that Maharashtra, Gujarat &Odisha states are allowing such credits under VAT Act.

iv) **ALLOWANCE OF INPUT CREDIT OF FUEL TO MANUFACTURER**

Input tax credit for a manufacturer registered dealer is not available under present law for use of goods in power and fuel, for example coal, furnace oil etc. used for manufacturing of taxable goods intended for sale in West Bengal (Sec.22(4) of WB VAT Act 2003). Furnace oil is a major input for few industries and is the 2nd highest cost of production after raw material in most of the cases and in case of few industries such as glass industry, it is the highest cost of production. It is pertinent to note that in almost all the states which are highly

industrialized, Input Tax Credit is allowed on furnace oil. Industries in West Bengal are at a disadvantage position in comparison to our competitors from other states who enjoy Input Tax Credit on furnace oil and as such local industries are devoid of level playing field.

It is very important for the industries to survive. There should be no inequality in so far as Government Taxes and duties are concerned. By not allowing the input tax credit on the VAT charged on furnace oil the industries in Bengal are being put at a major disadvantage.

It is suggested that input credit should be allowed on coal, furnace oil etc. to a manufacturing dealer. It may be classified as power and fuel products.

v) **REVERSAL OF CST**

Sec.22 Sub-Sec.7 provide for reversal of input tax credit in respect of dispatches of goods outside state otherwise than by way of sale (stock transfer etc.). It is linked with rate of tax under CST Act, which was 4% at the introduction of VAT Law and presently it is 2% w.e.f. 1st June 2008. It is proposed that the reversal should be linked with rate of tax under CST Act applicable to inter-state sale to registered dealers in place of mentioning any rate or any notification.

The rate was reduced from 3% – 2% by Union Government w.e.f. 1st June 2008 but no notification had yet been issued by State Government for reversal of input tax credit from 3% - 2% so far. In fact, there is a loss of revenue to the extent of rate of tax under CST Law, which is required to be reversed under State Value Added Tax Law and **there is no justification of reversal at a higher rate than rate of CST Act.**

vi) Sub-**Section 13A & 13B of sec 22.** It provides for allowing input credit only to the extent of output tax payable in cases where goods are sold at loss. **This provision is similar to the Sales Tax laws wherein sales tax paid was neither adjustable nor refundable.** It was only a one-way traffic.

When VAT laws were being framed, the then Commissioner, Commercial Taxes along with his team of officers explained in several meetings that VAT laws were simple and they understood the fact that if business prices moved up and down and losses could happen. One needed to add up the output tax, deduct the total input credit and pay the remaining balance to the department.

The amended law makes the provisions more complicated and cumbersome. The business is not a perfect science. Profits and losses go side by side. Prices move upwards and downwards. Losses do happen and are not by intention and or purpose as the basic aim of doing business is to make profit and to create wealth.

The retailers, distributive trade small and medium enterprises cannot comply with the provisions for all practical purposes. It is next to impossible to keep track of every unit of a product being sold at a loss and reverse the input credit. The provisions will only promote the inspector raj and corruption.

Such provisions need to be withdrawn and / or amended to bring uniformity, clarity and simplicity.

vii) **MAINTENANCE OF BOOKS OF ACCOUNTS**

Regarding maintenance of books and accounts and stock register etc. relaxation was provided by Finance Act 2010 giving retrospective effect from 01.04.2005 that **where turnover did not exceeded Rs. 2 crore, the provision for maintenance of records, books and accounts and stock register etc. were relaxed for the purpose of allowance by ITC claim.**

It is suggested that such limit should be enhanced from 2 crore to 5 crore considering the inflationary effect and providing relief to small dealers.

viii) **REFUND OF INPUT VAT CREDIT (ITC)**

A. At present the special facilities are granted to exporters for refund of input tax credit where the exporters are having export turnover 75% or more of total turnover.

It is suggested that the limit of 75% should be brought down to 50% for granting special facilities for refund on exports, as a large number of exporters are not getting this facility which is otherwise available to other exporters.

B. The module of Central Excise Law may be followed as an alternate suggestion, whereby all the purchases made by **the exporters should be exempted on execution of a bond by the exporters before an appropriate authority** and such exporters shall furnish proper certificate against their purchase invoice to the selling dealer, which may be prescribed by the Government through notification on furnishing of such certificate VAT should be zero rated on sales by any dealer to such exporters. Alternatively Form 12A should be made applicable to all types of exporters in place present provision relating to resale cases only.

C. Central Government vide Notification No. 19/2004- Central Excise under Rule 18 of Central Excise Rules, 2002, directs that there shall be grant of rebate of the whole of the duty paid on all excisable goods falling under the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986), exported to any country other than Nepal and Bhutan, subject to the conditions, limitations and procedures specified. By this provision a manufacturer charge excise duty on all our exports and claim rebate of same, after completion of physical exports from India and submission of proof of exports along with other supporting documents. Although a manufacturer can made exports without charging excise duty, under LUT, being granted by excise authority to exporters.

A manufacturer is utilizing credit amount of excise duty available in CENVAT account and getting its fund in rolling. It follows following system to get the rebate of excise duty charged on exports made.

a. Against the available credit in CENVAT account, it pays the excise duty at the time of export.
b. After physical export from India, against endorsed documents like ARE-1, EP copy of consignment and other supported documents, it lodge our claim for refund of excise duty with Excise department.
c. On average basis, it get refund of excise duty within 45-60 days of physical export from India.

PRESENT STATUS OF INPUT VAT

Almost 100% of raw materials are being purchased within West Bengal, where a manufacturer is paying VAT @5%. Out of total turnover, 50% of their sales are exports sale, wherein it do not charge any tax. 90% of balance 50% turnover is under Central Sale, it is charging CST @2%. Under the circumstances the VAT amount is getting accumulated. This has been the case for last few accounting years, thereby the working capital getting blocked.

Presently this carried forward credit amount is refundable after completion of assessment, which is going to happen in next two years, and if assessment is disputed and incomplete, the same is being refunded after completion of hearing which again will happen in another next two years.

As this amount will keep on accumulating every year, good amount or working capital of manufacturer is getting blocked.

It is, therefore, suggested to implement the same system of charging VAT in exports and grant of refund of same by VAT Department.

In case of excise, refunds are sanctioned on consignment basis. Considering the VAT amount per consignment, is less, the same can be arranged on monthly/ quarterly basis.

- **Allowing Input tax credit on payment made by way of Bill Discounting through thirty parties.**

  As per Vat Rule 19(8), a registered dealer who claims input tax credit or input tax in respect of any purchase while making payment in respect of such purchase, shall make such payment to the seller by account payee cheque or account payee draft or through electronic banking clearance, where such payment exceeds rupees twenty thousand in a day.

  Provided that this provision shall not apply to such purchasing registered dealers who proves that banking facility is not available at his place. The Departmental officers while interpreting the above provision of law are taking a very rigid view and are not allowing

the Input Tax credit, where the payment is made by way of bill discounting through thirty party.

In certain case, the assessee is unable to make the payment on time to the seller. Thus he gets into a financial arrangement with a third party, being a financer, in which the financer (third party) pays the bill amount to the seller on behalf of assessee via account payee cheque/RTGS. The financer deducts his charges from the gross amount and remits the fund to the seller. The assessee then pays the balance amount to the seller and reimburses the financer with the gross amount at a later date. Thus the seller receives the payment in two parts, one from the financer and the other residuary portion from the assessee. The financial arrangement usually is for 90 to 120 days.

D. VAT REFUND

Vat Refund is withheld till verification of input tax credit. A report for verification is called by assessing officer of the claimant dealer from the jurisdictional officer of the selling dealer on whose sales Tax Invoice ITC is claimed. At present there is no time limit within which such verification report is to be submitted by jurisdictional officer to the claimant dealer officer.

It is suggested that for submitting input tax credit claim verification report, a time limit of 60 days prescribed in the law otherwise it should be treated that the verifying officer has no comments to pass on and the claim should be accepted on the face of it.

All old refunds prior to amendment (viz. Refunds through ECS to Exporters) **should be granted on a time frame basis and such time frame should be provided in the law itself.**

2. TAX ARREAR – STEP FOR EARLY REALISATION THEREOF – SETTLEMENT OF DISPUTE SCHEME (SOD)

a) At present, under the new SOD declared Scheme, necessary applications for SOD are to be filed before 31-01-2017 where Appeal, Revision & Court Cases are pending up to the Assessment period ending on 31-03-2014. The present rates for settlement prescribed are as below:

Category		Applicable Rate for Settlement
ITC in Dispute		30%
For non-availability/outstanding Declaration Forms		100%

For other matters		60%

The time limit for applications for SOD is very short and the rates of taxes prescribed for settlement are also too high. Therefore, we suggest that the period for settlement should be extended to 31-03-2017 and the rates of settlement should be reduced as below:

Category		Applicable Rate For Settlement	Proposed Rate For Settlement
ITC in Dispute		30%	15%
For non-availability/outstanding Declaration Forms		100%	50%
For other matters		60%	30%

b) Steps taken so far for realization of tax arrears where the certificate proceedings are pending or arrear demands pending before Tax Recovery Officers but no appeal/revision/case in any court is pending have not yielded desired results. Since the GST is to be rolled out very shortly, it is desired that steps should be taken to minimize such arrear demands as well.

Accordingly we suggest that cases under certificate proceedings or pending with Tax Recovery Officers should also be included within the ambit of the Settlement of Dispute Scheme presently in operation.

3. CERTIFICATE CASES – TAX RECOVERY PROCEEDINGS

In practice it has been observed that while appeal/revision case is pending before Appellate Authority and connected stay application had not been disposed off by the Appellate Authority, the assessing officers initiate the recovery proceeding and forward cases to Tax Recovery Officers which is bad in law, in view of legal position as pronounced by High Court orders and orders of West Bengal Tax and Tribunal (WBTT).

It is, therefore, suggested that provision should be made in the VAT Act itself that during the pendency of appeal/revision case and its connected stay petition – neither any recovery steps would be taken against appellant dealer nor tax recovery proceeding would be initiated by Assessing Officer and in case of initiation of certificate case, the Assessing Officer should certify that no appeal/revision and connected stay petition are pending before Appellate Authority.

4. MEASURE TO AVOID MULTIPLICITY OF APPEALS/REVISION BEFORE KOLKATA HIGH COURT

As per present law appeal against the revision order passed by West Bengal Commercial Taxes and Appeal and Revision Board is filed before W.B. Taxation and Tribunal under the State VAT Law before Hon'ble Kolkata High Court under Central Sales Tax Act, although the facts and issues involved are similar in both the cases.

It is, therefore, suggested that both appeals/revisions should be filed before W.B. Taxation and Tribunal by way of amendment in the law. This amendment shall avoid multiplicity of appeals before two appellate forums and reduce pending litigations before Hon'ble Kolkata High Court.

5. RELIEF TO MANUFACTURING EXPORTERS BY PROVIDING DEDUCTION FROM TURNOVER OF SALES SIMILAR TO SALES IMMEDIATELY PROCEEDING OF GOODS (SEC. 16(1)(b) OF WB VAT ACT)

At present merchant exporters are purchasing goods for exports of the same goods in same form upon its purchases without payment of tax by way of availing deduction from turnover of sales U/s 16(1)(b) of the Act. Thereby merchant exporters are not to pay VAT on its purchases and their export sales are free of tax, which does not give rise to any claim for refund of VAT. But in the case of manufacturing exporters the law is not friendly to the exporters. Such manufacturing exporters are required to pay tax on purchases of raw materials and packing materials and on their sales there are no tax, resulting claim for huge amount of VAT refund.

It is suggested that the provision similar to Sec. 16(1)(b) and use of Form 12A should be introduced in the law for manufacturing exporters where the goods are used as raw materials, packing materials and capital goods.

6. TIME LIMIT FOR SUBMISSION OF VAT RETURNS FORM

At present the VAT Returns forms are voluminous. It requires number of annexure containing various details and such details are to be filed within one month from the end of the quarter.

It is suggested that without effecting any date of payment of tax the date of furnishing the return may be extended from 30 days to 60 days from the end of the quarter to allow dealers sufficient time to prepare voluminous details of annexure in VAT Return Forms.

At the same time there is a scope of simplification in the VAT Return Form. It is felt by various dealers that the present prescribed form is a complex one.

7. REVISED RETURN

At present a dealer is allowed to file a revised return within six months from the return filing due date. This period needs further extension. At the time of getting VAT Audit done, mistakes are detected in the returns already furnished which require rectification by way of filing a revised return.

Therefore, it is suggested that the period for filing of revised return should be extended for one financial year to 30 days ahead of furnishing VAT Audit report due date. It will not be out of place to mention here that under Income Tax Law, a revised return is allowed to be filed within one year after the end of the financial year or completion of the assessment proceeding, whichever is earlier.

8. ENTRY TAX

The levy of entry tax had become harsh on the trade, industry and commerce. Union Government is levying customs on import. General rate of tax had increased from 12.5% to 13.5%, 4% to 5% and simultaneously levy of entry tax had been imposed wef. 1 April, 2012. Therefore, **the multiple effects of two levies are adversely affecting the growth of the trade and industry in the state of West Bengal.**

9. WAY BILL

Under the new VAT regime all the registered dealers have a unique Registration No. on all India basis. As per the law, the registered dealers are required to mention the VAT/ST Registration No. on invoice. Transaction of a particular invoice can be tracked down through the help of computer as to under whose jurisdiction the same dealer is being assessed.

Under these circumstances, it is suggested that the requirement of Way Bill at the entry point of every State may not be required, as no transaction backed by invoice of registered dealer will be untraceable. Moreover, inter-state sales transaction is being computerized on all India basis whereby all inter-state movement of goods would be under control and the purpose of way bill would be achieved by computerization process itself.

Many states do not have any requirement of WAY BILL in the VAT Law and these states are receiving VAT revenues no less than West Bengal's revenue.

10. AMENDMENTS PROPOSED IN SCHEDULES OF VAT ACT

(A) Schedule AA of WB VAT Act: Sales by a dealer to a dealer located in SEZ is exempted from tax under Section 21A read with Schedule – AA of the W.B. VAT Act, sales by a dealer to a dealer registered as 100% EOU and other exporters registered with respective Export Promotion Council, established by Government of India, Ministry of Commerce should be placed under Schedule AA, so that no VAT is charged on purchases of goods by exporters either for resale or for consumption as manufacturers of export goods.

(B) Schedule C of WB VAT Act :-Taxation of Item no.83 Schedule C contains Power Tools, Air Tools, hand Tools like Drill Grinder, Blowers, Marble Cutter, Tapes, Wrenches, Drill bits etc but do not include its Spare Parts. Due to this omission Spare Parts of these

machines are legally treated under high rate of tax of 14.5% instead of mother item which are taxable at 5% VAT. If a machine is taxable at 5% then its primary parts (inputs) should also be taxable at 5%.

11. WORKS CONTRACT

Works Contracts are often executed by small dealers. They cannot maintain regular books of accounts. Rate of tax prescribed is very high for small dealers up to a prescribed limit of total turnover during the year, should be in the range of 1 – 4%.

It is suggested that special provision for levy of VAT on Works Contract by small dealers should be framed in line with the provision of Section 44AD of the Income Tax Act, 1961. The basic facility provided under the Income Tax Act, which are missing in the present VAT Laws are as under –

Contractor is not required to maintain regular books of accounts, rather only civil construction bill of supply of labour bill is required to be maintained.

Further it is also proposed a Compounded Rate of tax under Works Contract up to Sale of Rs.2 crore. Besides restrictions of bringing goods from outside the State for use in execution of Works Contract in West Bengal should be removed [Rule 39(2)].

12. PURCHASE TAX

There should not be any levy of purchase tax of business expenditure items which are not used either for resale or for manufacture for processing of goods. It has been a practice in the VAT Department to levy purchase tax on expenditure items like printing stationery, staff welfare and so on.

13. PENAL PROVISIONS

It was suggested in the White Paper that penal provision under VAT Act should not be more stringent than the existing State Sales Tax Act.

But the provision under VAT Act for levy of penalty as included the term for imprisonment have been included which is much more stringent than the provision under W.B.S.T. Act, 1994. Although our Chamber does not support any tax evader, definitely would like to ensure proper justice to all the dealers in terms that the promises made by the Empowered Committee to Indian citizens through White Paper.

Therefore, it is strongly suggested that the provision for imprisonment, (Sec. 93 etc) should be deleted for offences like maintenance of accounts, (Sec.63), reversal of input tax credit (Sec.22) nonpayment of security (Sec.26), Payment of tax & interest, way bill provisions (Sec.73) apart from seizure & levy of penalty), and so on and it should contain only

payment of fine to a prescribed sum. Imprisonment provisions under FERA had no place in FEMA (Foreign Exchange Management Act).

Penalty had been introduced for late filing of return. On principle, there is no dispute between the Govt. and the trade & business on this issue. But, where there is no tax liability due to nil gross turnovers, penalty should also be nil.

14. PENALTY – CASES OF MISMATCH OF PURCHASE OR SALE

Section 96 of the Act provides for 200% of the penalty for concealment of sales or purchase etc. While the interest of the government is required to be protected by prescribing the penalty present in the law, the cases of mismatch of purchase or sale in returns, where the dealer would produce sufficient evidences to prove that the dealer had no intend to reduce the amount of no tax payable by him, penalty should not be levied at all.

It is therefore, suggested that the law should be amended by way of explanation or proviso to explain that the cases of mismatch of purchase or sale where the dealer is not at fault, it would not be considered as case of concealment of sales or purchases.

15. PAYMENT OF DISPUTED AMOUNT OF TAX:

(i) FIRST APPEAL AGAINST ORDER OF ASSESSMENT

At present a dealer is required to pre-deposit 15% of the amount of disputed tax before the appeal is entertained by the Appellate Authority. This provision is too harsh and there is no limit of maximum amount. It creates more difficulties to dealers in whose case best judgement assessments are made at a very high figure.

It is therefore, suggested that the provision for payment of 10% of disputed tax or Rs.10,000/- whichever is lower should be made applicable before filing of Appeal.

(ii) BEFORE FILING REVISIONAT APPELLATE AND REVISION BOARD FORUM

As per the present law 10% of the amount of disputed tax or Rs. 5 lacs is required to be paid before the revision case is filed at Appellate and Revisional Board office. There are cases of arbitrary additions, illegal disallowances of input tax credit claims and tax demands arising from unreasoned passed assessment orders and on non-judicial appellate orders. Under these circumstances, it is not prudent to press for payment of part disputed amount of tax before filing revision case at the appellate.

It is therefore, suggested that the provision for payment of 10% of disputed tax or Rs.10,000/- whichever is lower should be made applicable before filing of Appeal.

16. POWERS OF APPELLATE OFFICERS IN APPEAL PROCEEDINGS

As per the present law in the course of 1st appeal, the Appellate Officer has no power to set aside the assessment order. Various instances have come to notice of Chamber where ex-parte assessment orders are passed and there are genuine reasons for accepting the dealer's plea and determining the turnover as per books of accounts and records of the dealer. In such cases determination of turnover in appeal proceedings is a cumbersome

process as the entire exercise of the assessing officer is required to be executed by the Appellate Officer.

It is suggested that the powers of the Appellate Officer in 1st appeal proceeding should be enhanced to set aside the assessment order, like similar powers held by Appellate and Revisional Board and Taxation Tribunal.

17. INDUSTRIAL PROMOTION SCHEME

For industrial development in the state of West Bengal there is a need of re-introduction of 3 years Tax Remissions Scheme or deferment of tax scheme. This proposal will boost setting up of new industries and expansion of existing industries. Alternatively new Industrial Promotion Scheme should be implemented immediately.

18. GRIEVANCES

It is suggested that a Grievance Cell should operate in the office of the Commissioner of Commercial Taxes to be headed by a separate officer for redressal of any grievance of dealers like Grievance Cell operating at Income Tax Department, like Ombudsman.

The Ombudsman Officer should have adequate power and his order should be made mandatory on departmental officers for compliance and removal of grievances. Otherwise this scheme would be just ornamental one.

19. INTEREST PAYABLE BY DEPARTMENT TO THE DEALER

At present payment of interest by the Department have been provided only in the cases of excess tax paid by the dealer which arise as a result of any order passed in appeals, revision or reference. It does not cover cases of excess tax paid as found in assessment proceedings.

It is suggested that following the principle of Income Tax Law, any excess tax paid by the dealer, which may be determined at any stage i.e. assessment or appeal or revision etc., should carry interest payable Government to dealers at the rate of interest charged from dealer on short payment of tax.

20. CENTRAL SALES TAX (CST)

The White Paper on state level VAT has accepted in principle the need of phasing out of CST. But on implementation part, it is silent for one or other reasons. At the same time the Government is citing examples of different countries where VAT has been successfully implemented, but on the point of implementation of VAT, we are dividing the whole concept into different parts. Some of the vital parts are left out and CST is one such vital part.

It is suggested that CST should be reduced to NIL on and from 1st April, 2016 against declaration forms.

21. E-FILING OF VAT AUDIT REPORT IN FORM NO.88

It is suggested the VAT Audit Report in form no.88 to be filed by dealer be made compulsory in E-filing Mode only.

22. E-FILING OF TAX RETURNS: EXTENSION OF THE CAPACITY OF THE SYSTEM (WEBSITE)

This is to note that the companies are facing difficulties in electronically furnishing returns on the last date of filing, because the system normally crashes due to congestion. This leads to the extension of the deadline for mandatory e-filing.

Hence it is suggested that in order to ensure smooth filing and to avoid system congestion, the capacity of the system (site) should be expanded similar to CBDT and Ministry of Corporate Affairs sites.

23. PROFESSION TAX

(i) Deemed Provision for Assessment for Profession under Profession Tax Law:

At present the deemed assessment provision is applicable for the period up to 31st March 2012 u/s 7(6) of the Act.

It is suggested such provision should be continued for future years as well.

(ii) A provision was introduced for branch-wise registration and enrolment for one entity under the profession tax law. **It is suggested to allow one taxable entity to have only one registration certificate or enrolment certificate as per the old law and the dealers should not be forced to obtain separate enrolment and registration for each and every branches.**

24. ENTERTAINMENT TAX

Entertainment Park has been put under negative list for the purpose of West Bengal Incentive Scheme for development of Industries and tourist Centers. It is also noted that Entertainment Tax is levied on the Amusement Park @ 20% which is a substantial amount. It is also noted that the Government is encouraging setting up of Multiplexes and exemption and incentives have been provided to new Multiplexes.

We draw your kind attention to the following facts-

1. Amusement Park, which has both educational as well as social benefits, is in the nature of infrastructure Project.

2. Amusement Parks provides impetus to tourism development and brings in all round growth in economy in the Region since it has a multiplier effect.

3. Almost all other states in the country encourage Amusement Parks by providing them incentives and have waived Amusement tax on new units so as to attract investments. Most Governments have also provided for incentives for setting up Amusement Park like Capital subsidy, interest subsidy, Income tax holidays and etc.

4. A study of benefits of Multiplex and Amusement Park shall reveal that Amusement Parks provide much more benefits compared to Multiplexes and hence deserve the same if not more encouragement.

5. The present rates of Entertainment Tax in various states are as follows:

West Bengal	20%
Uttar Pradesh	NIL
Bihar	NIL
Kerala	NIL
Orissa	NIL
Goa	NIL
Himachal Pradesh	No tax for first 10yrs
Rajasthan	No tax for first 5yrs

Uttaranchal	No tax for first 5yrs
Karnataka	No tax for entry up to Rs. 250/-
Gujarat	Entertainment and Electricity Tax holiday for 5-10 yrs.
Kerala	Entertainment and Electricity Tax holiday

Sir, without a Tax relief we fear that the social and other benefits will not come to its full right. We therefore pray your honor to encourage us by providing necessary incentives and also by completely exempting Amusement Parks from Entertainment Tax, like other states if not at least, for the initial period of 10yrs.

25. ELECTRICITY DUTY

At present concessional rate of electricity duty are applied to farmers and agriculturists. It is suggested that such concessional rate should be extended to provisions of commercial corps i.e. tea, jute etc. Such concession is already available to the commercial corps producers in the State of Assam.

26. STAMP DUTY

Rate of valuation adopted for the purpose of payment of stamp duty by the Registration Offices are highly irrational and sometimes much higher than the present market value. It requires thorough revision for the sake of trade and industry.

PRE Budget Memorandum to Government of West Bengal on Stamp Duty on Notes or Memorandum (popularly known as Contract notes) sent by a broker or agent to his principal intimating the purchase or sale on account of such principal covered by Article 43 and its Sub-clauses contained in Schedule 1A.

Background:

1. Upon representation by some Chamber of Commerce based in Kolkata drawing the kind attention to the discrepancy in the rates of Stamp Duty on items covered under Article 43 of Schedule 1A as compared to those in other states, the rate in West Bengal was considered abnormally high which was causing the business being shifted to other states.

2. The W.B. Government was kind enough to consider the presentation and amended the Article 43 by the West Bengal Finance Act, 2015 (W.B. III Act, 2015) published in the Kolkata Gazette, Extraordinary, of the 24th March,2015.

3. However, for the unknown reasons or some misunderstanding the amendments to the Clauses of Article 43 were made in Clause(a) only as it stood prior to amendment.

   In the process, the Clause(b) of Article 43 which deals with the Stamp Duty on any stock or marketable security exceeding in value twenty rupees but not being a Government security was not touched upon at all and it remained the same as was there prior to 2015.

   This anomaly is causing the business of stock and share brokers getting diverted to other states where rate of stamp duty on these similar matters is $1/5^{th}$ (20%) of that applicable in West Bengal.

4. For better understanding of the matter the relevant portions of the Schedule 1A, Article 43 with its sub-clauses as they stood prior to amendment by Finance Act, 2015 and after amendment by Finance Act,2015 are attached as annexure "A".

   Submission (Requested Amendment)

   Honorable Sir, the anomaly which has remained un-amended is now being sought to be rectified as under:

   Existing Clause(b) of Article 43 of Schedule 1A be bifurcated into clauses(b), (ba),)bb), (bc) and the rate of Stamp duty be charged at the same rates as is being levied under clauses(a), (aa), (ab), (ac) of existing Article 43.
   This will bring the rate of stamp duty on contract notes of stock and share brokers 'at Par' with items covered by clause (a), (aa), (ab) & (ac).

   For better understanding of the matter we are attaching herewith Annexure "B" the "table" as it will appear if the requested amendment is given effect to.

   Net Result

   The requested amendment will bring the Stamp Duty chargeable under clause(b) i.e. on stock or marketable security "at par" with those in clause(a) i.e. of any goods. Accordingly, the stamp duty on stock or marketable security will also become chargeable at the rate of 10 paise for every Rs. 5000/- or part thereof as against 50 paise for every Rs. 5000/- or part thereof.

   Should you require elaborations or clarifications, our senior office bearers shall be giving an audience as and when called.

****

A. From the State Budget Memorandum 2017-18 the following points will be included in the current Memorandum

- Electricity Duty
- Stamp Duty

- Profession Tax – Single Window Tax Compliance

- Page 11 point 15- (i) Payment o Disputed Amount of Tax, (ii) – repeat

- Present Status of Input VAT- page 6 para 2

B.

- Amendment of GST Law – points to be raised in the GST Council

- Simplification in Refund- the Council is doing modification – the notification is drafted and circular issued in a designed and purposefully way.

- On GST - (i) on Gem and Jewellery - the write up has been given by Shri Prakash Pincha.

  (ii) Shri Rakesh Bhatia, Shri Anand Muskara and Shri Asok Chatterjewill will provide few points.

- Settlement of Dispute - like income tax, similar provision to be introduced in GST in case of anomally/mistakes in filling the forms – the Assessment Officer can correct the mistake; if payment is made in Cess by mistake in place of CGST/IGST/SGST/ISGST, rectification provision should be introduced.

- Amendment of SOD – 2011 amendment to be repeated and write up from Shri Asok Chatterjee.

- ITC 04 – write up from Shri Prakash Pincha.

Dear Anand,

Following point has come to my mind which should be included in Pre-Budget memorandum.

"**GST rates:** The case is ripe for a three-tier tax rates by merging the two rates of 12% or 18%. It could be 12% or 18% or both rates could be converged into a common tax rate of, say, 15 percent. While a rate of 15% may be welcomed by service providers in general which would imply going back to Service Tax times as far as tax rate in concerned, but a well planned balancing act would be needed in case of goods."

We will be sitting on Monday the 15th. Jan at 2.30 pm at my office for finalising the Pre-Budget Memorandum. I have requested Dr Tapa to send Mr. Pushpen babu to my office at that time to help me in finalisation.

Pawan Kumar Agrawal