

TAXMAN CAN SHUT YOUR BUSINESS: KLAAR! By Jonathan Hore

Ho! Ho! Ho! Yours Truly, what are you trying to tell us now? I know the taxman is powerful but what you are suggesting above is a little scary and I guess it may be wrong. You mean the taxman can close one's business? How come? Ok, how does he do that? Well, I know, that may be the first time that you read such a title to an article but let me talk to you a little more about this stuff and we will see whether the above title is a prank or reality.

Before I get deeper into these matters, let me be upfront to state that I am just going to restrict my analysis to the VAT Act. Below are some of the major things that can make the taxman close your business.

INCORRECT ISSUANCE OF TAX INVOICES

A perpetual offender to the set rules regarding tax invoices may invite the taxman's fury, which may lead to closure of his business. A tax invoice is a document which stipulates the particulars of a sale. It determines how much the one who issues the document should account as output VAT and how much the recipient should claim as input VAT. The VAT Act stipulates that a VAT-registrant should only issue one tax invoice in respect of a sale, which is called a 'supply' for VAT purposes. So, imagine a VAT-registrant who colludes with one of his clients and issues 10 different tax invoices in respect of one supply. What that means is that the client can get illegitimate VAT refunds from BURS. This has the obvious effect of defrauding the fiscus and hampers VAT collections. The difficulty with this is that if BURS audits the one claiming VAT refunds, they will see the tax invoices giving rise to those refunds and may then process it. However, you can imagine that such practices should be shrouded with mischief in that more than likely, the one issuing the tax invoices will not declare VAT on all the tax invoices. This may simply be a scheme crafted in such a way that when the client obtains the VAT refunds, the two fraudsters share the 'loot.'

There have been reports in the media where VAT registrants have claimed undue or fabricated VAT refunds in the past and some of them were processed. Such arrangements simply defeat efforts to collect revenue and certainly put the fiscus at risk.

The fiscus is equally threatened when illegitimate debit or credit notes are issued as that distorts the VAT that BURS is supposed to collect. Whenever those documents are played around with, the motive is likely to be to beat the VAT system, hence the control to shut down the business.

Fabricated VAT returns

The legislature foresaw the possibility of some VAT registrants not wanting to tamper with tax invoices, credit notes and debit notes but simply with the VAT returns. You have to realise that the taxman depends on what is called voluntary compliance and that simply means that he depends on every business doing things right and self-correcting any mistakes done. The main risk here is understatement of sales or overstatement of expenses in the VAT return. Alternatively, inappropriate VAT refund returns may be filed.

The dilemma though is that the taxman won't be there when VAT returns are prepared and he has no way of verifying the correctness of returns at time of submission. This can only be done through audits. So, the chances of manipulation exist, which the legislature wanted to block by putting the closure of business section in the VAT Act. One's business is their lifeline, in most cases and the threat that you may have it shut down is nerve-breaking.

COURT ORDER NECESSARY

So, what really happens when the taxman discovers that you have been playing catch-me-if-you-can and manipulating your VAT, especially with the intention of defrauding the fiscus? Well, he approaches the courts and obtains a court order to shut your business down. Now, imagine your major client walking into your premises and seeing the taxman busy shutting your offices or factory. That will be so much of an embarrassment and business loss.

I AM PUTTING CHAINS, LOCKS ...

After obtaining a court order, the taxman is then empowered to come to your premises and use reasonable force to among others, put chains, locks, fencing and close the business. Of course he will bring along a few officers (not BURS officers but armed officers) in case you want to pull a fight. Well, whilst these instances are not so common, they surely can be done as the taxman has the weaponry with which to attack. He has the VAT Act in his hand to use against any offending taxpayer.

Well folks, as yours truly says goodbye, remember to submit correct VAT returns and handle your VAT properly otherwise the taxman will close your business and you will be finished; KLAAR! And don't forget to pay to Caesar what belongs to him. Cheers!