

Technical Guide to Gujarat VAT



The Institute of Chartered Accountants of India
(Set up by an Act of Parliament)
New Delhi

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Foreword

VAT is an internationally recognized multipoint tax system. The principle of VAT contemplates levy of tax at each stage of value addition till the point of consumption, and realization of full tax on the final sale value from the consumer. In India, VAT was introduced in most of the State from April 1, 2005. Introduction of uniform VAT in the States was a challenging exercise in the federal country like India, where each State Government, in terms of constitutional provision, is sovereign in levying and collecting state taxes.

The system of VAT, on the one hand, remove the cascading effect of taxes as it allow credit of taxes paid at the earlier stages and thus benefiting the consumer. On the other hand, it increases the collection of revenue of the State Governments due to better compliance of the VAT Law by the dealers. The country is on the verge of most ambitious and largest ever indirect tax reform i.e. introduction of Goods and Services Tax which seeks to create a common national market by bringing down fiscal barriers between the States and reduce the complexities of current tax structure.

Considering that though the broad design of the State-level VAT is uniform across the country, every State has its own VAT legislation and procedures differ on many counts from one State to another, Indirect Taxes Committee of the Institute of Chartered Accountants of India (ICAI) published Technical Guides to VAT in respect of 10 States in the year 2014-15. During the year, the Committee has been revising all these guides as a publication in tax laws retains its significance only when it is updated and reflects the current position of the law. I compliment CA. Atul Gupta, Chairman, CA. Shyam Lal Agarwal, Vice-Chairman and other members of Indirect Taxes Committee of ICAI for their untiring efforts in bringing out the revised edition of *Technical Guide to Gujarat VAT*.

I am sure that this updated Guide would be warmly received and appreciated by the members and other interested readers.

Date: 31st July, 2015
Place: New Delhi

CA. Manoj Fadnis
President

Preface

Based on sound economic rationale, the system of Value Added Tax was introduced in majority of the States from April 1, 2005. The objective of bringing transparency in taxation, minimizing cascading effect of taxes and cutting trade barriers to large extent has been achieved as it allow credit of taxes paid on earlier stages and meticulous documentation is a *sine quo non* for it. Further, the requirement of maintaining tax invoices for claiming input tax credit has also increased self-compliance by the dealer and has thus resulted in increase in the total revenue of State Governments. The Country is now all set to witness another major reform i.e. introduction of GST which will integrate the principle of taxation of value added in India at the State level in the form of State VAT and at the Central level in the form of CENVAT.

In order to facilitate the members in understanding the State level VATs, the Indirect Taxes Committee in the year 2014-15 has brought out Technical Guides to VAT in respect of various States. Considering the changes made in the VAT Law through Finance Act, notifications/ circulars etc., the Committee thought it fit to revise all these guides as a publication in tax laws retains its significance only when it is updated and reflects the current position of the law. Accordingly, it has been revised. This revised guide intends to give a general guidance to the members to address the various issues that may arise in the Gujarat VAT.

I am extremely thankful to CA. Manoj Fadnis, President and CA. M. Devaraja Reddy, Vice-President, ICAI and members of the Committee for their support and guidance in this initiative. Further, I thank CA. Sharddha V Dhabalia for thoroughly revising the Guide with updated provisions of Gujarat VAT. I am sure that this revised publication would help the members and readers to be well equipped in effectively discharging their duties as Gujarat VAT practitioners.

I look forward to receiving feedback for further improvements in this Technical Guide at itdc@icai.in.

Date: 31st July, 2015
Place: New Delhi.

CA. Atul Gupta
Chairman
Indirect Taxes Committee

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Glossary

- (1) **“Agriculture”** with all its grammatical variations and cognate expressions includes floriculture, horticulture, the raising of crops, grass or garden produce, and grazing; but does not include dairy farming, poultry farming, stock breeding or the mere cutting of wood or grass or gathering of fruits;
- (1A) **“Additional Tax”** means the additional tax leviable and payable under sub section (1A) of section 7 or sub section (6) of section 9.
- (2) **“Agriculturist”** means a person who cultivates land personally for the purpose of agriculture;
- (3) **“Appointed day”** means the date on which the remaining provisions of this Act shall come into force under subsection (3) of section 1.
- (4) **“Business”** includes
- (i) any trade, commerce or manufacture or any adventure or concern in the nature of trade, commerce or manufacture, whether or not such trade, commerce, manufacture, adventure or concern is carried on with a motive to make profit or gain and whether or not any profit or gain accrues from such trade, commerce, manufacture, adventure or concern; and
 - (ii) any transaction of buying, selling or supplying plant, machinery, raw materials, processing materials, packing materials, empties, consumable stores, waste products, or such other goods, or waste or scrap of any of them which is ancillary or incidental to or resulting from such trade, commerce, manufacture, adventure or concern;
- (5) **“Capital goods”** means plant and machinery (other than second hand plant and machinery) meant for use in the manufacture of taxable goods and accounted as capital assets in books of accounts.
- (6) **“Central Act”** means the Central Sales Tax Act, 1956;
- (7) **“Commission Agent”** means a bona fide dealer who buys or sells, for an agreed commission, any goods on behalf of principals;
- (8) **“Commissioner”** means the person appointed to be the Commissioner of Commercial Tax for the purposes of this Act.

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- (9) (a) **“to cultivate”** means to carry on any agricultural operation; and
- (b) **“to cultivate personally”** means to cultivate on one’s own account
- (i) by one’s own labour, or
- (ii) by the labour of one’s own family, or
- (iii) by servants on wages payable in cash or kind (but not in crop share), or by hired labour under one’s personal supervision or the personal supervision of any member of one’s family.

Explanation I.-- A widow or a minor or a person who is subject to any physical or mental disability shall be deemed to cultivate land personally if it is cultivated by her or her servants or by hired labour.

Explanation II.-- In the case of a Hindu Undivided Family, land shall be deemed to be cultivated personally if it is cultivated by any member of the family;

(10) **“dealer”** means any person who, for the purpose of or consequential to his engagement in or, in connection with or incidental to or in the course of his business buys, sells, manufactures, makes supplies or distributes goods, directly or otherwise, whether for cash or deferred payment, or for commission, remuneration or otherwise and includes,-

- (a) the central government or a state government or any local authority such as municipality or municipal corporation or panchayat, a statutory authority, a company, a partnership firm, a Hindu Undivided Family or any society, club, association or body, incorporated or not, of persons which carries on business;
- (b) a casual dealer, that is to say, a person who whether as principal, agent or in any other capacity, undertakes occasional transaction of a business nature in any exhibition-cum-sale or auction or otherwise in the state, whether for cash, deferred payment, commission, remuneration or other valuable consideration;
- (c) an auctioneer, who sells or auctions goods belonging to any principal whether disclosed or not and whether the offer of the intending purchaser is accepted by him or by the principal or a nominee of the principal;
- (d) a factor, broker, commission agent, *del credere agent* or an auctioneer or any mercantile agent, by whatever name called, who carries on business on behalf of any principal whether disclosed or not;

Glossary

- (e) any person who transfers, otherwise than in pursuance of a contract, property in any goods for cash, deferred payment or other valuable consideration;
- (f) any person who transfers property in goods (whether as goods or in some other form) involved in the execution of a works contract;
- (g) any person who delivers goods on hire purchase or any system of payment by installments;
- (h) any person who transfers the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration; and
- (i) any person who supplies, by way of or as part of any service or in any other manner whatsoever, goods being food or any other article for human consumption or any drink (whether or not intoxicating) where such supply or service is for cash, deferred payment or other valuable consideration.

Explanation:

- (i) A society (including a co-operative society), club or firm or an association, which, whether or not in the course of business, buys, sells, supplies or distributes goods, directly or otherwise, from or to its members or other persons for cash, deferred payment, commission, remuneration or other valuable consideration, shall be deemed to be a dealer for the purposes of this Act.
- (ii) The central government or state government or a local authority or railway administration or port trusts or a statutory body, which, whether or not in the course of business, buys, sells, supplies or distributes goods, directly or otherwise, for cash, deferred payment, commission, remuneration or other valuable consideration, shall be deemed to be a dealer for the purposes of this Act.
- (iii) Any person or body, which disposes of any goods including unclaimed, confiscated, unserviceable, scrap, surplus, old, obsolete, discarded, waste or surplus product or goods, whether by auction or otherwise, directly or through an agent, for cash deferred payment, commission, remuneration or other valuable consideration, shall be deemed to be a dealer for the purposes of this Act.

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Exceptions:

The following shall not be deemed to be a dealer within the meaning of this clause:

- (i) an agriculturist who sells agricultural produce grown exclusively on land cultivated by him personally;
- (ii) an individual who sells exclusively any fish or any sea-food caught by him personally or by any member of his family on account of or on behalf of such individual; and
- (iii) a charitable, religious or educational institution, carrying on the activity of manufacturing, buying, selling or supplying goods, in performance of its functions, for achieving its avowed objects, which are not in the nature of business.

(11) **“Declared Goods”** means goods declared to be of special importance in inter-state trade or commerce under section 14 of the Central Act;

(12) **“Earlier Law”** means any of the following laws

- (i) the Bombay Sales of Motor Spirit Taxation Act, 1958
- (ii) the Gujarat Sales Tax Act, 1969 and
- (iii) the Gujarat Purchase Tax on Sugarcane Act, 1989 as amended from time to time and enactments which have validated anything done or omitted to be done under the aforesaid Acts;

(13) **“Goods”** means all kinds of movable property (other than newspapers, actionable claims, electricity, stocks and shares and securities) and includes live stocks, all materials, articles and commodities and every kind of property (whether as goods or in some other form) involved in the execution of works contract, all intangible commodities and growing crops, grass, standing timber or things attached to or forming part of the land, which are agreed to be severed before sale or under the contract of sale;

(13A) **HSN Code** means harmonized system of nomenclature code assigned to the goods specified in the schedules

(14) **“Manufacture”** with its grammatical variations and cognate expressions includes producing, making, extracting, collecting, altering, ornamenting, finishing, assembling or otherwise processing, treating or adapting any goods; but does not include such manufactures or manufacturing processes as may be prescribed;

(15) **“Person”** includes an individual, a joint family or Hindu Undivided Family, a company, a firm, an association of persons or body of individuals, whether incorporated or not, a society, club or any other institution, a local authority, the central government or a state government and every artificial juridical person not falling within any of the preceding descriptions;

(16) **“Place of Business”** means any place where a dealer carries on business and includes

- (a) a warehouse, godown or any other place where a dealer stores or processes his goods;
- (b) any place where a dealer produces or manufactures goods;
- (c) any place where a dealer keeps his books of accounts;
- (d) any vehicle or vessel or any other carrier wherein the goods are stored or transported;
- (e) any place of business of an agent by whatever name called through whom a dealer carries on business;

(17) **“Prescribed ”** means prescribed by rules;

(18) **“Purchase Price”** means the amount of valuable consideration paid or payable by a person for any purchase made including the amount of duties levied or leviable under the Central Excise Tariff Act, 1985 or the Customs Act, 1962 and any sum charged for anything done by the seller in respect of the goods at the time of or before delivery thereof, other than the cost of insurance for transit or of installation, when such cost is separately charged and includes

- (a) in relation to –
 - (i) the transfer, otherwise than in pursuance of a contract of property in any goods,
 - (ii) the supply of goods by any unincorporated association or body of persons to a member thereof,
 - (iii) the supply by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (whether or not intoxicating), the amount of cash, deferred payment or other valuable consideration paid or payable therefore,

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- (b) in relation to the transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract, such amount as is arrived at by deducting from the amount of valuable consideration paid or payable by a person for the execution of such works contract, the amount representing labour charges for such execution,
 - (c) in relation to the delivery of goods on hire purchase or any system of payment by installments, the amount of valuable consideration payable by a person for such delivery;
- (19) **“Raw Materials”** means goods used as an ingredient in the manufacture of other goods and includes processing materials, consumable stores and material used in the packing of the goods so manufactured but does not include fuels for the purpose of generation of electricity;
- (20) **“Registered Dealer”** means a dealer registered under the provisions of this Act, who holds a certificate of registration granted or deemed to have been granted under this Act;
- (21) **“Resale”** means a sale of purchased goods
- (i) in the same form in which they were purchased; or
 - (ii) without using them in the manufacture of any goods or without doing anything to them which amounts to or results in, a manufacture; and the word “resell” shall be construed accordingly;
- (22) **“Rules”** mean the rules made under this Act;
- (23) **“Sale”** means a sale of goods made within the state for cash or deferred payment or other valuable consideration and includes
- (a) transfer, otherwise than in pursuance of a contract, of property in goods for cash, deferred payment or other valuable consideration,
 - (b) transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract,
 - (c) delivery of goods on hire purchase or any system of payment by installments,.
 - (d) transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration,

- (e) supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration,
- (f) supply of goods by a society or club or an association to its members on payment of a price or of fees or subscription or any consideration,
- (g) supply of goods by way of or as part of any service or in any other manner whatsoever, of
- (h) supply of goods being food or any other article for human consumption or any drink (whether or not intoxicating) where such supply or service is for cash, deferred payment or other valuable consideration,
- (i) supply by way of barter of goods,
- (j) disposal of goods by a person in the manner prescribed in: *Explanation* (iii) to clause 10

but does not include a mortgage, hypothecation, charge or pledge; and the words “sell”, “buy” and “purchase” with all their grammatical variations and cognate expressions shall be construed accordingly.

Explanation: (i) For the purposes of this clause, “sale within the State” includes a sale determined to be inside the state in accordance with the principles formulated in sub-section (2) of section 4 of the Central Act;

(ii) for the purpose of sub-clause (b) of the expression “works contract” means a contract for the execution of works and includes such works contract as the state government may, by notification in the *official Gazette*, specify;

(iii) every transfer of property in goods by the central government, any state government, a statutory body or a local authority for cash, deferred payment or other valuable consideration, whether or not in the course of business, shall be deemed to be a sale for the purposes of this Act;

(24) “**Sale Price**” means the amount of valuable consideration paid or payable to a dealer or received or receivable by a dealer for any sale of goods made including the amount of duties levied or leviable under the Central Excise Tariff Act, 1985 or the Customs Act, 1962 and any sum charged for anything done by a dealer in respect of goods at the time of or before delivery thereof, and includes

- (a) in relation to
 - (i) the transfer, otherwise than in pursuance of a contract, of property in any goods,

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- (ii) the transfer of the right to use any goods for any purpose, whether or not for a specified period,
 - (iii) the supply of goods by any unincorporated association or body of persons to a member thereof,
 - (iv) the supply by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (whether or not intoxicating), the amount of cash, deferred payment or other valuable consideration paid or payable therefore;
- (b) in relation to the transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract, such amount as is arrived at by deducting from the amount of valuable consideration paid or payable to a person for the execution of such works contract, the amount representing labour charges for such execution;
- (c) in relation to the delivery of goods on hire purchase or any system of payment by installments, the amount of valuable consideration payable to a person for such delivery;
- (25) “**Schedule**” means a Schedule appended to this Act;
- (26) “**The State**” means the state of Gujarat;
- (27) “**Tax**” means a tax leviable and payable under this Act on sales or purchase of goods and includes lump sum tax leviable or payable under section 14, 14A, 14B, 14C or 14D;
- (28) “**Tax Period**” means a calendar month or a quarter as may be prescribed by the state government;
- (29) “**Taxable Goods**” means goods other than those on the sales or purchase of which no tax is payable under section 5;
- (30) “**Taxable Turnover**” means the turnover of all sales or purchases of a dealer during the prescribed period in any year, which remains after deducting there from
- (a) the turnover of sales not subject to tax under this Act;
 - (b) the turnover of goods declared exempt under sub-section (1) of section 5 or under a notification under sub-section (2) of section 5, and

- (c) in case of turnover of sales in relation to works contract, the charges towards labour, service and other like charges, and subject to such conditions as may be prescribed:

Provided that in the cases where the amount of charges towards labour, service and other like charges in such contract are not ascertainable from the terms and conditions of the contract, the amount of such charges shall be calculated in a manner as may be prescribed;

(31) “**Tribunal**” means the tribunal constituted under section 19;

(32) “**Turnover of Purchases**” means the aggregate of the amounts of purchase price paid or payable by a dealer in respect of any purchase of goods made by him during a given period after deducting the amount of purchase price, if any, refunded to the dealer by the seller in respect of any goods purchased from the seller and returned to him within the prescribed period;

(33) “**Turnover of Sales**” means the aggregate of the amount of sale price received or receivable by a dealer in respect of any sale of goods made during a given period after deducting the amount of sale price, if any, refunded by the dealer to a purchaser, in respect of any goods purchased and returned by the purchaser within the prescribed period;

(34) “**Total Turnover**” means aggregate of the following transactions effected by a dealer:

- (a) turnover of sales or purchases of goods within the state whether such sales or purchases of goods are taxable or exempt under this Act;
- (b) turnover of sales of goods in the course of inter-state trade or commerce;
- (c) turnover of sales of goods in the course of export of goods out of the territory of India;
- (d) turnover of sales by a dealer on his own account and also on behalf of his principal.

(35) “**Value of Goods**” means the value as ascertained from the purchase invoices or bills and includes insurance charges, excise duties, countervailing duties, value added tax, sales tax, transport charges, freight charges and all other charges incidental to the transaction of goods:

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Provided that where the purchase invoices or bills are not produced or when goods are acquired or obtained otherwise than by way of purchase, the value of goods shall be the value at which the goods of like kind or quality are sold or are capable of being sold in open market;

(36) “**Year**” means any financial year

(37) “**Zero Rated Sale**” means a sale of goods by a registered dealer to another registered dealer on which the rate of tax shall be zero but tax credit on the purchase related to that sale is admissible.

Chapter 1

Introduction

VAT was introduced in India on 1st April, 2005, as a part of Indirect Tax Law. VAT is a subject of state government and is levied on sale or purchase of goods within a state. Introduction of State VAT is an important reform measure at the state level. The State VAT has replaced the earlier Sales Tax systems of the states. Its main objective is to rationalize the overall tax burden and reduce the general price level. Thus, it seeks to help common people, traders, industrialists as well as the government. It is an important move towards more equal competition, bringing about efficiency and uniformity in the taxation system.

Value Added Tax (VAT) is a multi-point destination based system of taxation, with tax being levied on value addition at each stage of transaction in the production/ distribution chain. The term 'value addition' implies an increase in the value of goods at each stage of production or its transfer. VAT is a tax on the final consumption of goods and is borne by the consumer. That is why it is also known as consumption tax.

The main benefits of the implementation of VAT are:

- VAT is imposed on the basis of invoice/ bill at each stage of sales. It reduces tax evasion and thus increases the revenue of the government.
- Since it is available for input tax as well as for tax paid on previous purchases, it removes cascading effect.
- It makes the tax structure transparent, simple, and easy to understand.
- It promotes competitiveness of exports.

Gujarat VAT

VAT in Gujarat came into force from 1st April, 2006. Its basic legal framework is The Gujarat Value Added Tax Act, 2003. VAT and Sales Tax collection contributes around 39.92% of the total revenue of Gujarat Government.

The implementation of GVAT Act, 2003 has repealed the following Acts:

- The Bombay Sales Motor Spirit Taxation Act, 1958.
- The Gujarat Sales Tax Act, 1969, (GST Act).
- The Purchase Tax on Sugarcane Act, 1989.

The Role of Chartered Accountants

Chartered Accountants are well trained by the Institute of Chartered Accountants of India for the successful implementation and compliance of VAT. They can guide dealers in proper record keeping, tax planning and compliance procedures. As tax practitioners, chartered accountants can cater to the requirements of the industry efficiently. Through negotiations with suppliers, and by fulfilling VAT audit requirements and sorting out its queries, chartered accountants play a vital role in helping dealers to conduct their business with ease.

The chartered accountants, through attest function, also ensure that dealers pay taxes properly to the government, file their returns timely, and comply with the provisions of the Act properly. This helps the government in controlling tax evasion practices. Thus besides serving the industry, the chartered accountants also help the government in revenue growth by ensuring adherence to the provisions of law.

Chapter 2

Incidence and Levy of Tax

1. Incidence of Tax

Section 3(1) and 3(3):- Every dealer

- Whose total turnover during the year **exceeds rupees five lakhs** and whose **taxable turnover exceeds rupees ten thousand** in a year (the aforesaid amounts of total turnover and taxable turnover are hereinafter referred to as “thresholds of turnover”) shall be liable to pay tax with effect from the day on which the remaining provisions of this Act shall come into force as per Sec. 1 (3) (hereinafter referred to as “appointed day”), or
- Who was registered under the earlier law (Sales Tax) or under the Central Act (CST Act) shall be liable to pay tax with effect from the appointed day or
- Whose total turnover and taxable turnover in any year first exceeds the thresholds of turnover shall be liable to pay tax with immediate effect when his turnover calculated from the commencement of the year first exceeds the thresholds of turnover, or
- Who is registered or liable to be registered as a dealer under this Act or under the Central Act shall be liable to pay tax with immediate effect when he becomes so liable or the date of registration under this Act, whichever is earlier.

Section 3(2): A casual dealer or an auctioneer shall be liable to be registered if his taxable turnover of sales exceeds *ten thousand rupees* and shall be liable to pay tax in accordance with the provisions of this Act.

The dealer shall not be liable to pay tax in respect of thresholds of turnover as takes place during the period prior to the relevant date of effect under this sub-section.

Section 3(4): Every dealer who has become liable to pay tax under this Act shall continue to be so liable until the expiry of *one year* during which his turnover has remained below the thresholds of turnover.

Any dealer whose liability to pay tax under this Act ceases or his total turnover and taxable turnover during the year remains below the thresholds of turnover, may apply for the cancellation of his certificate of registration; on such cancellation, his liability to pay tax shall cease, but such a dealer shall have to pay tax till his certificate of registration is cancelled.

Section 3(5): Every dealer whose liability to pay tax under this Act has ceased under sub-section (4) or whose certificate of registration has been cancelled, shall, if his total turnover of sales or purchases calculated from the commencement of any year (including the year in which the registration has been cancelled) again exceeds the thresholds of turnover, on any day within such year, be liable to pay tax with effect from the date immediately following the day on which his total turnover again exceeds thresholds of turnover of sales effected by him after that date.

Section 3(6): Whereby an order passed under this Act, it is found that any person registered as a dealer ought not to have been so registered, then, notwithstanding anything contained in this Act, such a person shall be liable to pay tax for the period commencing with the date of his registration and ending with the date of such order, as if he were a dealer.

2. Certain Sales and Purchases not liable to tax- (Section 4)

Gujarat VAT Act or rules made there under shall not apply to the following transactions of sales or purchase:

- (a) in the course of inter-state trade or commerce; or
- (b) trade or commerce outside the State; or
- (c) in the course of the import of goods into or export of goods out of the territory of India,

3. Exemptions from Levy of VAT (Section 5)

- (1) The sale and purchase of the goods specified in Schedule I shall be exempt from tax subject to the conditions and exceptions set out therein against each of them in column 3 of the Schedule.
- (1A) The state government may, by notification in the official Gazette, add to, or enlarge, any entry in Schedule I, or relax or omit any conditions or exceptions specified therein, and thereupon the said Schedule shall be deemed to be amended accordingly.

- (2) (a) Subject to such conditions as it may impose, the state government may, if it considers it necessary in the public interest, by notification in the official Gazette, exempt any specified class of sales or purchases or sales or purchases of goods by any specified dealer or specified class of dealers from payment of the whole or any part of the tax payable under the provisions of this Act.
- (b) Where the state government considers it necessary in the public interest to continue tax exemption granted to the sale or purchase of goods by industrial units under sub-section (2) of section 49 of the Gujarat Sales Tax Act, 1969, it may, by notification in the official Gazette, continue such exemption with such modification, subject to such conditions and for such period, as may be prescribed.

3.1 Zero Rated Sale (Section 5A)

The following sale shall be zero rated sale for the purpose of this Act and tax credit on the purchase related to such sale shall be allowed subject to such conditions as may be prescribed:

- (1) Sale of goods to the developer or co-developer of Special Economic Zone as defined in the Gujarat Special Economic Zone Act, 2004; or
- (2) Sale of goods to a unit carrying on its business in the processing area or in the demarcated area of Special Economic Zone and approved as such by the Approval Committee as defined in the Gujarat Special Economic Zone Act, 2004:
- The sale of goods specified in Schedule III shall not be a zero rated sale
 - The sale of certain goods or sale of goods by any dealer or class of dealers as may be specified by the state government by notification shall not be a zero rated sale.

4. Levy of tax on turnover of sales and rates of tax

4.1 VAT

Section 7(1): Tax shall be levied on the turnover of sales of goods

specified in Schedule II or Schedule III at the rate set out against each of them in the said schedule II or Schedule III as the case may be.

4.2 Additional Tax

Section 7(1A): W.e.f. 01/04/2008, additional tax shall be levied on the turnover of sales of goods liable to be taxed under sub section (1) or on the turnover of purchases liable to purchase tax under section 9

➤ Details of VAT Rate & additional Tax applicable is as below

No.	Items	VAT Rate	Additional Tax
1	Schedule II, items having serial numbers 19A, 25, 46B, 48A, 49A, 49B, 51A, 76A and 87	12.5% or more	2.5%
2	Schedule II items other than entries mentioned in (1) above	4%	1%

Note:

1. Additional Tax is (leviable on sales price excluding VAT)
2. The Additional Tax is not payable on the tax payable under the lump sum Scheme

4.3 Additional tax shall not be levied on the sale of

- (a) Schedule I – Tax Free Goods.
- (b) Schedule II Entry 13 – Bullion & Species, gold, silver & other precious metals, precious stones & pearls and Articles/ gold jewellery / silver jewellery or both or other precious metals.
- (c) Such goods as the state government may notify in the official Gazette.

5. Purchase Tax (Section 9)

(1) Where a dealer who is liable to pay tax under this Act purchases any taxable goods from a person who is not a registered dealer, then there shall be levied on such dealer a purchase tax on the turnover of such purchases at the rate set out against each of such goods in Schedule II or Schedule III of this Act.

(2) Where a registered dealer purchases sugarcane from a person who is not a registered dealer, for the purpose of use thereof in the manufacture of sugar or *khandsari*, there shall be levied a purchase tax on the purchase of such sugarcane at the rate set out therefore in Schedule II of this Act.

(3) Where any person or dealer purchases any taxable goods under a certificate or declaration given by him under any provision of this Act or earlier law, rule or notification, and the conditions, recitals or undertakings of such certificate or declaration are not complied with, then such person or dealer shall be liable to pay purchase tax on the turnover of such purchases at the rate set out against each of such goods in Schedule II or Schedule III or at the applicable rate of tax under the earlier law as the case may be.

(4) Where a dealer or a commission agent who is liable to pay tax under this Act purchases taxable goods from a commission agent to whom permission to pay lump sum tax is granted under section 14B and goods so purchased by him are not resold within the state, then such dealer or commission agent is liable to pay purchase tax on turnover of such purchase at the rate set out against each of such goods in schedule II (W.e.f. 10.5.2006).

(5) Where a dealer liable to pay tax under this Act purchases taxable goods the sale of which is zero rated under section 5A and the goods so purchased by him are

- (i) consigned or dispatched for branch transfer or to his agent outside the state,
- (ii) used as raw material in manufacturing activity or in the packing of goods so dispatched outside the state in the course of branch transfer or consignment or to his agent outside the state,
- (iii) used as fuel for the manufacture of goods,
- (iv) used as raw material or capital goods in the manufacture of goods specified in Schedule I or goods exempt from the whole of the tax by a notification under section 5(2) or in the packing of goods so manufactured,
- (v) used as fuel or capital goods for generating electrical energy including captive power,

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- (vi) not connected with his business,
- (vii) used as fuel in motor vehicles,
- (viii) used as capital goods in transfer of property in goods (whether as goods or in some other form) involved in the execution of works contract,
- (ix) used for transferring the right to use for any purpose (whether or not for a specified period), for cash, deferred payment or other valuable considerations, or
- (x) used for any other purpose as may be specified by the state government by notification in the official Gazette

then such a dealer shall be liable to pay purchase tax on the turnover of such purchases at the rate set out against each of such goods specified in Schedule II(W.e.f. 1.4.2008).

Note: Additional tax is also levied on the turnover of purchases liable to Purchase Tax under section 9.

6. Rate of Tax on Packing Materials (Section 10)

Rate of Tax on packing materials shall be levied at the same rate at which tax is levied on the sale or purchase of main goods.

7. Adjustment in Tax (Rule 43)

For the determination of Taxable Turnover, the following adjustments are provided

Sr. No.	Section	Reason For Change in Sales	Time Limit For Adjustment
1	8(1)(a)	Sales Cancellation	No Time Limit
2	8(1)(b)	Discount or Rate Difference	One Year
3	8(1)(c)	Sales Return	Within six months from the date of transaction
4	-	Annual Discount or Quantity Discount	Within three months from the end of the year.

Chapter 3

Input Credit

Input tax credit (ITC) is available to a dealer in full on his inputs on receipt of tax invoice. The ITC is available on

- VAT & Additional Tax paid on purchases,
- Purchase Tax & additional tax under section 9, and
- Entry Tax paid under the Gujarat Tax on Entry of Specified Goods into Local Area Act, 2001.

1.1 Conditions for Input Tax Credit [Section 11(3)(a)]

Input tax credit can be claimed by a dealer subject to the following conditions:

1. The goods purchased should be intended for sale or resale within the state or, outside state or, in the course of inter-state trade or commerce or, in the course of export or, for the sale to EOU or, to a unit located in SEZ or, for Branch Transfer or consignment of taxable goods to other states.
2. For use as raw material or capital goods for manufacturing taxable goods intended for the above mentioned purposes or for packing of such manufactured finished goods, subject to the condition that capital goods are purchased after the appointed day.

If purchases are used partially for the purposes specified above, the tax credit shall be allowed proportionate to the extent they are used for the purposes specified above.

1.2 Input Tax Credit (ITC) On Capital Goods

ITC on Capital Goods is also available, except on the following:

- Capital goods used in the manufacture of goods specified in Schedule I or the goods exempted from the whole of the tax by a notification under sub-section (2) of section 5 or in generation of electrical energy including captive power;
- Capital goods, used in transfer of property in goods (whether as goods or in some other form) involved in the execution of works contract;

Further, the capital good on which input tax credit has been claimed should be used for a continuous period of 5 years, or else input tax credit is reduced proportionately.

1.3 Input Tax Credit on Fuel

Input tax credit on fuel used in motor vehicles or in the generation of electrical energy is not admissible.

ITC on other fuel, if used in manufacture, is available after deduction of 4% of tax paid on taxable turnover of purchase of such fuel within the state.

1.4 Input Tax Credit on Branch/ Consignment Transfer Transactions

Input tax credit on goods dispatched by way of branch or consignment transfer outside Gujarat or of raw materials used in the manufacture of goods which are dispatched by way of branch/consignment transfer outside Gujarat, shall be eligible after deducting 4% or applicable lower rate of tax on taxable turnover of their purchases within the state.

1.5 Reversal of ITC

ITC is required to be reversed (fully or partly) when ITC availed goods are used for non-specified purposes. ITC is also required to be adjusted for Debit Note or Credit Note for any change in consideration if tax is separately shown or for purchase return.

1.6 ITC Reversal @ 2% for Inter State Sales

If the goods are either sold/ resold in the course of interstate trade and commerce or are used as input in the manufacture of goods, which are sold in the course of interstate trade and commerce,

Input tax credit will have to be reversed @ 2% of taxable turnover of purchases within the state, of goods, other than Schedule-II (13) goods (bullion etc.), for which tax credit is admissible.

With effect from 1st October, 2014 ITC is required to be reversed @ 1% for interstate sales. However, the benefits of this reduction is not available for petroleum products and natural gas.

1.7 Input Tax Credit that is Not Admissible

Section 11(5)

Tax credit shall not be allowed for purchases

- (a) made from any person other than a registered dealer under this Act;
- (b) made from a dealer who is not liable to pay tax under this Act;
- (c) made from a registered dealer who has been permitted under section 14, 14A, 14B, 14C or 14D to pay lump sum amount of tax in lieu of tax.;
- (d) made prior to the relevant date of liability to pay tax as provided in section 3 (3);
- (dd) made prior to the date of registration;
- (e) made in the course of inter-state trade and commerce;
- (f) of the goods (not being taxable goods dispatched outside the state in the course of branch transfer or consignment) that are disposed of otherwise than in sale, resale or manufacture;
- (g) of the goods specified in Schedule I or the goods exempted from tax by a notification under sub-section (2) of section 5;
- (h) of the goods which are used in manufacture of goods specified in Schedule I or the goods exempt from the whole of the tax by a notification under sub-section (2) of section 5 or in the packing of goods so manufactured;
- (i) of capital goods used in the manufacture of goods specified in Schedule I or the goods exempt from the whole of the tax by a notification under sub-section (2) of section 5 or in generation of electrical energy including captive power;
- (j) of vehicles of any type and their equipment, accessories or spare parts (except when the purchasing dealer is engaged in the business of sales of such goods);
- (k) of the property or goods not connected with the business of the dealer;
- (l) of goods that are used as fuel for the generation of electrical energy meant for captive use or otherwise;
- (ll) of petrol, high speed diesel, crude oil and lignite, unless such purchase is intended for resale;

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- (m)** of goods that are used as fuel in motor vehicles;
- (mm)** of capital goods, used in the transfer of property in goods (whether as goods or in some other form) involved in the execution of works contract;
- (mmm)** of goods for which right to use is transferred for any purpose (whether or not for a specified period), for cash, deferred payment or other valuable considerations;
- (mmmm)** made from a dealer whose name has been published under sub-section (11) of section 27 or section 97”;
- (n)** of goods that remain as unsold stock at the time of closure of business;
- (nn)** of the goods purchased during the period when the permission granted under clause (a) of sub-section (1) of section 14 has remained valid under clause (b) of that subsection;
- (o)** where the original invoice does not contain the details of tax charged separately by the selling dealer from whom the purchasing dealer has purchased the goods;
- (p)** where original tax invoice or duplicate thereof duly authenticated in accordance with the rules made in this behalf is not available with purchasing dealer, or there is evidence that the same has not been issued by the selling dealer from whom the goods are purported to have been purchased.

Section 11(7) where a registered dealer without entering into a transaction of sale, issues to another registered dealer tax invoice, retail invoice, bill or cash memorandum with the intention to defraud the government revenue or with the intention that the government is defrauded of its revenue, the Commissioner may, after making such inquiry as he thinks fit and giving a reasonable opportunity of being heard, deny the benefit of tax credit, in respect of such transaction, to such registered dealers issuing or accepting such tax invoice, retail invoice, bill, cash memorandum either prospectively or retrospectively from such date as the Commissioner may fix.

Section 11(7A) In no case the amount of tax credit on any purchase of goods shall exceed the amount of tax in respect of the same goods, actually paid, if any, under this Act or any earlier law, into Government treasury.

Where purchase tax is shown as payable in the return by the claimant dealer on the purchase of the said goods effected by him, it shall be deemed to have been paid into government treasury for the purpose of this sub-section.

Where the tax levied or leviable under this Act or any earlier law is remitted or is to be remitted or deferred under any tax incentive scheme granted by the government, then the tax shall be deemed to have been paid into the government treasury for the purpose of this sub-section.

1.8 Calculation of Tax Credit (Rule 15)

(1) A registered dealer shall maintain the registers of purchase of goods and mention therein the name and place of the selling dealer, his registration number, serial number and date of tax invoice, description of goods along with HSN, quantity of goods, value of goods and the tax charged.

(2) A registered dealer shall claim tax credit under section 11 in a tax period in which he records, in his books of accounts, the tax invoice in respect of his purchases of taxable goods.

(3) A registered dealer shall calculate tax credit as per Form 201 and such calculation shall be made separately for each tax period.

(4) The amount involved in purchases specified in sub-section (5) of section 11 shall be excluded from the calculation of tax credit.

(5) The amount of tax paid under sub-section (1), (2), (5), or (6) of section 9 of the Act and the amount of tax paid under the Gujarat Tax on Entry of Specified Goods into Local Areas Act, 2001 shall be claimed in the tax period in which such amount has been paid.

(5A) A registered dealer entitled to claim tax credit under section 11 for the taxable goods held in stock on the date of registration shall furnish a statement in Form 111 of such goods which are purchased after 1st April, 2008 and during the period of one year ending on the date of registration along with the first return after registration.

(5B) A registered dealer entitled to claim tax credit under section 11 and whose permission to pay lump sum tax under section 14 is no longer valid because of turnover exceeding rupees fifty lakhs or is cancelled on his request, shall furnish a statement of such taxable goods in Form 112, which are held in stock on the date of liability to pay tax under section 7 and which are purchased after 1st April, 2008 and during the period of one year ending on the date of liability to pay tax under section 7. The statement shall be

furnished along with next return from the date of liability to pay tax under section 7.

(6) Where the tax credit (other than tax credit on capital goods) admissible in the year remains unadjusted against the output tax as per section 11, such amount shall be refunded not later than *expiry of two years* from the end of the year in which such tax credit had become admissible:

Provided that the dealer claiming such refund shall have to prove to the satisfaction of the assessing authority that the purchase of goods on which such tax credit had been calculated have been disposed of in the manner referred to in sub-section (3) of section 11 within the period by which refund under this sub-rule becomes admissible.

(7) In case of sales made in the course of export outside the territory of India and the amount of carried forward tax credit admissible under items (iv) and (v) of clause (a) of sub-section (3) of section 11 remains unadjusted, such amount of tax credit shall be refunded within *three months* of the end of the month in which such purchases were made.

1.9 Tax Credit in Respect of Transactions between the Commission Agent and the Principal (Rule 17)

(1) When a commission agent receives taxable goods from his principal for sale on his behalf, the principal shall issue tax invoice equivalent to the purchase price of the goods so transferred.

(2) The principal shall indicate the amount of tax separately in the tax invoice referred to in sub-rule (1).

(3) The tax to be indicated separately under sub-rule (2) shall be the amount which the selling dealer had charged on the goods purchased by the principal which is transferred to the commission agent.

(4) The liability of the principal to pay tax on such transfer of goods to the agent shall be as if it is a sale, and provisions of section 11 and the rules made there under shall apply, *mutatis mutandis*.

(5) The commission agent when selling the goods transferred to him by the principal shall be liable to pay tax under the Act on the sale price of such goods.

(6) The commission agent shall be entitled to claim tax credit under section 11 and the rules made for the purpose to the extent of the amount of tax charged separately in the tax invoice referred to in sub-rule (2).

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(7) When the commission agent has sold the goods on behalf of the principal, the commission agent shall send to his principal a monthly statement showing the following particulars:-

- (i) value (showing separately the amount of tax charged) of goods transferred by the principal,
- (ii) sale price along with the amount of tax charged separately on the goods sold by the commission agent,
- (iii) amount of the commission charged by the commission agent in respect of such goods sold by him on behalf of his principal.

(8) On receipt of statement referred to in sub-rule (7), the principal may include in his total turnover of sale the difference of the amount referred to in clauses (ii) and (i) of sub-rule (7) and may deduct a similar amount from his turnover liable to tax under section 7 of the Act.

(9) When a commission agent purchases taxable goods on behalf of his principal, he shall issue to his principal a tax invoice indicating the value of the goods purchased and the amount of tax charged in the original tax invoice of the goods so purchased, and shall accordingly be liable to pay the tax under section 7.

Provided that the commission agent may claim tax credit of the amount of tax charged separately on such purchase by the selling dealer in his tax period in which a tax invoice under this sub-rule is issued by him to his principal.

(10) The principal on receipt of the tax invoice referred to in sub-rule (9) shall show such purchases in his total turnover of purchases and section 11 of the Act and the rules made there under shall apply mutatis mutandis in respect of such purchases made by the commission agent.

(11) Where a dealer liable to pay tax under the Act transfers his business in whole or part as provided in section 51, the transferee of the business may claim the tax credit in the manner as under:-

- (i) in cases where business has been transferred wholly, the amount of balance of tax credit on the day of such transfer shall be deemed to be transferred to the transferee subject to the provisions of section 11 and the rules made there under,
- (ii) in case where business has been transferred in part, then the balance of the tax credit as admissible under the rules on the day of transfer shall be deemed to be transferred to the transferee subject to the provisions of section 11 and the rules made there under:

Provided that the transferor shall reduce such amount of tax credit transferred to the transferee under this clause in the tax period in which such transfer has taken place.

2. Calculation of Tax (Rule 18)

- (1) The net amount of tax payable under section 13 by a registered dealer, other than the dealer who has been granted permission to pay lump sum tax under section 14, 14A read with rule 28(8)(bb) ,14B, 14C or 14D shall be determined in Form 201.
- (2) If the amount calculated as per sub-rule (1) has a negative value
 - (a) the same shall be adjusted against tax liability, if any, under the Central Sales Tax Act, 1956 (hereinafter called 'central sales tax liability') for the said tax period and the remaining amount of central sales tax shall be payable; or
 - (b) if there is no central sales tax liability or if the central sales tax liability for the said tax period is less than the said negative amount, then no tax under the Act as well as under the Central Act will be payable and the net amount, after adjusting the central sales tax liability, shall be carried forward to the next tax period of the same year or, as the case may be, the subsequent year.
- (3) Net tax payable by a dealer liable to pay tax but not registered under the Act for a tax period shall be equal to tax payable for the said tax period and leviable under sections 7 and 9.

Deduction of charges towards labour, service, etc. (Rule 18AA)

- (1) The value of the goods at the time of the transfer of property in the goods (whether as goods or in some other form) involved in the execution of a works contract shall be determined by deducting the amounts paid by way of price for sub-contract made with a registered dealer, if any, pertaining to the said works contract.
- (2) A registered dealer who claims any deduction referred to in section 2 (30) (c) shall
 - (a) maintain true and correct records for such deductions;
 - (b) prove to the satisfaction of the Commissioner that he has actually paid the amount in the year in which he claims such deduction; and

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- (c) furnish true and correct evidence for claiming such deductions at the time of assessment or when asked to furnish any proceedings:

Provided that where the amount of charges towards labour, service, and any other charges are not ascertainable or the accounts maintained by the contractor are not sufficiently clear or intelligible, a deduction shall be admissible in accordance with the percentage mentioned in the Table given below, and the sale price of the goods at the time of the transfer of property shall be determined accordingly.

Sr. No.	Description of Works Contract	Percentage of Deduction
1	Construction, improvement or repair of any building, road, bridge, dam, canal or other immovable property.	30%
2	Installation, fabrication, assembling, commissioning or repair of any plant or machinery, whether or not affixed to any building, land or other immovable property.	15%
3	Installation, fabrication, assembling, commissioning of any Air conditioner plant, Air conditioner, Air cooler, whether or not affixed to any building or other immovable property.	10%
4	Assembling, fitting out, re-assembling, improving, producing, repairing or otherwise treating of furniture, fixtures, partitions including contracts of interior decoration.	20%
5	Installation, Fabrication, Assembling, Commissioning or Repairs of Lifts or elevators or escalators	15%
6	Construction, fabrication, assembling, commissioning or repairs of bodies on chassis of motor vehicles including three wheelers and fire fighters or of vessels of every description meant for plying on water	20%
7	Overhauling or repairing or dismantling any motor vehicle, vessels of every description meant for plying on water or any other vessel propelled	20%

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	by mechanical means, any aircraft or any equipment or part of any of the aforesaid items.	
8	Fitting out, assembling, altering, ornamenting, reassembling, blending, finishing, furnishing, improving, processing or otherwise treating, adapting or fabricating any goods.	15%
9	Erection, installation and commissioning of Wind Turbine Generator including power evacuation system.	30%
10	Fixing of marbles, slabs, polished granite stones and tiles (other than mosaic tiles).	20%
11	Fixing of sanitary fittings and plumbing.	15%
12	Painting and polishing.	20%
13	Laying of pipes, excluding plumbing.	20%
14	Tyre re-treading.	30%
15	Supply of goods in providing know-how, designs, labour, supervision, inspection, training or other services in connection with any of the operations specified in Serial Nos. 1 to 14 above.	20%
16	Dyeing and printing of textiles.	30%
17	Printing contracts.	30%
18	Any other works contract.	20%

The percentage shown in the Table shall be applied after first deducting from the total contract price the amount paid by way of price for the entire sub-contract made with the sub-contractor, if any.

The value of goods so arrived at under this rule shall, for the purposes of levy of tax, be the taxable turnover relating to the transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract.”

Chapter 4

Registration Procedure

Under Gujarat Value Added Tax Act, 2003 registration can be obtained in the following three ways:

1.1 Compulsory Registration

A dealer is compulsorily liable to obtain registration, when it crosses the limit of turnover as specified u/s 3. A dealer must apply within 30 days in **Form 101** immediately after he becomes liable to pay tax under the Gujarat VAT Act.

A dealer who is registered or liable to be registered under the CST Act also will be required to register under VAT

1.2 Voluntary Registration

A dealer having a fixed or regular place of business in the state and is not required to be registered under section 21, may apply in the prescribed manner for the certificate of registration to the authority prescribed for the purpose under section 21.

Dealers applying for voluntary registration have to deposit an amount of rupees **twenty-five thousand** in the government treasury otherwise certificate of registration shall not be granted. The dealer may, in his return to be furnished in accordance with section 29, adjust the amount so deposited (Rupees Twenty Five Thousand) against his liability to pay tax, penalty or interest payable under this Act.

1.3 Deemed Registration

Every dealer registered on the appointed day under any of the earlier laws or under the Central Act shall be deemed to be registered under section 21.

1.4 Registration Procedure

- The dealer has to apply for registration in Form 101 to the registering authority. Application for registration is to be made to registering authority in whose jurisdiction the dealer's chief place of business is

situated. A dealer applying for registration voluntarily or compulsorily has to deposit ₹ 10,000 as security by filling challan Form 207. This amount will be returned to him within 2 years from the date on which the number is granted. However, the deposit so paid cannot be adjusted against the payment of tax that is due to the dealer.

- In order to obtain voluntary registration a dealer is required to deposit ₹ 25,000 in the government treasury. The amount so deposited is eligible to be adjusted against the future liability of Vat Tax, Vat Interest and Vat Penalty. However, it cannot be set off against any liability to pay CST.
- Registration shall be effective from the date he became liable to pay tax. However, in case of belated application, registration shall be effective from the date he was liable to be registered under GVAT Act, 2003 and not from the date of application, and penalty may be levied for late filing of application, and the assessment of unregistered period will be done separately.
- Within 3 working days from the date of application the dealer will get a provisional registration number and within 30 days from the date of application permanent registration number will be issued. If the permanent registration number is not issued within 30 days then it is deemed that the provisional number has been converted into a permanent number.
- The Certificate of Registration is issued in Form 102 under GVAT Act, 2003 and in Form B under CST Act, 1956.
- Dealers can also apply for Tatkal Registration. For purposes of documentation, the procedure will be the same as above. However, in addition to documentation and security deposits by e-payment as above, ₹ 1000 by e-payment for each registration as processing fee will also be paid by the dealer. A provisional number will be issued within 5 working days and a permanent one within 30 days from the date of online application.

1.5 Application for Registration (Rule 5)

(1) Every dealer who is required by sub-section (1) of section 21 to possess a certificate of registration or any dealer who intends to apply under sub-section (1) of section 22 for a certificate of registration, shall make an

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application in Form 101 along with the following Forms appended to Form 101, to the registering authority

S.No	Enclosures	Purpose
1	Form 101	Application form for obtaining Registration under Gujarat VAT Act, 2003
2	Form 101A	Details of Additional places of business, branches and godowns in Gujarat.
3	Form 101B	Address of branches/godowns located outside Gujarat.
4	Form 101C	Specimen signature of the authorized person (required to be filled for each person).
5	Form 101D	Form for partners/ directors/persons responsible for the business
6	Form 101E	Additional information of business
7	Form 106	Declaration/revised declaration regarding the manager or managers of the business

Attested copies of the following documents are to be attached with the application for registration

- (a) Any one of the following documents for identification possessed by the proprietor, anyone of the directors of the company, anyone of the partners of the partnership firm or anyone of the members of HUF and others,
 - (i) PAN Card
 - (ii) Passport
 - (iii) Identity card issued by the Election Commission of India
 - (iv) Driving license
 - (v) Unique Identification Card

- (b) Any one of the following documents for residential proof possessed by the proprietor, anyone of the directors of the company, anyone of the partners of the partnership firm or anyone of the members of the HUF and others,
 - (i) Passport
 - (ii) Identity card issued by the Election Commission of India
 - (iii) Driving license

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- (iv) Unique Identification Card
 - (v) Last paid electricity bill (in the name of the applicant or his parents or spouse)
 - (vi) Last paid Telephone bill (in the name of the applicant or his parents or spouse)
- (c) Any one of the following documents for proof of place of business in the name of the applicant, his parents or spouse
- (i) property card or property tax bill of last year,
 - (ii) copy of index-2 issued by the Sub-Registrar of stamp duties,
 - (iii) agreement or lease deed duly executed in case of the rented premises,
 - (iv) certificate issued by the local authority in respect of shops and establishment,
- (d) Following documents:-
- (i) certificate issued by the registrar of companies and Articles of Association in case of a company;
 - (ii) Partnership deed in case of partnership firm or HUF.
- (e) copies of the Challan for payment of the amount of security”.

(2) A dealer who becomes liable to pay tax under section 3 shall submit an application for registration within thirty days of the relevant date of effect applicable to him as per sub-section (3) of section 3:

Provided that a dealer registered under any of the earlier laws who is deemed to have been registered under section 23 shall not be required to submit an application under this sub-rule.

- (3) A dealer having
- (a) one place of business shall make an application for registration to the registering authority within whose jurisdiction his place of business is situated;
 - (b) more than one place of business shall make an application to the registering authority in whose jurisdiction his chief place of business is situated.
- (4) An application for registration shall be made, verified and signed in the case of a business carried on by

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- (a) an individual, by the proprietor,
 - (b) a firm, by a partner thereof,
 - (c) a Hindu Undivided Family, by the karta,
 - (d) a body corporate (including a company, co-operative society, corporation or the local authority) by the director, manager, secretary or the principal officer thereof,
 - (e) a government department, by a person duly authorized to act on its behalf,
 - (f) an association of individuals to which clause (b), (c) or (d) does not apply, by the person managing the business of such an association.
- (5) In the case of a firm, every partner thereof shall furnish the declaration as provided in Form 101.
- (6) The person verifying and signing an application for registration shall specify in the application the capacity in which he does so and shall give particulars of the authority vested in him for verifying and signing the application.
- (7) In the case of a business carried on by an individual, a firm, a Hindu Undivided Family or an unincorporated association of individuals, the name and permanent residential address of such individual, each of the partners of the firm, members of the Hindu Undivided Family or, as the case may be, members of the managing committee of the association, and of persons having any interest in the business, shall be stated in the application for registration.
- (8) The application for registration shall be accompanied by two copies of a recent passport size photograph, duly attested by a Sales-tax Practitioner whose name has been registered in the list maintained by the Commissioner or by a gazetted officer or an advocate
- (i) in respect of an individual, the photograph of the proprietor,
 - (ii) in respect of a Hindu Undivided Family, the photograph of the Karta,
 - (iii) in respect of a partnership firm, the photographs of all the partners.
 - (iv) in respect of a private limited company or a limited company, photographs of all members of the board of directors:

Provided that in the case of a state or central government organization, it will not be required to furnish photograph of a person who is appointed as a nominee of the government.

(9) When a new person joins as a partner in the partnership firm or when a new director joins as a director of private limited company or a limited company which has already been given registration number, he shall furnish two passport size copies of his recent photograph in the manner prescribed in sub-rule (8), with an intimation of joining as partner or a director to the registering authority within *thirty days* from the date of his joining in the partnership firm.

(10) The application for registration shall be accompanied by details of property held by the dealer including the property held by the partner, director, trustee or the Karta of a Hindu Undivided Family:

Provided that in case of a person who is appointed as a nominee of the state or central government or a financial Institution, it shall not be necessary to furnish the details as provided in this sub-rule.

2. Security Deposit (Section 28)

Where the authority deems it necessary, to which an application is made under section 21 or 22 for issue of certificate of registration, so to do for the proper realization of the tax, penalty and interest payable under this Act, after an opportunity of being heard is given to the dealer, it may by an order in writing and for the reasons to be recorded therein, impose as a condition for the issue of certificate of registration a requirement that the dealer shall furnish in the prescribed manner and within such time as may be specified in the order, such security or the additional security as may be specified in the order for the aforesaid purpose.

3. Tatkaal Registration (Rule 6A)

(1) Notwithstanding anything contained in rule 5, the dealer who is required by sub-section (1) of section 21 to possess a certificate of registration; or any dealer who intends to apply under sub-section (1) of section 22 for certificate of registration, may apply for Tatkaal Registration online, in **Form 101** to the registering authority.

(2) A dealer applying for registration under this rule shall deposit by e-payment an amount of **rupees ten thousand** in the government treasury for each registration under the Act, or under the Central Act, towards security.

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(3) The amount so deposited towards security shall not be adjusted by the dealer against his liability to pay tax, penalty or interest under the Act. Such amount may be refunded on an application made by the dealer after two years from the date of registration if it is not required further for the purpose of realization of tax, interest or penalty.

Provided that the amount of tax, penalty, interest or any other dues under the Act, or under the Central Act, due from and payable by the dealer on the date of such refund, shall be first deducted from such refund.

(4) A dealer applying for registration under this rule shall deposit by e-payment an amount of **rupees one thousand** in the government treasury for each registration under the Act, or under the Central Act towards processing fee which shall not be refunded.

(5) A dealer applying for registration under this rule shall furnish a copy of the PAN card and any one of the following documents: In case of a proprietary firm;

- (a) proof for ownership of place of business,
- (b) a copy of the passport of the proprietor,
- (c) a copy of the Election card of the proprietor,
- (d) a copy of the Registration Certificate issued by Custom and Central Excise Authority,
- (e) a copy of the driving license of the proprietor,
- (f) a copy of the last electricity bill of the place of business,
- (g) a copy of the last property tax bill of the place of business, or
- (h) a copy of the last landline telephone bill of the place of business,

In case of a private limited or public limited company;

- (a) a copy of the Certificate of Registration issued by the Registrar of Companies,
- (b) a copy of the passport of any one of the directors,
- (c) a copy of the Election card of any one of the directors,
- (d) a copy of the Registration Certificate issued by the Custom and Central Excise Authority,
- (e) a copy of the driving license of any one of the directors,

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- (f) a copy of the last electricity bill of the place of business,
- (g) a copy of the last property tax bill of the place of business, or
- (h) a copy of the last landline telephone bill of the place of business,

In case of a partnership firm, HUF and others;

- (a) a copy of the deeds,
- (b) a copy of the passport of any one of the partners/members,
- (c) a copy of the Election card of any one of the partners/members,
- (d) a copy of the Registration Certificate issued by the Custom and Central Excise Authority,
- (e) a copy of the driving license of any one of the partners/members,
- (f) a copy of the last electricity bill of the place of business,
- (g) a copy of the last property tax bill of the place of business, or
- (h) a copy of the last landline telephone bill of the place of business,

Note: If a dealer applying under this rule cannot furnish a copy of his PAN card, then he shall furnish copies of any three of the documents specified in this sub-rule.

(6) A dealer applying for registration under this rule shall be given an opportunity for primary hearing within **two working days** from the date of online application. Such a dealer shall furnish two copies of his recent passport size photograph, the original documents and attested copies thereof at the time of primary hearing and copies of challan for the payment towards amount of security and processing fee.

(7) Such a dealer or a person authorized by him shall remain present on the date of primary hearing and produce the details of bank accounts.

(8) If an application for registration is in order and the registering authority is satisfied with reference to above requirements, a provisional registration number shall be issued **within five working days** from the date of online application.

(9) After issuing the provisional registration number to such a dealer, the procedure of post verification shall be carried out in accordance with the provisions under rule 5 and, if the registering authority is satisfied, a

Registration Procedure

certificate of registration shall be issued **within thirty days** from the date of online application.

(10) During the procedure of post verification, in accordance with the provisions under rule 5, if the registering authority is not satisfied with any detail furnished by the dealer, the provisional registration number issued earlier shall be cancelled with effect from its date of effect.

(11) Such a dealer shall not apply (online) for obtaining any statutory form until the date of issue of the certificate of registration.

(12) A (Non Localised or non-local dealer shall not be allowed to apply for Tatkaal Registration under this rule.”

Chapter 5

Amendment, Cancellation and Suspension of Registration

1. Amendment of Certificate of Registration (Section 26)

Where a registered dealer

- (a) Transfers his business, in whole or in part, or transfers his place of business, by sale, lease, leave or license, hire or in any other manner whatsoever, or otherwise disposes of his business or any part thereof or effects or comes to know of any other change in the ownership of the business;
- (b) Discontinues his business or changes the place of business thereof or opens a new place of business, or temporarily closes the business for a period more than **thirty days**;
- (c) Changes the name, style, constitution or nature of his business; or
- (d) Enters into a partnership or joins any other association in regard to his business or effects any changes in the ownership of the business,

The dealer has to intimate within **30 days from the date of change** to the Jurisdictional Authority for amendment in the Registration Certificate and it will be effective from the date of the above mentioned contingency or in case of belated application from the date of application.

If the dealer fails to comply with the above provisions without any reasonable cause then he may be directed to pay a penalty of ₹ 100 per day up to a maximum of Rs ₹ 5000 after being provided with an opportunity of being heard.

2. Cancellation of Registration

Section 27(1): A registered dealer whose certificate of registration is liable to be cancelled in the below mentioned cases has to apply for cancellation of registration to the prescribed authority in Form 103.

- (a) any business in respect of which a certificate of registration has been

Amendment, Cancellation and Suspension of Registration

issued to a dealer under this Act is discontinued, the certificate of registration shall be deemed to be inoperative with effect from the date of discontinuance;

- (b) in the case of transfer of whole business by a dealer, the transferee already holds a certificate of registration under this Act, the certificate of registration shall be deemed to be inoperative with effect from the date of transfer of the business;
- (c) an incorporated body has been wound up or it otherwise ceases to exist;
- (d) the owner of a proprietorship business dies without leaving any successor to carry on the business;
- (e) in case of a firm or association of persons, if it is dissolved; or
- (ee) a dealer changes his place of business situated within the jurisdiction of one authority to a different place falling under the jurisdiction of another authority.
- (f) a dealer has ceased to be liable to pay tax under this Act,-

In case of the above mentioned clause (c), (d), (e), (f) the certificate of registration shall be deemed to be inoperative with effect from the date on which dealer's liability to pay tax has ceased.

Section 27(5): If a dealer

- (a) has failed to file three consecutive returns under this Act;
- (b) knowingly furnishes incomplete or incorrect particulars in his returns to evade tax
- (c) has failed to pay tax due for three consecutive tax periods from him under the provisions of this Act;
- (d) having issued tax invoice or retail invoices, has failed to account for the said invoices in his books of account;
- (e) holds or accepts or furnishes or causes to be furnished a declaration, which he knows or has reason to believe to be false;
- (f) omitted;
- (g) has been convicted of an offence under this Act, or under the earlier law;

- (h) discontinues his business and has failed to furnish information regarding such discontinuation,
- (i) without entering into a transaction of sale issues to another dealer tax invoice, retail invoice, bill or cash memorandum with the intention to defraud the government revenue, or
- (j) who has been found evading tax on account of variation in physical stock compared with his regular books of accounts.

The Commissioner may at any time, for reasons to be recorded in writing and after giving the dealer an opportunity of being heard, cancel his certificate of registration from such date as may be specified by him.

3. Suspension of Registration Certificate

Section 27(5A): If a dealer

- (a) has failed to inform changes as required under sub-section (1) of section 26;
- (b) has failed to furnish his return under section 29;
- (c) has failed to pay tax under section 30;
- (d) has failed to file declaration or intimate the changes as required under section 65 or 66; or
- (e) has failed to produce the books of accounts required under section 67,

The Commissioner may, at any time, for reasons to be recorded in writing and after giving the dealer an opportunity of being heard, suspend his certificate of registration from such date not earlier than the date of order of suspension, as may be specified by him in the order.

- During the period of suspension, the dealer shall not be entitled to claim input tax credit.
- Where a dealer whose certificate of registration is suspended for the failure of any of the above mentioned reasons fulfils the requirements, the commissioner shall by an order in writing, withdraw the suspension order from such date as may be specified therein.

Section 27(6): Every person whose registration is cancelled under sub-section (5) shall pay in respect of every taxable good held as stock on the

Amendment, Cancellation and Suspension of Registration

date of cancellation an amount equal to the tax that would be payable in respect of the goods if the goods were sold at fair market price on that date or the total tax credit previously claimed in respect of such goods, whichever is higher.

Section 27(7): If an order of suspension or cancellation passed under this section is set aside as a result of an appeal or other proceedings under this Act, the certificate of registration of the dealer shall be restored and he shall be treated as if his registration was not suspended or cancelled.

Section 27(8): Every dealer who applies for cancellation of registration shall surrender with his application the certificate of registration granted to him and every dealer whose registration is cancelled otherwise than on the basis of his application as per Section .27(5) or Section 27(5A) shall surrender the certificate of registration within **seven days** from the date of the order of cancellation communicated to him:

If a dealer is unable to surrender the certificate of registration on account of its loss, destruction or defacement, he shall intimate the registering authority accordingly within **seven days** from the date of communication of order of cancellation of registration.

Section 27(9): If a dealer fails without sufficient cause to submit as per section 27 (2) or surrender the certificate of registration as required as per section 27 (8) the Commissioner may, by an order in writing and after giving the dealer an opportunity of being heard, direct that he shall pay, by way of penalty, a sum equal to rupees one hundred for every day of default.

Section 27(10): Suspension or Cancellation of the certificate of registration shall not affect the liability of any dealer to pay tax, penalty or interest due for any period till the date of such suspension or cancellation and which has remained unpaid or is assessed thereafter.

Section 27(11): The Commissioner shall publish in the manner as may be prescribed the particulars of dealers whose certificate of registration has been suspended or cancelled under the provisions of this Act.

Chapter 6

Returns

1. Returns

Every registered dealer shall furnish returns, duly signed by him or by a person authorized by him, to the Commercial Tax Officer (CTO) within whose jurisdiction his chief place of business as mentioned in the certificate of registration is situated.

Where any dealer who has no regular or fixed place of business in the state, but has been registered by Commercial Tax Officer, Ahmedabad then such dealer shall furnish returns to the CTO Ahmedabad.

Sr. No	Dealer	Return Filing	Form No.	Return Due Date	Rule No
1	Co-operative Societies engaged in the manufacture of sugar or khandsari	Half Yearly	Form 201	Before 30 th November (immediate succeeding half year)	19 (3C)
2	Registered dealer holding lump sum tax permission under section 14, 14A, 14C, 14D	Qtrly	Form 202 with Form 202A	Within 30 days from the end of the quarter	19 (3)(i)
3	Registered dealer holding lump sum tax permission under section 14B	Qtrly	Form 202 with Form 202B Form 202C	Within 30 days from the end of the quarter	19 (3)
4	Every registered dealer whose total amount of tax payable for all places of business has not exceeded ₹ 60,000/- in the	Qtrly	Form 201 with Form 201A Form 201B, 201C	Within 30 days from the end of the quarter	19 (3B)

Returns

	current or previous year & monthly return filing is not applicable				
5	Every registered dealer other than who holds a permission to pay tax on lump sum basis , and who a) is not a manufacturer; b) not an importer or exporter; c) does not purchase or sale goods in the course of interstate trade or commerce; d) does not have a branch or consignment transfer to or from outside the state.	Qtrly	From 201 with Form 201A Form 201B, 201C	Within 30 days from the end of the quarter	19 (3A)
6	Any registered dealer who 1) holds a certificate of exemption or 2) a certificate of deferment of tax.	Monthly	Form 203 Form 204	Within thirty days from the end of the month	19(4)
7	Any registered dealer who a) does the transaction of import/export	Monthly	Form 201 with Form 201A Form 201B Form 201C	Within thirty days from the end of the month	19 (4A)

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	b) has established an industry in SEZ or who is a developer of SEZ; c) is entitled to the benefit of refund under section 40; or d) is entitled to the benefit of remission under section 41(1).				
8	Every registered dealer claiming credit of TDS deducted in accordance with the provisions of Section 59B	Monthly or Quarterly as applicable	Form 216A	Within thirty days from the end of the tax period to which such return relates	19 (3BB)
9	Every registered dealer dealing in the commodities mentioned in the schedule III to the Act	Monthly	Form 212 Form 213	Within thirty days from the end of the month	19 (5)

Note : If Mandatory E Filing is applicable Return filing due date will be

Return Filing	Amt of VAT/CST Payable	Due Date
Monthly	Less than or equal to Rs.5000	60 Days From the end of the month
Monthly	More than Rs.5000	70 Days from the end of the month
Quarterly	-	75 Days from the end of the quarter

1.1 E filing of return is now mandatory for all category of dealers.¹

1. Dealer, obtaining registration for the First Time, is liable to file Monthly returns for first 12 Months and thereafter, the returns will have to be filed as per the applicable provisions.
2. Non Localized dealers are now made liable to file Monthly Returns permanently.

1.2 Annual Returns (Self-assessment Return) (Section 33 & Rule 20)

- Every registered dealer shall furnish annual return by way of self assessment to the Commercial Tax Officer within whose jurisdiction his chief place of business as mentioned in the certificate of registration is situated. The annual return duly signed by the registered dealer or a person authorized by him shall be furnished within **three months** from the end of the year to which the annual return relates.
- A registered dealer who is a cooperative society engaged in manufacturing sugar or khandsari shall furnish the annual return on or before 31st December immediately succeeding the year to which the annual return relates.
- If audit is applicable as per rule 44, the registered dealer shall furnish the annual return within nine months from the end of the year to which the annual return relates.
- Every registered dealer, except the registered dealer to whom permission to pay lump sum tax is granted, shall furnish annual return in Form 205 along with Form 205A.
- Every registered dealer to whom the Commissioner has granted permission under section 14(1), 14A read with rule 28 (8) (bb), 14B, 14C or 14D to pay lump sum tax shall furnish annual return in Form 202.
- The registered dealer referred to in sub-rule (4) of rule 19 shall also furnish annual return in Form 203 or Form 204, as the case may be.
- The registered dealer whose total turnover exceeds **rupees one crore**

¹ Clarification inserted Vide Circular No. GUJKA/VAT/BUDGET 14-15/OTW.156/135, Dt.27th October, 2014

shall e-file his annual return by up-loading it on the website within **three months** from the end of the year to which the annual return relates.

- The registered dealer whose total turnover exceeds **rupees one crore** shall furnish annual accounts containing Trading Account, Profit and Loss Account and the Balance Sheet to the Commercial Tax Officer within whose jurisdiction his chief place of business is situated along with uploading it on the website within **six months** from the end of the year to which the annual return relates.

1.3 Special provisions for return in certain cases (Rule 21)

(1) In the case of a dealer who is deemed to have been registered under section 23, the first return to be furnished by him shall be for a tax period commencing on the appointed day.

(2) Where a dealer has been issued a certificate of registration under section 22 or if a dealer becomes liable to pay tax under section 3 subsequent to any day after the appointed day and if he has applied for registration within the period specified in rule 5, then the first return to be furnished by him shall be for the period commencing from the date of registration under section 21 or 22 and ending on the last day of the tax period applicable to him and furnish the returns as per the provisions of rule 19.

(3) Where a dealer has become liable to pay tax under section 3 or under section 57(5) and has not applied for registration within the period specified in rule 5, then

- (a) The first return to be furnished by such a dealer shall be from the date he becomes liable to pay tax and ending on the date of effect of certificate of registration,
- (b) The return to be furnished thereafter shall be for the period from the date of effect of the registration to the end of the tax period applicable to the dealer and subsequent returns to be furnished thereafter shall be as per provisions of rule 19.

(4) (a) Where the business carried on by a registered dealer is discontinued or transferred, then the last monthly or quarterly return or, as the case may be, annual return shall be for the period beginning with the last

month or, as the case may be, the quarter or year and ending with the date of discontinuance or transfer of the business; and such returns shall be furnished within **twenty-two days** from the date of the discontinuance or transfer of the business.

- (b) Where the registration of any dealer is cancelled on the ground referred to in Section 27(5) then the last monthly or quarterly return, as the case may be, shall be for the period beginning with the month or the quarter, as the case may be, and ending with the date on which the cancellation of registration takes effect; and such return shall be furnished **within twenty-two days** from the date of cancellation of registration or within **twenty-two days** from the end of the month or quarter to which such return relates, whichever is earlier.

1.4 Permission for furnishing separate returns (Rule 22)

(1) A dealer who desires to furnish separate returns under section 29(2) shall make an application in Form 206 to the Commissioner for permission.

(2) If the Commissioner is satisfied that the application made under sub-rule (1) is in order, he may grant the permission to such dealer to submit separate returns for such places of business and to such Commercial Tax Officer as may be specified by the Commissioner and there upon the dealer shall furnish separate returns accordingly:

Provided that the dealer to whom such permission is granted shall furnish annual return under rule 20 in a consolidated form in respect of all the places of business to the Commercial Tax Officer in whose jurisdiction the chief place of business is situated.

1.5 Exemption from furnishing of returns (Rule 25)

(1) An application for exemption from furnishing of returns under subsection (2) of section 29 shall be made to the Commissioner in Form 209 and if the Commissioner is satisfied that the dealer is not likely to make any taxable sale or purchase during any year, he may grant exemption to such dealer for that year.

(2) The exemption granted under sub rule (1) shall be subject to the following conditions:

- (a) if the dealer makes any sale or purchase which is taxable, during the period of exemption, he, shall, within thirty days from the date of such

sale or purchase, give information thereof to the concerned Commercial Tax Officer having jurisdiction;

(b) the dealer shall furnish returns by the dates and in the manner prescribed by these rules beginning with the period commencing with the month during which the aforesaid sale or purchase takes place.

(3) The Commissioner may, after giving the dealer reasonable opportunity of being heard and for the reasons to be recorded in writing, cancel the exemption.

(4) The exemption granted by the Commissioner under sub-rule (1) shall be for a period of **one year** and may be exercised from year to year.

2. Revised Return [Section 29(4)]

If any dealer having furnished returns under section 29 (1) or (3) finds any mistake, error, omission or incorrect statement therein, he may furnish a revised return before the expiry of **one month** from the last date prescribed for furnishing the original return.

If the revised return furnished by a registered dealer shows a higher amount of tax due than what is shown in the return furnished by him earlier, he shall pay into the government treasury the remaining amount of tax arising from the revised return along with interest on delayed payment of such remaining amount, and furnish the receipt of such payment with the revised return. .

3. Late filing of Return [Section 29(5)]

If a registered dealer or any other dealer fails to furnish any return by the prescribed date as required under section 29 (1) or (2) or fails to comply with the requirement of notice issued under section 29 (3), the Commissioner shall direct him to pay, in addition to any tax and interest payable or paid by him, by way of penalty such sum as may be prescribed but not exceeding rupees **ten thousand per return**. The penalties prescribed under this sub-section shall be imposed by the Commissioner notwithstanding the fact that the assessment proceedings have not been initiated against the dealer under section 32, 33 or 34.

Any penalty imposed under this sub-section shall be without prejudice to any prosecution for any offence or any other proceedings under this Act.

Chapter 7

Tax Payment

1. Payment of Tax

1.1 Generally, the tax due and payable is required to be deposited **within twenty two days** from the end of the month/ quarter to which the return relates.

1.2 Every dealer other than the dealer referred to in rule 26 (1) (aa) or (b), required to furnish monthly return under rule 19 (2), shall within a period of **twenty-two days** immediately succeeding the month for which such return is required to be furnished, pay into the government treasury, the tax due along with the amount of interest if any payable by him under the provisions of the Act and shall submit to the Commercial Tax Officer one copy of the challan receipt in Form 207 on or before the date prescribed for submitting the return.

1.3 Rule 26(1)(aa): Every cooperative society engaged in the manufacture of sugar and khandsari shall pay to the government treasury through challan in Form 207

- (a) the tax payable under section 7,
- (b) the tax payable under section 9 (1) or (3) and
- (c) an amount equivalent to seventy five per cent of the tax payable under section 9(2) calculated on the statutory minimum price of the sugarcane crushed during the month,

Along with the amount of interest if any payable by him under the provisions of the Act, within a period of **twenty two days** immediately succeeding the month to which the return relates

The dealer who has paid tax as per above, shall pay the remaining amount of tax payable, along with interest if any, on or before 22nd November immediately succeeding the tax period to which the return relates.

1.4 For the dealers of Schedule III goods, the tax payment is to be made within 12 days immediately succeeding the month for which the return is required to be furnished.

1.5 Tax is to be paid in Form 207 (Challan) in the government treasury where the chief place of business of the dealer is situated.

1.6 **Dealers with a tax liability exceeding 10 lakhs** shall have to use the mode of E-payment

2. Late Payment of Tax

Where a dealer does not pay the amount of tax within the time prescribed for its payment then simple interest at the rate of *eighteen per cent, per annum*, on the amount of tax not so paid or on any less amount thereof remaining unpaid during such period is required to be paid by him for the period commencing on the date of expiry of the aforesaid prescribed time and ending on the date of payment of the amount of tax.

Chapter 8

Lump Sum Payment of Tax, Composition Scheme

1. Option for payment of lump sum tax in lieu of tax on sales

Section 14(1)(a): The commissioner may subject to such circumstances and such conditions as may be prescribed permit any dealer whose total turnover has not exceeded **rupees seventy five lakhs** in the previous year to pay lump sum tax in lieu of the amount of tax payable under section 7 of this Act.

Permission to pay lump sum tax shall not be granted to a dealer who

- (i) Is an importer/exporter
- (ii) Does transaction of sale or purchase in the course of interstate trade or commerce
- (iii) Does the transaction of branch/ consignment transfer to/from outside the state
- (iv) was engaged in the previous year or engaged in the activity of manufacturing (except notified by the Commissioner)
- (v) has effected in previous year or effects the sales or purchases through a commission agent
- (vi) has effected in previous year or effects the sales falling under section 2 (23)(b) or (d)

The current rate of lump sum payment of tax as notified by the state government is **0.5%**

The permission granted for lump sum payment of tax remains valid as long as the total turnover of the registered dealer does not exceed **rupees seventy five lakhs** or the registered dealer does not undertake any of the activities mentioned in clauses (i) to (vi).

Section 14(3): A dealer who is permitted under section 14(1) to pay lump sum tax shall not

(a) be entitled to claim tax credit in respect of tax paid by him on his purchases,

(b) charge any tax under this Act in his sales bill or sales invoice in respect of the sales on which lump sum tax is payable; and

(c) issue tax invoice to any dealer who has purchased goods from him.

A dealer who is permitted to pay lump sum tax under section 14(1) shall be liable to pay, in addition to the lump sum tax under this section, purchase tax leviable under subsections (1), (3),(4) and (6) of section 9;

2. Procedure for application and permission for lump sum payment of tax

- Application for the F.Y. 2006-07 was to be filed before 31-5-2006 in Form 210.
- Application for permission for any year subsequent to 2006-2007 is required to be made before 30th April of the relevant year.
- Dealers registered after 1st April, 2006 have to file an application within 90 days from the date of registration.
- From 1st April, 2008, a dealer who is granted permission to pay tax in lump sum need not file fresh application for renewal of permission every year.
- The Commissioner shall communicate his decision regarding the permission or rejection thereof to the applicant dealer within fifteen working days from the date of receipt of application. And after making such inquiry as he thinks fit, ensure compliance of the provisions of the Act and the rules, grant permission under Section 14 (1) for lump sum payment of tax in Form 211.
- If the registered dealer to whom such permission was granted contravenes the provisions of the Act or the rules, such permission shall be liable to be cancelled forthwith from the date of the event concerning such contravention.
- If a registered dealer to whom such permission was granted chooses not to avail it, he shall intimate accordingly to the authority with whom

Lump sum Payment of Tax, Composition Scheme

he files the returns and the authority shall cancel the permission. He shall be liable to pay tax under the Act from the month immediately succeeding the month during which permission to pay lump sum has been cancelled on the basis of his application.

3. Composition of Tax on Works Contract

Section 14A provides for a scheme of composition of tax on works contract. The Commissioner may, in such circumstances and subject to such conditions as may be prescribed, permit every dealer who transfers property in goods (whether as goods or in some other form) involved in the execution of a works contract [section 2(10)(f)], to pay lump sum tax by way of composition at the rate of 2% as notified by the state government in its official Gazette.

Rate of Tax on Works Contract- composition scheme is as follows:

1.	Processing of Polyester Textile Fabrics	0.50%
2.	(i) Works of roads of all kinds including work of paving, mixing, metalling, asphaltting and earth work. (ii) Works of building construction, including Reinforced Cement Concrete and masonry work, but excluding air conditioning, firefighting, interior works and electrical works, if its total value exceeds ten per cent of the total value of works contract. (iii) Works of cross drainage structure and bridges. (iv) Works of digging and laying of pipelines of all kinds. (v) Works of dams, check dams, weirs, protection walls, canals, and head works. (vi) Works of excavation and mining. (vii) Works of construction of jetty, port and break water (viii) Works of construction of airport runways and landing strips. (ix) Works of water storage structure, including underground and overhead storage tanks.	0.60%
3.	Other Works Contract	2.00%

4. Procedure for application and permission for payment of tax under composition scheme

- Application in Form 214 is to be made within 30 days from the beginning of the contract. by a dealer who has under section 14 A (Works Contract) opted to pay a lump sum tax by way of composition of tax. Permission is granted in Form 215 within fifteen working days from the date of application. Such permission is effective from the date of the beginning of the contract and is valid till its conclusion
- In case of “On Going Works Contract” as well as new works contract to be executed during the year or for the remaining period of the year referred to in Rule 28(8)(bb), application for paying lump sum tax is to be made in Form 214 A within 30 days before the commencement of the year and permission shall be granted in Form 215 A within fifteen working days from the date of application, and permission shall be effective from the beginning of the year.
- Dealers who are granted permission to pay lump sum tax under section 14A need not file a fresh application for renewal and permission granted to them earlier shall continue subject to other provision of the Act and these rules.

5. Composition of Tax on Agricultural Produce (Section 14B)

The Commissioner may, in such circumstances and subject to such conditions as may be prescribed, permit a commission agent engaged in the business of agricultural produce to pay lump sum tax by way of composition at the rate of 0.05% as notified by state government in its official Gazette. The permission to pay lump sum tax under section 14B(1) shall be granted by the Commissioner to a commission agent who,-

- (a) carries on a business exclusively of agricultural produce, and
- (b) is licensed as general commission agent with a market committee established under the Gujarat Agricultural Produce Markets Act, 1963.

5.1 Procedure and conditions for lump sum payment under section 14B

An application in Form No 210A is required to be made at any time during a financial year by a commission agent to the CTO in whose jurisdiction he is

required to furnish return. The required permission shall be granted in Form 211A, subject to the condition that the agricultural produce shall be sold by the commission agent within twelve months from the date of purchase. The permission shall be effective from the tax period subsequent to the month in which application for the permission is submitted.

6. Composition of Tax on Turnover of right to use the goods. (Section 14C)

The Commissioner may, in such circumstances and subject to such conditions as may be prescribed, permit a dealer referred to in section 2 (10) (h) to pay at his option lump sum tax by way of composition at the rate of 4% as notified by the state government in its official Gazette.

6.1 Procedure and conditions for lump sum payment under section 14C

An application in Form 210 B is required to be made at any time during a financial year by a dealer to the CTO in whose jurisdiction he is required to furnish return. The required permission shall be granted in Form 211B, and shall be effective from the tax period subsequent to the month in which the application for the permission is submitted.

7. Composition of Tax on Turnover on sales of eatables by hotels, restaurants, Caterers etc. (Section 14D)

The Commissioner may, in such circumstances and subject to such conditions as may be prescribed, permit a dealer engaged in sale of eatables in any form (whether processed or unprocessed), served, delivered or given in package from the place of business of the dealer or any other place, to pay a lump sum tax by way of composition at the rate of 4% in respect of sale of eatables.

For the purpose of this section, the word "eatables" means all kind of foods for the purpose of consumption, including all types of beverages, water (mineral, purified or aerated) and soda waters, ice-cream and kulfi, sweets and sweetmeats, fruits and fruit juice, all type of milk preparations, bakery products and such other goods as the state government may, by order, specify.

The dealers engaged in the manufacture of alcoholic and non-alcoholic beverages including soda water, aerated, mineral, purified, medicinal, ionic or demineralized water or water sold in sealed containers, ice cream, kulfi, biscuits (branded) shall not be granted permission to pay lump sum tax u/s.14D

7.1 Procedure and conditions for lump sum payment under section 14D

From F.Y. 2007-08 and onwards, application is to be filed in Form 210C within 30 days before the commencement of a new financial year. The required permission granted in Form 211C is valid as long as provisions in this respect are complied with. With effect from 1st April 2008, the permission once granted need not be renewed every year.

A dealer is required to display conspicuously at each place of his business, including branches, a notice with the phrase "Tax is not charged separately."

As per Rule 28C, permission shall not be granted to the dealer who has in stock or who purchases eatables or any raw material thereof, in any form (whether processed or unprocessed) in the course of inter-state trade or commerce or import such goods from a place outside the territory of India, or receives eatables or raw material thereof (whether processed or unprocessed) in any form from his branch situated outside the state or from a consigning agent outside the state or who have not borne the tax payable under the Act.

Exception: The dealer who has been granted such permission may purchase goods which are not produced in the state due to legal constraints, for the purpose of sales in the same form, subject to the following conditions

1. Such a dealer shall be liable to pay tax under section 7 on the turnover of sales of such goods;
2. Such sales shall not be included in the total turnover of sales for calculating the amount of lump sum tax;
3. Such a dealer shall keep separate accounts for the purchase and sale of such goods.

Chapter 9

Liability to Pay Tax in Certain Cases

1. Applicability of the Act or earlier law to other persons liable to pay tax (Section 49)

Where in respect of any tax, interest or penalty due from a dealer under this Act or under any earlier law, any other person is liable for the payment thereof under any provisions of this Act or earlier law, all the relevant provisions of this Act or, as the case may be, of the earlier law shall, in respect of such liability apply to such person also, as if he were the dealer himself.

2. Liability of commission agent and principal (Section 50)

(1) Where a commission agent purchases or sells any taxable goods on behalf of his principal, he and his principal shall be jointly and severally liable to pay the tax payable under the Act.

(2) If the commission agent shows to the satisfaction of the Commissioner, in the manner as may be prescribed, that the tax payable by him under this Act in respect of any goods, has been paid by the principal on whose behalf the goods were purchased, the commission agent shall not be liable to pay the tax again in respect of the same transaction.

(3) If the principal, on whose behalf the commission agent has sold the goods, shows to the satisfaction of the Commissioner, in the manner as may be prescribed, that the tax payable under this Act in respect of any goods, has been paid by his commission agent, the principal shall not be liable to pay the tax again in respect of the same transaction.

2.1 Tax Credit in respect of transactions between commission agent and principal in case of transfer of business [Rule 17(11)]

Where a dealer liable to pay tax under the Act transfers his entire business or a part of it as provided in section 51, the transferee of the business may claim tax credit in the manner as under:-

- (i) in case where business has been transferred wholly, then the amount of balance of tax credit on the day of such transfer shall be deemed to be transferred to the transferee subject to the provisions of section 11 and the rules made there under,
- (ii) in case where business has been transferred in part, then the balance of the tax credit as admissible under the rules on the day of transfer shall be deemed to be transferred to the transferee subject to the provisions of section 11 and the rules made there under:

Provided that the transferor shall reduce such amount of tax credit transferred to the transferee under this clause in the tax period in which such transfer has taken place.

3. Amalgamation of companies (Section 52)

(1) When two or more companies are amalgamated by the order of a court or of the central government and the order is to take effect from a date earlier to the date of the order and any two or more of such companies have sold or purchased any goods to or from each other during the period commencing on the date from which the order is to take effect and ending on the date of the order, then such transactions of sale and purchase shall be included in the turnover of sale or purchase of the respective companies and shall be assessed to tax accordingly.

(2) Notwithstanding anything contained in the said order, for all the purposes of this Act, the said two or more companies shall be treated as distinct companies for all the periods up to the date of the said order and the registration certificates of the said companies shall be cancelled, where necessary, with effect from the date of the said order.

Explanation: Words and expressions used in this section but not defined shall have the respective meanings assigned to them in the Companies Act 1956.

4. Liability in case of company in liquidation (Section 53)

- (1) Every person
 - (a) who is a liquidator of any company which is being wound up whether under the orders of a court or otherwise; or

Liability to Pay Tax in Certain Cases

(b) who has been appointed as receiver of any assets of a company (hereinafter referred to as the "liquidator"),

shall, **within thirty days** after his appointment, give intimation of his appointment to the Commissioner.

(2) The Commissioner shall, after making such inquiry or calling for such information as he may deem fit, notify the liquidator **within three months** from the date on which he receives intimation of the appointment of the liquidator, the amount which in the opinion of the Commissioner would be sufficient to provide for any tax, interest or penalty which is then, or is likely thereafter to become, payable by the company.

(3) When any private company is wound up and any tax, interest or penalty assessed under this Act on the company for any period, whether before or in the course of or after its liquidation, cannot be recovered, then every person who was a director of the private company at any time during the period for which the tax is due, shall jointly and severally be liable for the payment of such tax, interest or penalty, unless he proves to the satisfaction of the Commissioner that such non-recovery is to be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company.

Explanation- For the purposes of this section, the expressions "company" and "private company" shall have the meaning respectively assigned to them under clauses (i) and (ii) of the sub-section (1) of section 3 of the Companies Act, 1956.

5. Liability of Partners of firm to pay tax (Section 54)

Notwithstanding any contract to the contrary, where any firm is liable to pay any tax, interest or penalty under this Act, the firm and each of the partners of the firm shall jointly and severally be liable for such payment:

Provided that where any partner retires from the firm, he shall intimate the date of his retirement to the Commissioner by a notice in writing and he shall be liable to pay tax, interest or penalty remaining unpaid at the time of his retirement and any tax, interest or penalty due up to the date of his retirement whether assessed or not assessed, on that date:

Provided further that if no such intimation is given **within one month** from the date of retirement, the liability of such partner under the first proviso shall

continue until the date on which such intimation is received by the Commissioner.

6. Liability of guardians, trustees, etc. (Section 55)

Where the business in respect of which tax is payable under this Act is carried on by any guardian, trustee or agent of a minor or other incapacitated person on behalf of and for the benefit of such minor or other incapacitated person, the tax, interest or penalty shall be levied upon and recoverable from such guardian, trustee or agent, as the case may be, in like manner and to the same extent as it would be assessed upon and recoverable from any such minor or other incapacitated person, as if he were a major and capacitated person and conducting the business himself and all the provisions of this Act shall, apply accordingly.

7. Liability of courts of wards etc. (Section 56)

Where the estate or any portion of the estate of a dealer owning a business in respect of which tax is payable under this Act is under the control of the Court of Wards, the Administrator General, the *Official Trustee* or any receiver or manager (including any person, whatever be his designation, who manages the business) appointed by or under any order of a court, the tax, interest or penalty shall be levied upon and be recoverable from such Court of Wards, Administrator General, *Official Trustee*, receiver or manager as the case may be, in like manner and to the same extent as it would be assessed and be recoverable from the dealer as if he were conducting the business himself, and all the provisions of this Act shall, apply accordingly.

8. Special provision regarding liability to pay tax in certain cases. (Section 57)

- (1) Where a person who is or has been a dealer, liable to pay tax under this Act, dies, then
 - (a) if a business carried on by the dealer is continued after his death by his legal representative or any other person, such a legal representative or any other person, shall be liable to pay tax, interest or penalty due from such dealer under this Act or under any earlier law, and
 - (b) if the business carried on by the dealer is discontinued, whether before or after his death, his legal representative shall be liable to pay, out of the estate of the deceased, to the extent to which the estate is capable

Liability to Pay Tax in Certain Cases

of meeting the charge, tax, penalty or interest due from such a dealer under this Act or under any earlier law,

Whether such tax interest or penalty has been assessed before his death but has remained unpaid or is assessed after his death.

(2) Where a dealer, liable to pay tax under this Act is a Hindu Undivided Family and the property of the Hindu Undivided Family is partitioned amongst the various members or groups of members then each member or group of members shall jointly and severally be liable to pay tax, interest or penalty due from the dealer under this Act or under any earlier law up to the time of the partition whether such tax, penalty or interest has been assessed before partition but has remained unpaid or is assessed after the partition.

(3) Where a dealer, liable to pay tax under this Act, is a firm, and the firm is dissolved, then every person who was a partner shall be jointly and severally liable to pay to the extent to which he is liable under section 54 tax, interest or penalty due from the firm under this Act or under any earlier law, up to the time of dissolution whether such tax, interest or penalty has been assessed before the dissolution, but has remained unpaid or is assessed after the dissolution.

(4) Where the dealer liable to pay tax under this Act

(a) is the guardian of a ward on whose behalf the business is carried on by the guardian, or

(b) is a trustee who carries on the business under a trust for a beneficiary, then if the guardianship or trust is terminated, the ward or, as the case may be, the beneficiary shall be liable to pay the tax, interest or penalty due from the dealer up to the time of the termination of the guardianship or trust, whether such tax, interest or penalty has been assessed before the termination of guardianship or trust but has remained unpaid or is assessed thereafter.

(5) Where a person becomes liable to pay tax in the manner described in clause (a) of sub-section (1), then such a person shall, (notwithstanding anything contained in section 3), be liable to pay tax on the sales of goods made by him on and after the date of such succession or transfer and shall (unless he already holds a certificate of registration) in the case of succession, **within six months** and in the case of transfer, **within thirty days**, thereof apply for registration.

9. Liability in other cases (Section 58)

(1) Where a dealer is a firm or an association of persons or a Hindu Undivided Family and such firm, association or family has discontinued business—

- (a) the tax payable under this Act, by such firm, association or family up to the date of such discontinuance may be assessed as if no such discontinuance had taken place; and
- (b) every person who was at the time of such discontinuance, a partner of such firm, or a member of such association or family, shall, notwithstanding such discontinuance be liable jointly and severally for the payment of tax assessed and penalty or interest imposed and payable by such firm, association or family, whether such tax, interest or penalty or has been assessed prior to or after such discontinuance, and subject as aforesaid, the provisions of this Act shall, so far as may be, apply as if every such person or partner or member were himself a dealer:

(2) Where a change has occurred in the constitution of a firm or an association of persons, the partners of the firm or members of the association, as it existed before and as it exists after its reconstitution, shall, without prejudice to the provisions of section 54, jointly and severally be liable to pay tax, interest and penalty due from such firm or association for any period before its reconstitution.

(3) The provisions of sub-section (1) shall, so far as may be, apply where the dealer, being a firm or association of persons is dissolved or where the dealer, being a Hindu Undivided Family, has effected partition with respect to the business carried on by it and accordingly references in that sub-section to discontinuance shall be construed as reference to dissolution or, as the case may be, to partition.

Chapter 10

Assessment

1. Provisional Assessment (Section 32)

Returns or revised returns furnished by a dealer in accordance with section 29 shall be subject to scrutiny by the Commissioner.

If any dealer has furnished return or revised return according to which

- (i) net amount of tax payable, in accordance with section 13, is nil, or
- (ii) the amount of tax credit is carried forward for subsequent return, or
- (iii) the amount of refund is claimed there in, or
- (iv) the dealer has claimed in his return or the revised return higher amount of tax credit than the admissible amount,

Then, the Commissioner may, as soon as possible, provisionally assess such dealer for the period of such return or revised return.

For the purpose of aforesaid provisional assessment, the Commissioner shall serve on such dealer a notice in Form 301 requiring him to explain in writing, after allowing minimum period of fifteen days from the date of service of notice, the basis on which the dealer has furnished such returns or revised returns. The Commissioner may, after considering the explanation, provisionally assess the amount of tax due from such a dealer and issue an order in Form 304.

Where a registered dealer has not furnished the return in respect of any tax period within the prescribed time, the Commissioner shall proceed to assess the dealer provisionally for the period for such default. Such provisional assessment shall be made on the basis of past returns or past records or on the basis of information received by the Commissioner and the Commissioner shall direct the dealer to pay the amount of tax assessed in such manner and by such date as may be prescribed.

Where the Commissioner has reason to believe that the dealer has evaded the tax or has claimed more amount of tax credit than the admissible amount of tax credit, he may, after taking into account all relevant materials gathered by him and after giving the dealer a notice in the prescribed form,

provisionally assess to the best of his judgment the amount of tax payable by the dealer.

2. Self Assessment (Section 33)

If a dealer has furnished all the returns, revised returns, if any, and annual return by the date prescribed and paid the amount of tax due according to such returns and

The Commissioner is satisfied that the returns or revised returns, and annual return are correct and complete, and notice for audit assessment under section 34 (2) in Form 302 has not been served on such a dealer not later than two years from the date of closure of the year in respect of which the tax is assessable, he shall be deemed to have been assessed for that year.

3. Audit Assessment

Section 34(2)(a): audit assessment is carried out where

- (i) the Commissioner is not satisfied with the bona fides of any claim of tax credit, exemption, refund, deduction, concession, rebate; or genuineness of any declaration or evidence furnished by a dealer in support thereof with the self-assessment, or
- (ii) the Commissioner has reason to believe that detailed scrutiny of the case is necessary,

The Commissioner may, even if the dealer may have been assessed under section 33, serve on the in the prescribed manner, a notice in Form 302, requiring him to appear on a date and place specified therein, which may be his place of business or a place specified in the notice, either to attend and produce or cause to be produced the books of account and all evidence on which the dealer relies in support of his returns or to produce such evidence as specified in the notice.

The date fixed for compliance with the notice shall not be earlier than fifteen days from the date of service thereof. However, the date earlier than aforesaid may be fixed, if the dealer or his agent agrees thereto in writing.

The order of assessment under section 34 shall be in Form 304.

Section 34(2)(b): The Commissioner may make a detailed scrutiny in the following cases for audit assessment:

- (a) where the annual total turnover exceeds rupees ten crores,

- (b) where the annual tax payable exceeds rupees twenty- five lakhs,
- (c) where the total turnover or taxable turnover or tax payable compared to the previous year falls to the extent of ten per cent,
- (d) where a dealer whose books of accounts or other documents or any inventory of goods have been seized under sub-section (4) of section 67,
- (e) where a dealer in whose case input tax credit claimed compared to the previous year exceeds ten percent.,
- (f) where a dealer in whose case at the end of the year, the amount of input tax credit carried forward exceeds twenty per cent of the output tax shown payable in that year.
- (g) where a dealer who has been granted certificate of exemption under the sales tax incentive scheme declared by the (state government) from time to time and a dealer situated in Special Economic Zone or hundred percent Export Oriented Unit, and
- (h) Cases of any particular trade or dealers or nature of transactions which the Commissioner may select or the cases selected by random sampling method by him.

Section 34(3): The dealer shall provide all possible co-operation and reasonable assistance to the Commissioner as may be required in case the proceedings under this section are required to be conducted at his place of business.

Section 34(4): If proceedings under this section are to be conducted at the place of business of the dealer and it is found that the dealer is not functioning from such premises or no such premises exists, the Commissioner shall assess to the best of his judgment the amount of tax due from him.

Section 34(5): If the Commissioner is unlawfully prevented from conducting the proceedings under this section, he may assess to the best of his judgment the amount of tax due from the dealer and may further direct that the dealer shall pay, by way of penalty, in addition to the amount of tax so assessed, a sum equal to the tax amount.

Section 34(6): If any dealer

- (a) has not furnished returns in respect of any period by the prescribed date;

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- (b) has furnished incomplete or incorrect returns for any period;
- (c) has failed to comply with the terms of notice issued under sub-section (2);
- (d) has failed to maintain books of accounts in accordance with the provisions of this Act or rules made there under or has not regularly employed any method of accounting,

the Commissioner shall assess to the best of his judgment the amount of tax due from him.

Section 34(7): If the Commissioner is satisfied that the dealer, in order to evade or avoid payment of tax,

- (a) has failed to furnish, without reasonable cause, returns in respect of any period or the self-assessment by the prescribed date;
- (b) has furnished incomplete or incorrect returns for any period;
- (c) has availed tax credit for which he is not eligible;
- (d) has employed a method of accounting which does not enable the Commissioner to assess the tax due from him, or
- (e) has knowingly furnished false or incorrect self assessment,

he shall, after giving the dealer an opportunity of being heard, direct that the dealer shall pay, by way of penalty, a sum not exceeding one and half times of the amount of tax assessed on account of the said reason in the audit assessment.

Section 34(8): If the Commissioner, on the basis of information which has come into his possession, is satisfied that any dealer who has been liable to pay tax under this Act in respect of any period, has failed to get himself registered, the Commissioner shall proceed to assess to the best of his judgment the amount of tax due from the dealer in respect of such period and all subsequent periods. For making such an assessment, he shall give the dealer an opportunity of being heard. The Commissioner may, if he is satisfied that the default was without reasonable cause, direct that the dealer shall pay, by way of penalty, in addition to the amount of tax so assessed, a sum equal to the amount of tax assessed or a sum of rupees five thousand, whichever is more.

Section 34(8A): (a) During the course of any proceedings under this Act, if the prescribed authority is satisfied that the tax has been evaded or sought to be evaded or the tax liability has not been disclosed correctly or excess tax credit has been claimed by any dealer in respect of any period or periods by not recording or recording in an incorrect manner, any transaction of sale or purchase, or that any claim has been incorrectly made, then in such a case notwithstanding any notice for assessment has been issued under other provisions of this section or any other section of this Act, the prescribed authority may, after giving the dealer a reasonable opportunity of being heard, initiate assessment of the dealer in respect of such transaction or claim:

Provided that where such proceedings are under section 73 or section 75, the prescribed authority shall transfer the proceedings relating to such transaction or claim directing the concerned assessing authority to assess the dealer in respect of such transaction or claim:

Provided further that the prescribed authority shall, notwithstanding anything contained in section 17, be deemed to have the requisite jurisdiction and power to assess the dealer in respect of such transaction of sale or purchase or claim, covered by clause (a) and such assessment proceedings shall, for all purposes of this Act, be deemed to have been transferred to such authority.

(b) The assessment proceedings under this sub-section shall be without prejudice to the assessment proceedings in respect of the said period or periods under any other provisions of this Act by any authority who otherwise has the jurisdiction to assess the dealer in respect of other transactions of sale or purchase or any other claim.

(c) The assessment under this sub-section shall be made separately in respect of the transaction or claim relating to the said period or periods to the best of the judgment of the prescribed authority where necessary and irrespective of any assessment made under this sub-section, the dealer may be assessed separately under the other provisions of this section in respect of the said period or periods:

Provided that, once the dealer is assessed under this sub-section, no tax from such transaction or claim and penalty and interest, if any, shall be levied or demanded from the dealer, at the time of assessment to tax under the other provisions of this section in respect of the said period or periods relating to such transaction or claim.

Explanation: For the purpose of this sub-section, "prescribed authority", "the said authority", "such authority" and "any authority" shall mean the Commissioner or, as the case may be, the authorities appointed under section 16 and other officers or persons to whom the Commissioner has delegated his power in this behalf."

Section 34(9): No assessment under sections 34 (2), (5), (6) or (7) shall be made after the expiry of **four years** from the end of the year in respect of which or part of which the tax is assessable.

Section 34(10): No assessment under sub-section (8) shall be made after the expiry of **eight years** from the end of the year in respect of which or part of which the tax is assessable. In computing the period of limitation for the purpose this section, any period during which assessment proceedings are stayed by an order or injunction of any court or authority shall be excluded.

Where any assessment is required to be made in pursuance of an order of any court or authority, such fresh assessment shall be made at any time within two years from the date of such order.

Section 34(11): Any assessment made or penalty imposed under this section shall be without prejudice to prosecution for any offence under this Act.

Section 34(12) : Where in the case of a dealer, the amount of tax assessed for any period under this section or reassessed for any period under section 35 exceeds the amount of tax already paid under section 30 (1), (2) or (3) by the dealer in respect of such period by more than **twenty five per cent** of the amount of tax so paid, there shall be levied on such dealer a penalty not exceeding one and one and a half times the difference between the tax paid under section 30 and the amount so assessed or reassessed.

4. Fair Market Price Basis Assessment (Section 34A)

If the Commissioner is of the opinion that any transaction by any dealer during any tax period or a set of transactions by the dealer has been accounted in a manner so as to pay tax less than the tax otherwise payable on such sale or purchase, then the Commissioner shall calculate the tax liability as per fair market price of such transaction or transactions.

Explanation: *For the purpose of this section, "fair market price" means the value at which goods of like kind are sold or would be sold in the open market in the state.*

5. Reassessment — Turnover Escaping Assessment

Section 35(1): Where after a dealer has been assessed under section 32, 33 or 34 for any year or part thereof, the Commissioner has reason to believe that the whole or any part of the taxable turnover of the dealer in respect of any period has

- (a) escaped assessment; or
- (b) been under-assessed; or
- (c) been assessed at a rate lower than the rate at which it is assessable; or
- (d) wrongly been allowed any deduction there from; or
- (e) wrongly been allowed any tax credit therein,

the Commissioner may serve a notice in Form 303 on the dealer and after giving the

dealer an opportunity of being heard and making such inquiry as he considers necessary, proceed to determine to the best of his judgment, the amount of tax due from the dealer in respect of such turnover which comes to his notice subsequently, and the provisions of this Act shall, so far as may be, apply accordingly.

Section 35(2): No order shall be made under sub-section (1) after the expiry of **five years** from the end of the year in respect of which or part of which the tax is assessable;

The order of re-assessment under section 35 shall be in Form 304.

Provisional Attachment [Section 45, Rule 41(1)]

- (1) Where during the pendency of any proceedings of assessment or reassessment of turnover escaping assessment, the Commissioner is of the opinion that for the purpose of protecting the government revenue, it is necessary so to do, he may by order in writing attach provisionally any property belonging to the dealer in such manner as may be prescribed.
- (2) If the property attached is immovable, the Commissioner shall simultaneously send intimation to the revenue authority requiring them to endorse the charge on such property.

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- (3) If the property attached is perishable, and if the dealer pays the amount equivalent to the market price of such property, then such property shall be forthwith released on proof of payment.
- (4) If the dealer fails to pay the amount referred above, the Commissioner may dispose of such property and the amount realized thereby shall be adjusted against the tax liability of the dealer.
- (5) Every such provisional attachment shall cease to have effect after the expiry of a period of one year from the date of the order made under sub-section (1).

Chapter 11

Refund

1. Refund of Excess Payment

The Commissioner may refund to a person the amount of tax, penalty and interest, if any, paid by such person in excess of the amount due from him, after recovery of any amount due under this Act or the earlier laws if its recovery has not been stayed by an appellate authority.

Where any refund is due to any dealer, according to the return furnished by him for any period, such refund may provisionally be adjusted by him against the tax due and payable as per the returns furnished under section 29 for any subsequent period in the year.

2. Provisional Refund

Section 37: If a registered dealer has filed any return as required by or under this Act, and such return shows any amount to be refundable to the dealer, then the dealer may apply in Form 306 with copies of tax invoices for which tax credit and refund thereof is claimed.

The Commissioner may require the aforesaid dealer to furnish such guarantee or security (Stock certificates, Govt. Promissory notes, Treasury Saving deposit certificates, or National Savings Certificates) as may be prescribed, for an amount equal to the amount of refund claimed.

On receipt of such guarantee or security, the Commissioner may, subject to rules, grant provisional refund to the dealer.

If, on assessment under section 32, the provisional refund granted is found to be in excess, then such excess shall be recovered as if it is a tax due from the dealer under this Act and the interest on such tax shall be charged at the rate of eighteen percent per annum, for the period from the date of grant of provisional refund, till the date of assessment

Rule 37(5): Notwithstanding anything contained in the proviso to rule 15 (8), the Commissioner may grant provisional refund for an amount not exceeding **ninety per cent** of the amount claimed in the return furnished by a dealer in the following circumstances.

- (i) Where the amount of tax credit remains unadjusted in the returns

continuously in each month of the quarter in the case of a dealer who is a trader or manufacturer of taxable goods and sells taxable goods in the state or who sales taxable goods in the course of inter-state trade and commerce or who dispatches taxable goods to his branch or to his consigning agent outside the state,

- (ii) Where the amount of tax credit remains unadjusted in the return furnished by a dealer who exports taxable goods out of the territory of India,
- (iii) Where the refund under section 40 has been claimed in the return,

The Commissioner may grant and decide by way of an order in Form 307 a full or partial amount of refund in accordance with this rule.

The amount referred above may be refunded within **Ninety² days** from the date of receipt of the application.

In case where the difference between the amount of refund arrived at under sub-rule (5) and the amount of refund allowed after provisional assessment under section 32 exceeds twenty-five per cent of the amount of refund allowed under section 32, the dealer shall not be eligible for provisional refund under sub-rule (5) for a period decided by the Commissioner.

3. Interest on Refund

Where the refund of any amount of tax becomes due to a dealer, it is payable along with simple interest at the rate of six percent per annum on the amount of refund from the date of closure of the accounting year to which the said amount of tax relates till the date of payment of such amount of refund.

4. Remission of tax, penalty or interest (Section 41)

The state government may, if it is necessary to do so in the public interest, in case of double taxation or to redress an inequitable situation, remit by an order either generally or specially, the whole or any part of the tax, penalty or interest payable in respect of any period by any dealer or a class of dealers or of any specified class of sales or purchase.

² Substituted vide Notification No. (GHN-19) VAR-2014-(35)-TH, Dated 15th October 2014. Earlier the time period was fifteen days.

Chapter 12

Deduction at Source

For the purposes of this Chapter, unless the context otherwise requires

- (a) “**contractor**” or “**sub-contractor**” means the dealer referred to in sub-clause (f) of clause (10) of section 2;
- (b) “**specified sale**” means the sale referred to in sub-clause (b) of clause (23) of section 2;
- (c) “**specified sale price**” in relation to the transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract, means such amount as is arrived at by deducting from the amount of valuable consideration paid or payable to a person for execution of such works contract, the amount representing labour charges for such execution and the price paid or payable for the goods purchased in the course of inter-state trade or commerce or in the course of import of goods into the territory of India for use in the execution of such works contract; and
- (d) “**specified works contract**” means a works contract, the specified sale price of which **exceed one crore rupees**.

1. Deduction of Tax

Any person responsible for paying specified sale price to a contractor/ subcontractor for carrying out any work in pursuance of a specified works contract, shall at the time of payment of the whole or part of the specified sale price, deduct from such price an amount at the rate as may be specified by the state government by notification in its official Gazette of such payment as a tax on specified sales.

Where an amount as tax on specified sales has not been deducted in accordance with the provisions of this section, the tax on specified sales shall be payable by the contractor or, as the case may be, the sub-contractor directly.

Section 59B(12): If any person does not deduct an amount as per section 59B(3) or after deducting the amount under that sub-section fails to pay the same into the government treasury, within the time specified therein, the

Commissioner may, after giving an opportunity of being heard to such person, impose, by way of penalty, a sum not exceeding twenty-five per cent of the amount required to be deducted by him under sub-section (3).

Where a person deducting the amount of tax in accordance with the provisions of section 59B(3) does not pay the amount so deducted into the government treasury within the time specified therein, there shall be paid by such person, in addition to the penalty imposed on him under sub-section (12), for the period commencing on the date of expiry of the time specified in sub-section 59B(7) and ending on the date of payment of the amount into the government treasury, simple interest at the rate of **eighteen per cent per annum** on the amount of tax not so paid into government treasury or any less amount thereof remaining unpaid during such period.

Rule 65(1): Any person deducting the amount as tax in accordance with the provisions of section 59 B of the Act, shall pay such amount within **twenty-two days** immediately succeeding the month during which the deduction was made in Form 207 into a government treasury.

Rule 65(2): A certificate under section 59 B (5) (b) to be given by the Commissioner shall be in Form 701.

Rule 65(3): Statement under 59 B (3) (c) to be furnished by the contractor or as the case may be, sub-contractor to the person responsible for paying specified sale price shall be in Form 702.

Rule 65(4)(i) and 65(4)(ii): A person deducting the amount as tax shall issue a serially and mechanically numbered certificate in Form 703 in duplicate. The copy marked 'original' shall be delivered to the contractor or subcontractor, as the case may be, and the copy marked "duplicate" shall be retained by such a person.

Rule 65(4)(iii): A person deducting any amount as tax shall maintain for each year a separate account in Form 705, showing the amount of tax deducted, certificate of tax deduction issued, particulars of tax deducted, and particulars of remittances made to the government.

Rule 65(5): Any person deducting TDS in accordance with provisions of section 59B, shall furnish a quarterly declaration in Form 704 within thirty days from the end of the quarter ending on 30th June, 30th September, 31st December and 31st March on the website of the department.

Rule 65(6): Every payment of tax deducted at source under section 59 B shall be accompanied by a challan in Form 207.

2. Registration and Cancellation of Tax Deduction Account Number (Rule 65A)

- (1) Every person responsible for deducting TDS under section 59B(3)(a) or (b) shall apply on the website of the department for allotment of Tax Deduction Account Number in Form 706 within thirty days
 - (a) from the date of commencement of this rule, if he was so liable on such date, and
 - (b) from the date of entering into any agreement relating to the execution of works contract if he is likely to be liable for such deduction after the date of commencement of this rule.
- (2) A copy of such online application shall be submitted separately to the Commissioner within seven days from the date of applying on the website of the department along with the following documents in case of a person other than a registered dealer under the Act or an officer of the state government or central government or Local Self Government Body,
 - (a) document regarding proof of place of business;
 - (b) proof of domicile;
 - (c) the name, designation and specimen signature of the person/s authorized to sign any forms prescribed or appended to any notification, and
 - (d) such other documents as may be specified in this behalf by the Commissioner by way of a public circular.
- (3) The Commissioner shall issue a certificate of Tax Deduction Account Number in Form 707, if the application is found in order.
- (4) Any person who ceases to be responsible for making deduction of tax under clause (a) or (b) of sub-section (3) of section 59 B and elects not to have Tax Deduction Account Number shall apply on the website of the department for cancellation of the Tax Deduction Account Number, in Form-708.
- (5) The Commissioner may cancel the Tax Deduction Account Number with effect from such date as he deems fit either on application for cancellation of Tax Deduction Account Number made by the person or on his own motion, after giving an opportunity of being heard.

Chapter 13

Accounts and Records

1. Invoices

1.1 Tax Invoice [Section 60(1)]

It can be issue by a registered dealer who sells taxable goods to another registered dealer, duly signed by the person whose specimen signature has been furnished to the registering authority under section 66A of the Act.

A selling registered dealer shall issue serially and mechanically numbered tax invoice in duplicate: copies of the invoice marked “original” to be delivered to the buyer and the copy marked “duplicate” to be retained by the registered dealer.

The dealer making Zero rated sales under section 5 A shall issue serially and mechanically numbered tax invoice in triplicate. The copies of the invoice marked “original” and “duplicate” will be delivered to the buyer and the copy marked “triplicate” will be retained by the seller. The duplicate copy of tax invoice endorsed by the customs authority shall be returned after such endorsement.

A tax invoice shall contain the following particulars:

- (a) consecutive serial number of tax invoice and serial number of tax invoice book, if any,
- (b) the date of issue of tax invoice,
- (c) name, address and registration number of the seller issuing tax invoice including registration number of Central Sales Tax Act, 1956, if any,
- (d) name, address and registration number of the purchaser including registration number of Central Sales Tax Act, 1956, if any,
- (e) full description of goods including HSN code,
- (f) quantity of goods sold,
- (g) price of goods excluding tax,
- (h) rate of tax and additional tax, the amount of tax, and additional tax charged in respect of goods, and

- (i) gross value of goods including the amount of tax.

1.2 A tax invoice shall not be issued by a dealer

- (a) in respect of the goods specified in Schedule I or exempted by notification under section 5(2)
- (b) who has given an option to pay lump sum tax in lieu of tax under section 14, 14A, 14B, 14C or 14D
- (c) for sale in the course of inter-state trade or commerce or export out of the territory of India
- (d) to a person who is not a registered dealer or
- (e) in such other cases as the state government may by notification in the official Gazette specify.

2. Retail Invoice [Rule 42(4)]

Except when tax invoice is issued under section 60(1), if a registered dealer sells any goods exceeding rupees one hundred in value in any one transaction to any person, he shall issue to the purchaser a retail invoice, containing such particulars as may be prescribed and retain a copy thereof.

When a sale is effected in the course of inter-state trade and commerce, or export out of the territory of India a retail invoice shall be signed by the person whose specimen signature has been furnished to the registering authority under section 66A of the Act.

The retail invoice shall contain the following particulars:

- (a) consecutive serial number of retail invoice and serial number of retail invoice book, if any,
- (b) the date of the issue of retail invoice,
- (c) name, address and registration number of seller issuing retail invoice including registration number of Central Sales Tax Act, 1956, if any,
- (d) full description of goods,
- (e) quantity of goods sold,
- (f) price of goods inclusive or exclusive of tax,
- (g) rate of tax and additional tax,

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- (gg) the amount of tax and additional tax charged under the Act or the Central Sales Tax Act, 1956, where price of goods is shown exclusive of tax and additional tax,
- (h) gross value of goods including the amount of tax and additional tax,
- (i) name, address and registration number under Central Sales Tax Act, 1956 of the purchaser for sale in the course of Inter-state sale or export.

The registered dealer, who has been granted permission to pay lump sum tax, shall not

- (i) issue tax invoice;
- (ii) collect from his purchaser any sum by way of tax on the sale of goods, and
- (iii) charge the amount of tax in his retail invoice.

Where the purchaser demands the amount of tax charged to be shown separately, the invoice shall contain the amount of tax so charged,

Where in a retail invoice, the amount of tax is included in the sale price of goods, the calculation of amount of tax is to be made by using the formula given below.

Formula:

$$\text{Amount of tax} = (S \times R) / (100+R)$$

[Where 'S' means the sale price of goods and 'R' means the rate of tax and additional tax applicable to the respective taxable goods under the Act at the relevant time of such sale.]

- The tax invoice and retail invoice shall bear a phrase, namely, 'Tax Invoice' or, 'Retail Invoice,' as the case may be, conspicuously on top of it.
- Where a dealer issues delivery challan in respect of sale, transfer or consignment of goods, such challan shall contain name, address and registration number of the selling dealer as well as the name and address of purchasing dealer and the quantity of goods.

3. Stock Transfer

In case of transfer of goods within the state or outside the state, the dealer

shall account such transfer by issuing stock transfer note or consignment note and all the details as mentioned in clauses (a) to (i), in rule 42 (4) or whichever is applicable shall invariably be described in the stock transfer note or consignment note.

4. Loss of Tax Invoice

Where a tax invoice is lost, whether such loss occurs while it is in the custody of the purchasing dealer or in transit by the selling dealer, the purchasing dealer shall furnish in respect of every such invoice so lost an undertaking on plain paper to the authority before whom such tax invoice is to be submitted, for amount of tax credit, the authority may, having regard to the circumstances of the case, fix.

Such undertaking on plain paper shall be furnished by the selling dealer to the authority before whom such tax invoice is to be submitted if a tax invoice is lost from his custody:

Where more than one tax invoice are lost, the purchasing dealer or the selling dealer, as the case may be, may furnish one such indemnity bond to cover all the tax invoices so lost.

Where a purchasing dealer loses the original tax invoice, the selling dealer shall provide a copy of such tax invoice clearly marked "copy in lieu of lost tax invoice" containing the following certificate.

"I hereby declare that this is the duplicate of the tax invoice bearing

No _____ date _____ issued to M/s. _____ bearing TIN _____"

Date:

Signature of authorized person

5. Credit and Debit Notes (Rule 43)

(1) Where a registered dealer has given a tax invoice in respect of a sale of goods, and thereafter, the goods or any part thereof are returned to the seller on account of the sale is cancelled or for any other reason, or the value of the sale is altered, whether due to a discount or otherwise, he shall, subject to the provisions of section 61, give to the purchaser a credit-note or, as the case may be, a debit-note which shall contain following particulars, namely:-

- (a) mechanically printed consecutive number of credit note or debit note;
- (b) date of the issue;

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- (c) name, address and registration number of the seller;
 - (d) name, address and registration number of the purchaser;
 - (e) serial number of relevant tax invoice and date of transaction to which the credit note or the debit-note relates to;
 - (f) value of the goods and the amount of the tax and additional tax credited or debited to the purchaser;
 - (g) signature of the dealer or person duly authorized.
- (2)(a) The relevant period for the event as mentioned in clause (b) of sub-section (1) of section 8 shall be one year.
- (b) The relevant period for the event as mentioned in clause(c) of sub section (1) of section 8 shall be six months from the date of such sale.
- (3)(a) The credit notes and the debit notes in respect of any annual discounts and any price adjustments shall be issued as and when the accounts are settled between the seller and the buyer provided the settlement is made within three months from the end of the year and the discounts or price adjustment are supported by proper documentary evidences.
- (b) The credit notes and debit notes in respect of goods returned after sales or purchases shall be issued only when the goods have been returned within a period of six months from the date of such sale.
- (4) A credit note or debit note shall be issued in triplicate, with the 'original' to be delivered to the purchaser, 'duplicate' to be enclosed with the return to be furnished under rule 19 and the 'triplicate' to be retained by the registered dealer.

6. Maintenance and preservation of accounts and records (Rule 45)

- (1) Every registered dealer and every person liable to be registered under the Act shall keep and maintain a true and correct account of his all transactions showing the goods produced, manufactured, bought, transferred, purchased or procured, imported, supplied and sold by him and the value thereof separately, together with delivery challans, invoices and bills. Every such dealer or person shall maintain accounts relating to purchase, sale and disposal in respect of each commodity, whether taxable or not, dealt with by him.

Accounts and Records

(2) Every dealer shall maintain records of collection and payment of tax and the claim of tax credit during any period. Every dealer shall maintain a register of delivery challan, tax invoice, credit note and debit note issued by him and he shall enter therein the details of tax invoices, credit notes and debit notes as prescribed in rules 42 and 43.

(3)(a) Every dealer who is liable to pay tax under the Act, shall, except the dealer who has been granted permission to pay lump sum tax under section 14, maintain monthly stock accounts in respect of each commodity dealt with by him, and such stock account shall contain particulars of purchases or receipts, sales, deliveries and balance of stock.

(b) Every dealer dealing in commodities mentioned in Schedule III shall keep and maintain daily accounts separately over and above monthly account under clause (a) in Form 213.

(4) Every manufacturer of goods shall maintain monthly production of accounts showing quantitative details of various raw materials used in the manufacture and the quantitative details of the goods so manufactured.

(5) Every purchasing dealer shall keep particulars of names and addresses of dealers or persons from whom he has purchased the goods and particulars of names and addresses of the dealers to whom he has sold the goods as also the complete address of the premises wherein goods transacted during the tax period are kept or stored by the dealer:

In case such goods are found either kept or stored at any place otherwise than the place referred to above, after giving an opportunity of being heard to such person under whose possession such goods are found, it shall be presumed that tax payable under the Act on such goods is attempted to evade and the assessing authority shall seize such goods and give receipt thereof to the person from whose possession or control such goods are seized:

Further the assessing authority may release the goods on furnishing security in the manner referred to in rule 12 of the amount equivalent to fair market price of such goods seized.

(6) Every dealer shall keep the records and particulars of the goods which are disposed of without any consideration.

(7) Every commission agent, broker, del credere agent, auctioneer or any mercantile agent shall maintain accounts showing,

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- (a) particulars of authorization given to him by each principal to purchase or sell goods on behalf of such principal separately;
 - (b) particulars of goods purchased or goods received for sale on behalf of each principal each day;
 - (c) particulars of purchases or sales effected on behalf of each principal;
 - (d) details of accounts furnished to each principal;
 - (e) details of transactions referred to in rule 17;
 - (f) tax paid on purchases or on sales effected on behalf of each principal and the challan number and date of remittance of the tax into the Government Treasury.
- (8) Every dealer or person executing works contract shall keep separate account showing,
- (a) the particulars of names and addresses of the persons for whom and on whose behalf he carried on the execution of works contract;
 - (b) the particulars of goods procured by way of purchases or otherwise for the execution of works contract;
 - (c) the particulars of goods to be utilized in execution of each works contract;
 - (d) the details of payment received in respect of each works contract, and
 - (e) the particulars of charges towards labour service and any other charges that are deductible under sub-clause (c) of clause (30) of section 2: provided that such amount shall be reasonable with regard to the nature of the respective works contract.
- (9) Every dealer or person engaged in the transfer of right to use any goods shall keep
- (a) particulars of names and addresses of the persons to whom he has delivered the goods for use,
 - (b) details of amounts received in respect of each transaction, and
 - (c) monthly stock accounts in respect of each commodity dealt with by him and such stock account shall contain particulars of purchases or receipts, deliveries and balance of stock.

Accounts and Records

(10) Every dealer or person liable under the Act shall keep books of accounts at the place or places of business mentioned in the certificate of registration and every purchase and sale shall be brought to account as soon as possible the purchase or sale is effected.

(11) All the registers, accounts and documents maintained by such dealer or person shall be sequentially numbered, and where the registers and other documents are maintained by means of a computer or any other device, the dealer shall maintain hard copies of such registers and other documents on a monthly basis.

(12) Any entry in such registers, accounts and documents shall not be erased, effected or overwritten, and all incorrect entries shall be scored out under attestation and correct entries recorded. Where the registers, accounts and documents are maintained by means of computer or any other device, the dealer shall also maintain hard copies of corrections and changes made in entries..

(13) Accounts maintained by dealers together with all invoices, bills, declarations, waybills and delivery notes relating to stocks, deliveries, purchase and sales shall be preserved for the period of six years from the end of the year to which such accounts and records relate and shall be kept at the place of business mentioned in the certificate of registration.

(14) Any person either in the capacity of a carrier or clearing forwarding agent holds in custody for delivery or dispatch any goods on behalf of any dealer shall maintain true, complete and correct records in respect of the goods handled by him on behalf of the dealer and shall produce or cause to be produced the details thereof as required by the Commissioner.

Chapter 14

Audit Report

Section 63: (1) Every registered dealer whose total turnover in respect of any particular year exceeds **rupees one crore** and taxable turnover exceeds **rupees twenty lacs** shall get his accounts verified and audited by a specified authority within **nine months from the end of that year** and obtain within that period a report of such audit in the prescribed form duly signed and verified by such specified authority along with such particulars as may be prescribed. A true copy of such report shall be furnished by the dealer to the Commissioner within such period as may be prescribed.

Rule 44: (1) The report of audit under section 63 to be furnished by the specified authority (as defined in the explanation to sub-section (1) of section 63 shall be in Form 217 and shall contain the following particulars:

- (a) verification of accounts and documents as mentioned in rule 45,
- (b) certificate containing a report as to -
 - (i) the correctness of the tax credits claimed by the dealer during the period under report, and
 - (ii) whether the dealer has employed fair and reasonable method as required under sub-section (11) of section 11 of the Act;
 - (iii) whether the dealer has made the true and proper calculation and payment of tax required under the Act.

(2)³ Every registered dealer who is required to obtain the audit report under section 63 shall within a period of **thirty days** from the date of obtaining such report, submit the following documents by way of uploading on the website of the department as under

- (i) Audit Report in Form 217.
- (ii) Scanned copy of statement of particulars duly signed by the specified authority and its soft copy
- (iii) Scanned copies of lists of all statutory forms and its soft copy

³ Rule 44(2) substituted vide Notification No. (GHN-19) VAR-2014-(35)-TH, Dated 15th October 2014.

Audit Report

- (iv) Scanned copies of statutory audit report and statement of observations, comments, and notes obtained from Chartered Accountant and
- (v) undertaking in the following manner duly signed by the dealer or by a person referred to in Section 65
 - (1) I/we hereby submit that all the details given in the audit report are correct and complete to the best of my/our knowledge and scanned copies referred to in (ii) to (iv) are of the documents obtained from the specified authority. Responsibility arising out of any omission or error will be on me/us
 - (2) I/we further declare that no information as referred to in (i) to (iv) above has been hidden
 - (3) I/we am/are aware about the action of prosecution by the registering authority and the penalty and punishment for the offence of hiding any such information which is found in future

Date

Signature and Status

Explanation: For the purposes of this section

- (a) **"specified authority"** means,-
 - (i) a Chartered Accountant within the meaning of the Chartered Accountants Act, 1949 and includes persons who by virtue of the provisions of sub-section (2) of section 226 of the Companies Act, 1956, is entitled to be appointed to act as an auditor of companies;
 - (ii) a **Cost Accountant** within the meaning of the Cost and Works Accountants Act, 1959;
 - (iii) a legal practitioner or a Sales Tax Practitioner whose name is entered in the list maintained by the Commissioner in accordance with the provisions of section 81.
 - (b) **"total turnover"** shall have the same meaning as given in *Explanation* below sub-section (1) of section 3.
- (2) If any dealer liable to get his accounts audited under sub-section (1) fails to furnish a true copy of such report within the prescribed time (30 Days)

the Commissioner shall, after giving the dealer a reasonable opportunity of being heard, impose on him, in addition to any tax payable, a sum by way of penalty not exceeding **rupees ten thousand**, as he may determine.

2. Production and inspection of accounts and documents and search of premises (Section 67)

(1) The Commissioner may, subject to such conditions as may be prescribed, require any dealer to produce before him any accounts or documents, or to furnish any information relating to stocks of goods of, or to sales, purchases and deliveries of goods by the dealer or any other information relating to his business, as may be necessary for the purposes of this Act.

(2) All accounts, registers and documents relating to stocks of goods of or to sales, purchases and deliveries of goods by, any dealer and all goods kept in any place of business of any dealer, shall at all reasonable times be open to inspection by the Commissioner, and the Commissioner may take or cause to be taken such copies or extracts there from or may place or cause to be placed such marks of identifications thereon, as appear to him necessary for the purposes of this Act.

(3) The Commissioner may, for the purposes of this Act, impound and retain in his custody for such period as he considers necessary any books of accounts or other documents produced before him in any proceeding under this Act.

(4) If the Commissioner has reason to believe that any dealer has evaded or is attempting to evade the payment of any tax due from him he may, for reasons to be recorded in writing, seize such accounts, registers or documents of the dealer as may be necessary, and shall grant a receipt for the same, and shall retain the same for so long as may be necessary, in connection with any proceeding under this Act or for a prosecution.

(5) For the purposes of sub-section (2) or sub-section (4), the Commissioner may enter and search any place of business of any dealer, or any other place where the Commissioner has reasons to believe that the dealer keeps or is for the time being keeping any accounts, registers or documents of his business or stocks of goods relating to his business and may make a note or an inventory of any articles or things found in the course of any search which in his opinion will be useful for, or relevant to, any proceeding under this Act, or for a prosecution.

- (6) Where—
- (a) a carrier or bailee or any person to whom goods were delivered for transport has kept the said goods in any vehicles, vessel or place; and
 - (b) the Commissioner has reason to believe that tax on such goods is or is likely to be evaded,

The Commissioner may stop the vehicle or the vessel carrying such goods and enter and search the vehicle, vessel or place and inspect the goods and records relating to such goods and elicit such information from the carrier, bailee or any person as is relevant.

- (7) The provisions of the Code of Criminal Procedure, 1973 relating to searches shall apply, so far as may be, to a search made under sub-sections (5) and (6)

3. Goods in Transit

Rule 51

- Every movement of goods specified/not specified by the Commissioner within the state or going outside the state shall be accompanied by Form 402.
- Form 402, a book of twenty-five leaves, shall be obtained from the registering authority duly authenticated by a payment of a fee of rupees twenty-five in court fees stamp.
- The Commissioner may exempt the dealer making online application to obtain Form 402 from payment of such fees.
- The authority issuing such forms may require the person applying for the forms to furnish the accounts of the forms issued earlier and also to satisfy the authority of the tax payable on the transactions relating to the forms used.
- Form 402 shall be duly filled in triplicate by the consignor;
- 'Triplicate' copy of Form 402 shall be retained by the consignor and 'Original' and 'Duplicate' copies shall be carried along with the vehicle in which the goods are moving;
- During the movement of goods if any designated check-post or barrier is encountered, the 'original' and 'duplicate' of Form 402 shall be got

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endorsed by the officer-in-charge of such check-post or barrier and 'original' shall be deposited with the officer:

- If during such movement, no check-post or barrier is encountered, the 'original' form shall be handed over to the person to whom the delivery of goods is to be made;
- The 'duplicate' of Form 402 shall be kept by the carrier of the vehicle throughout its movement in the state.
- The carrier of the goods specified/not specified by the Commissioner while entering into the state shall carry Form 403 in triplicate, duly authenticated from the registering authority in whose jurisdiction the dealer is registered or by a person or a dealer importing such goods or as the case may be, such goods being dispatched to him from outside the state.
- The Form 403 shall be duly and completely filled by the carrier and original of Form 403 along with copies of documents referred to in subsection (3) of section 68 shall be deposited with such Officer-in-charge of the check-post or barrier and receipt thereto shall be obtained on the 'Duplicate' and 'Triplicate' copies of the Form 403.
- During the movement till the vehicle reaches its destination, if any check-post or barrier intervenes, 'Duplicate' and 'Triplicate' of Form 403 held by the carrier shall be got endorsed by the in-charge of each of such check-posts or barriers.
- The 'duplicate' of Form 403 shall be forwarded to the consignee of the goods and the triplicate' of Form 403 shall be retained by the carrier.
- It is now mandatory that all movement of goods must be accompanied by electronically generated Form 402/403/405. This amendment is effective from 22-Dec-2014 ⁴.

Section 68(3): The driver or other person in-charge of a vehicle, boat or animal carrying goods shall

- (a) carry with him a log book, a bill of sale or delivery note and such other documents relating to the goods carried in the vehicle or boat or on the animal and containing such particulars as may be prescribed and the

⁴ Added vide ORDER No.GVL/VAT/ Sec.68 and 69/(1) Dated the 3rd December, 2014.

driver or person in charge of a transport vehicle shall, in addition, carry a goods vehicle record and a trip sheet;

- (b) produce the same when requested to do so by the office-in-charge of the check-post or barrier;
- (c) give to the officer-in-charge of the check-post or barrier a declaration relating to particulars of the goods carried in the vehicle or boat or on the animal in Form 402 or 403 as may be prescribed and keep one copy of the declaration with him.

Section 68(4)(a): If the officer-in-charge of the check-post or barrier is of the opinion that

- (i) goods under transport are not covered by goods vehicle record, trip-sheet or log book, or
- (ii) goods under transport are not in accordance with the documents prescribed under clause (a) of sub-section (3), or
- (iii) a declaration relating to particulars of goods as made under clause (c) of sub-section (3) is false or
- (iv) the signature appearing in any of the documents referred to in section 68 (3) (c) as above, does not match with the signature furnished by the registered dealer under section 66 A, he may, after recording the reasons, seize such goods and retain the vehicle and give receipt thereof to the person from whose possession or control the goods and the vehicles are seized.

Section 68(4)(b): If the driver or any other person in charge of a vehicle, boat or animal carrying goods does not make a declaration or if he makes a declaration, but does not keep a copy thereof with him as required by clause (c) of sub-section (3)

Section 68(5): (a) The officer-in-charge of the check-posts or barrier may, after giving the owner, driver or person-in-charge of goods, a reasonable opportunity of being heard and after holding such further inquiry, as he deems fit, impose on him penalty, in addition to tax payable under this Act, not exceeding one and one-half times of the tax for possession of goods seized by him.

(b) The officer-in-charge of the check-post or a barrier may release any of the goods or documents so seized under sub-section (4) on payment of tax, interest and penalty or on furnishing such security in such form as may be prescribed.

Section 68(6): The officer-in-charge of the check-post or barrier may, during inspection and verification of goods under transport including the documents and records relating thereto, direct the carrier not to part with the goods including re-transporting or re-booking until verification of goods, records and documents is done or inquiry, if any, is completed.

Section 68(7): Where the person from whose possession or control the goods are seized under sub-section (4) fails to establish the ownership of the goods so seized or the payment of tax, interest or penalty is not made or security is not furnished, the Commissioner may direct that the goods so seized may be sold by public auction and the sale proceeds thereof shall be deposited in the government treasury.

Explanation: In this section

- (a) “goods vehicle record” means the documents required to be carried by the dealer of a transport vehicle under the Motor Vehicle Act, 1988 or the rules made there under;
- (b) “log book” means a register, statement or other record containing particulars of the goods under transport;
- (c) “trip sheet” means a sheet or other document containing particulars relating to the trip-wise use of a transport vehicle, required to be carried by the driver under the Act referred to in clause (a);
- (d) “goods under transport” means goods which have been handed over to a carrier and complete delivery thereof has not been taken from such a carrier;
- (e) “carrier” means any person or agency who undertakes to carry or transport goods from one place to another.

4. Transit Pass

The driver or the person in charge of the goods vehicle coming from any place outside the state is bound for any other place outside the state, the driver or any other person in-charge of such vehicle, shall obtain transit pass for such vehicle from the officer-in-charge of the first check-post or barrier after his entry into the state and deliver the same to the officer-in-charge of the last check-post or barrier before his exit from the state.

If the driver or person in-charge of such a vehicle fails to carry with him the required transit pass throughout the state, he shall be liable to pay a penalty not exceeding **one and one-half times** the amount of tax of goods carried by him, as may be determined, after giving a reasonable opportunity of being heard.

If the driver or person-in-charge of such a vehicle fails to deliver the transit pass, or if goods in the vehicle, are not found in accordance with the transit pass, at the place of exit from the state, it shall be presumed that goods carried thereby are sold within the state and he shall be liable to pay tax and penalty not exceeding **one and one-half times** the amount of tax as may be determined, after giving a reasonable opportunity of being heard, on such sale in accordance with provisions of this Act.

5. Special Power for reconstitution of record in certain circumstances (Section 72)

If the Commissioner is satisfied that any records pertaining to a dealer have been destroyed as a result of fire or any natural or other calamity or event, he may by notice in writing, require the dealer to appear before him on a date and at such place specified in the notice, or to produce before him any accounts or registers or documents or copies thereof or to furnish fresh returns under this Act or earlier law for such period, by such dates and to such authority as may be specified in the notice (being returns for a period for which the dealer has not yet been assessed), or to furnish true copies of or extracts from any documents already submitted to the Commissioner, on or before the date specified in the notice, or to furnish any other information relating to the business of the dealer as may be specified in the notice, being information which the Commissioner considers necessary for facilitating the work of assessment or reassessment or the collection of the tax from such a dealer under this Act or under earlier law.

The Commissioner may require the dealer to produce for inspection copies of or extracts from all or any of the following:

- (a) application for the issue of a certificate of registration made under this Act;
- (b) certificate of registration granted to the dealer;
- (c) returns furnished by the dealer;

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- (d) proof of payment of tax and penalty by the dealer;
- (e) a certified copy of the assessment order given to the dealer;
- (f) any notice of demand served on the dealer;
- (g) specimen signature furnished by a dealer;
- (h) any nomination made by a dealer.

Chapter 15

Appeal, Revision

1. Appeal

Section 73: (1) An appeal from every original order, passed under this Act or the rules, shall lie,

- (a) if the order is made by a an Assistant Commissioner or Commercial Tax Officer, or any other officer sub-ordinate thereto, to the Deputy Commissioner;
- (b) if the order is made by a Deputy Commissioner, to the Joint Commissioner;
- (c) if the order is made by a Joint Commissioner, Additional Commissioner, or Commissioner, to a Tribunal.

(2) In the case of an order passed in appeal by a Deputy Commissioner or a Joint Commissioner, as the case may be, a second appeal shall lie to the Tribunal.

(3) Subject to the provisions of section 84, no appeal shall be entertained unless it is filed within sixty days from the date of communication of the order appealed against.

(4) No appeal against an order of assessment shall ordinarily be entertained by an appellate authority, unless it is accompanied by a satisfactory proof of payment of the tax in respect of which an appeal has been preferred:

An appellate authority may, if it thinks fit, for reasons to be recorded in writing, entertain an appeal against such order

- (a) without payment of tax with penalty (if any) or, as the case may be, of the penalty, or
- (b) on proof of payment of such smaller sum as it may consider reasonable, or
- (c) on the appellant furnishing in the prescribed manner, security for such amount as the appellate authority may direct.

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(5) The Commissioner, on receipt of notice that an appeal against the order passed in appeal by the Deputy Commissioner or, as the case may be, by the Joint Commissioner has been preferred by the other party to the Tribunal may, within thirty days of receipt of the notice, file a memorandum of cross objection against any part of the order passed in appeal by the Deputy Commissioner or, as the case may be, by the Joint Commissioner and such memorandum shall be disposed of by the Tribunal as if it were an appeal.

(6) Subject to such rules of procedure as may be prescribed, an appellate authority may pass such an order on appeal as it deems just and proper.

(7) Every order passed in appeal under this section shall, subject to the provisions of sections 75, 78 and 79, be final.

Rule 54: (1) Every first appeal or second appeal and every application for revision shall,

- (a) be in writing;
- (b) specify the name and address of the appellant or applicant along with the registration certificate number;
- (c) specify the date of the order against which it is made;
- (d) specify reasons if appeal or application for revision is not made within the time allowed;
- (e) specify the date and amount of payment of tax, interest and penalty, if the subject matter of the appeal or revision is assessment, re-assessment or levy of penalty or interest;
- (f) contain a clear statement of facts;
- (g) state precisely and in brief the relief prayed for; and
- (h) be signed and verified by the appellant or the applicant or by a legal practitioner engaged by him or by an agent duly authorized by him in writing in that behalf, in the following form:

"I, the legal practitioner engaged by / the agent appointed by / the appellant / the applicant / the named in the above memorandum of appeal/application for revision, do hereby declare that what is stated herein is true to the best of my knowledge and belief.

Signature _____

(2) The memorandum of appeal or the application for revision shall be accompanied by either the order in original against which it is made or a duly authenticated copy thereof, unless the omission to produce such order or copy is explained at the time of the presentation of the appeal or application for revision, to the satisfaction of the appellate, or revising authority.

(3) An appeal against an order of assessment or a second appeal against such order passed in appeal, shall as far as possible be in accordance with Form 501.

(4) An application for revision against any order shall as far as possible be in accordance with Form 502.

(5) The memorandum of an appeal or the application for revision shall either be presented by the appellant or applicant or his agent or his legal practitioner to the appellate or revising authority or be sent to the said authority by registered post.

2. Summary Rejections

If the memorandum of appeal or the application for revision omits to state any of the particulars required under rule 54 (1) or is not accompanied by the original order against which it is made or a duly authenticated copy thereof, as laid down in sub-rule (2) of rule 54, such appeal or the application for revision may be rejected summarily after appellant or the applicant is given reasonable opportunity to amend the memorandum of appeal.

Where the appellate authority decides to entertain appeal on the condition of payment of the amount so considered reasonable under proviso to subsection (4) of section 73 and the dealer does not pay the amount so determined within the time specified by the appellate authority, the appeal shall be rejected summarily.

3. Hearing (Rule 56)

(1) (a) If the appellate or revising authority does not summarily reject the appeal or the application for revision, it shall fix the date for hearing. The date so fixed shall not be earlier than ten days from the date on which intimation thereof is given to the appellant or the applicant or to his agent or to legal practitioner engaged by the appellant or the applicant:

Provided that the date earlier than aforesaid may be fixed for hearing if the appellant or the applicant or his agent or the legal practitioner engaged by him agrees thereto in writing, with the concurrence of the other side, if any.

(b) The authority aforesaid may for sufficient reasons, to be recorded in writing, adjourn at any stage the hearing of an appeal or application for revision to a different time on the same day or to any other day.

(2) If on the date and at the time fixed for hearing or on any other date or at any other time to which the hearing may be adjourned, the appellant or the applicant does not appear before the said authority either in person or through an agent, the said authority may dismiss the appeal or reject the application or may decide it ex-parte, as it may think fit.

4. Notice to person likely to be affected adversely (Rule 57)

(1) Before an appellate or revising authority passes an order in appeal or revision which is likely to affect the appellant or applicant or any other person adversely, it shall serve on him a notice in Form 503 and give him a reasonable opportunity of being heard.

(2) Before the Commissioner and an officer below the rank of Commissioner who has been delegated the powers of the Commissioner under section 16, passes any order under section 75 (1) (a), which is likely to affect adversely any person who is a party to such proceeding, he shall serve on such person a notice in Form 503 and give him a reasonable opportunity of being heard.

(3) The notice required to be given under proviso to section 79 (1) of the Act shall be in Form 504.

5. Fees [Rule 58 (1)]

The fees for appeal or revision shall be paid as under:

- (a) On a memorandum of appeal against an order of assessment, re-assessment or rectification. ₹ 50
- (b) On a memorandum of appeal against an order other than an order specified in (a) above ₹ 50
- (c) On a second appeal or revision to the Tribunal ₹ 200
- (d) On an application for determination of question under section 80. ₹ 200 per question

- (2) All fees payable under this rule shall be paid in court fees stamp.

6. Non appealable orders

No appeal and no application for revision shall lie against

- (a) a notice issued under this Act calling upon a dealer for assessment or asking a dealer to show cause as to why he should not be prosecuted for an offence under this Act; or
- (b) an order of the Commissioner under sub-section (1) of section 17;
- (c) an order pertaining to the seizure or retention of books of account, register and other documents; or
- (d) an order sanctioning prosecution under this Act.

7. Appeal to High Court (Section 78)

(1) An appeal shall lie to the High Court from every order passed in appeal by the Tribunal, if the High Court is satisfied that the case involves a substantial question of law.

(2) In an appeal under this section, the memorandum of appeal shall precisely state the substantial question of law involved in the appeal.

(3) Where the High Court is satisfied that a substantial question of law is involved in any case, it shall formulate that question.

(4) The appeal shall be heard on the question so formulated and the respondent shall, in the hearing of the appeal, be allowed to argue that the case does not involve any such question:

Nothing in this sub-section shall be deemed to take away or abridge the power of the Court to hear, for reasons to be recorded, the appeal on any other substantial question of law, not formulated by it, if it is satisfied that the case involves such question.

(5) The High Court, upon hearing such a case, shall decide the question so formulated or involved and deliver the judgment thereon containing the grounds on which such decision is founded.

(6) An appeal under this section may be filed within ninety days from the date of communication of the order of the Tribunal and shall be accompanied with a fee of rupees two hundred.

8. Revision (Section 75)

1(a) The Commissioner on his own within three years or on an application made to him within one year from the date of any order passed by any officer appointed under section 16 to assist him, may call for and examine the record of any such order and pass such order thereon as he thinks just and proper within five years from the date of said order of the officer appointed under section 16 to assist him.

(b) The Tribunal, on application made to it against an order of the Commissioner (not being an order passed under section 73 (2) in second appeal or under clause (a) in revision on an application) within four months from the date of the communication of the order may call for and examine the record of any such order, and pass such order thereon as it thinks just and proper.

(2) Where an appeal lies under section 73 and no appeal has been filed, no proceedings in revision under this section shall be entertained upon application:

Provided that the proceedings in revision may be entertained upon an application where the applicant satisfies the Commissioner that he has sufficient cause for not preferring an appeal against the order in respect of which an application for revision is made.

(3) No order shall be passed under this section which adversely affects any person, unless such person has been given reasonable opportunity of being heard.

(4) Where the Commissioner or the Tribunal rejects any application for revision under this section, the Commissioner or, as the case may be, the Tribunal shall record the reasons for such rejection.

Chapter 16

Offences and Penalties

1. Offences by a Dealer (Section 85)

(1) **Whoever,**

- (a) not being a registered dealer, falsely represents that he is or was a registered dealer at the time of selling or purchasing goods;
- (b) knowingly furnishes a false return where the amount of tax, which could have been evaded if the false return had been accepted as true, exceeds ₹ 1000;
- (c) knowingly produces before the Commissioner false tax invoice, bill, voucher, cash-memorandum, declaration, certificate or any other document for claiming deduction or tax credit, the value of which exceeds ₹ 1000
- (d) fails to pay tax as per the returns filed by him;
- (e) knowingly keeps or produces a false account;
- (f) issues to any person a certificate or declaration under this Act, or an invoice, bill, cash-memorandum, voucher or any other document which he knows or has reason to believe to be false;
- (g) willfully attempts, in any manner whatsoever, to evade tax leviable under this Act;

shall on conviction, be punished with imprisonment for a term which may extend to **six months** or fine not exceeding **rupees twenty thousand** or with both.

(2) **Whoever**

- (a) carries on business, as a dealer without being registered, in contravention of section 21; or
- (b) fails without sufficient cause to furnish any information required by section 26; or

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- (c) fails to surrender his certificate of registration as provided in subsection (9) of section 27; or
- (d) fails without sufficient cause to furnish any returns as required by section 29 by the date and in the manner prescribed; or
- (e) without reasonable cause, contravenes any of the provisions of section 31; or
- (ee) contravenes the provisions of section 60;
- (f) fails without sufficient cause, when directed so to do under section 62 to keep any accounts or record, in accordance with the directions; or
- (g) fails without sufficient cause, to comply with any requirements made of him under section 67, or obstructs any officer making inspection or search or seizure under that section; or
- (h) obstructs or prevents any officer from performing any function under this Act; or
- (i) being owner or in-charge of a goods vehicle fails, neglects or refuses to comply with any of the requirements contained in section 67 or 68,
- (j) issues to another registered dealer tax invoice, retail invoice, bill or cash memorandum with the intention to defraud the government revenue (or with the intention that the government may be defrauded of its revenue,

shall, on conviction, be punished with imprisonment for a term which may extend to **six months** or fine not exceeding **rupees twenty thousand** or with both .

That in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be for less **than one month** and such fine shall not be less than **ten thousand**.

2. Offences by a Government Servant

Section 85(3): Subject to the provision of section 97, if any government servant discloses any particulars referred to in sub-section (1) of section 92, he shall, on conviction, be punished with imprisonment for a term which may extend to **six months and with fine**.

Section 85(4): Whoever aids or abets any person in commission of any act specified in sub-sections (1) or (2) shall on conviction, be punished with

imprisonment for term which **may extend to six months and a fine of rupees twenty thousand or with both.**

Section 85(5): Whoever commits any of the acts specified in sub-sections (1) to (3) and the offence is a continuing one under any of the provisions of these sub-sections, shall, on conviction, be punished with fine on a daily basis which shall not **exceed rupees one hundred** during the period of the continuance of the offence, in addition to the punishments provided under this section.

Section 85(6): Where a dealer is guilty of an offence specified in sub-sections (1) and (2), the person to be the manager of the business of such a dealer under section 65 shall also be deemed to be guilty of such offence, unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission thereof.

3. Offences by a Company (Section 86)

(1) Where an offence under this Act or the given rules has been committed by a company, every person who at the time the offence was committed, was in-charge of, and was responsible to the company for the conduct of the business of the company, as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that, nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section,

- (a) “**company**” means a body corporate, and includes a firm or other association of persons; and
- (b) “**director**” in relation to a firm means a partner in the firm.

4. Offences in case of a HUF [Section 86(3)]

Where an offence under this Act has been committed by a Hindu Undivided Family, the *karta* thereof shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render the *karta* liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such an offence:

Provided further that, where an offence under this Act has been committed by a Hindu Undivided Family and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of any adult member of the Hindu Undivided Family, such member shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

5. Cognizance of Offences (Section 87)

(1) No court shall take cognizance of any offence under this Act or the rules except with the previous sanction of the Commissioner, and no court inferior to that of a Metropolitan Magistrate shall try any such offence.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences punishable under this Act or the rules shall be cognizable and **bailable**.

Chapter 17

Amnesty Scheme⁵

Gujarat Government has come out with Gujarat VAT Amnesty Scheme for civil works contractors and developers. On the basis of taxability reinforced by the judgment of Hon'ble Supreme Court in case of **M/s Larsen & Toubro Ltd. v/s State of Karnataka dated 26.09.2013** in relation to levy of VAT on sale of immovable property.

Government observed irregularities in payment of VAT by many builders and developers and therefore VAT Amnesty (remission) Scheme was introduced vide **Circular No.GST-1014-884-VAT Cell, dated – 14/10/2014** under provision of section 41 of Gujarat Vat Act, 2003.

Features of the Scheme

- 1.(i) This scheme will be applicable only to registered and unregistered dealers engaged in civil works contract.
 - (ii) The Scheme is applicable to liability arising due to judgment of Hon'ble Supreme Court in case of M/s Larsen & Toubro Ltd for Transactions commencing from 01/04/2006.
 - (iii) The Benefit of the scheme is also available in case of liability arising from current proceedings of Assessment, Reassessment or revision.
2. The lump sum tax @ 0.6% of their gross turnover of works contract transactions under section 14a will have to be paid.

Further in case of purchases from registered dealer, if the seller has not paid tax to the Government, such tax will have to be paid by the dealer taking benefit of this scheme.

3. In case of Purchases from Unregistered dealer, Purchase Tax U/s. 9 will be payable, of which no input tax credit U/s 11 will be available.
4. In case of goods purchased from outside state (Including Import) and used in works contract than output tax at applicable schedule rate will be payable on their deemed sales.

⁵ Introduced vide Circular No.GST-1014-884-VAT Cell, dated – 14/10/2014

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5. Remission of interest/penalty on amount payable mentioned in serial no (2), (3), (4) above will be given.

6. In case of out of Gujarat state purchases of machineries in the nature of vehicles, Entry Tax must have been paid by the dealer. If not paid earlier, the same will be payable under the scheme.

In case of out of Gujarat state purchases of Machineries other than in the nature of Vehicles, tax at schedule rate on such machineries will have to be calculated and will have to be reduced from the amount of admissible remission of interest and penalty under this scheme.

7. The benefit of the scheme will be available for the transactions up to the date of application under the scheme.

8. The benefit of the scheme is available in case of pending appeals also.

9. The period of the Scheme is 180 days from 14th October, 2014. However the validity period of the scheme has been extended to 11th August, 2015 by notification no.168/144 dated 03/06/2015

Note: Those dealers who want to take benefit of the scheme after 11/04/2015 have to pay interest @ 18% per annum on the amount of tax payable under the scheme from the date 14/10/2014. Remission of this interest amount is not available.

Appendix 1

Gujarat VAT Forms List

Form 101	Application For VAT Registration
Form 101A	Details of Additional Places of Business
Form 101B	Address of Branches and Godowns outside Gujarat
Form 101C	Specimen signature of Authorized person
Form 101D	Details of Partners / Directors
Form 101E	Addition information of Business
Form 102	Certification of VAT Registration
Form 103	Application for Cancellation of Registration
Form 104	Notice for Suspension / Cancellation of Registration
Form 105	Security under section 28
Form 106	Declaration/Revised declaration regarding manager of business
Form 107	Declaration/Revised declaration regarding bank accounts
Form 108	Statement of goods held in stock (on 31/03/2006)
Form 109	Application for Certificate of Entitlement
Form 110	Certificate of Entitlement
Form 111	List of Purchase of Goods
Form 112	List of Purchase of Goods
Form 201	Monthly return
Form 201A	List of Sales
Form 201B	List of Purchases
Form 201C	Balance of Stock
Form 202	Quarterly / Annual return for Lump Sum Dealers
Form 202A	List of Purchases for Lump Sum Dealers
Form 202B	List of sales of goods against retail invoices
Form 202C	List of purchase of goods in the state
Form 203	Monthly / Annual return of incentives
Form 204	Monthly / Annual return of deferment of tax
Form 205	Annual return

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Form 205A	Addition Information of Business
Form 206	Application for Permission to file separate return
Form 207	Challan
Form 208	Notice for Crossing Threshold of Turnover
Form 209	Application for Exemption from filing returns
Form 210	Application for Permission to pay Lump Sum tax
Form 210A	Application for permission to pay Lump sum tax u/s. 14B
Form 210B	Application for permission to pay Lump sum tax u/s.14C
Form 210C	Application for permission to pay Lump sum tax u/s. 14D
Form 211	Permission to pay Lump Sum tax
Form 211A	Permission to pay Lump Sum tax u/s. 14B
Form 211B	Permission to pay Lump Sum tax u/s.14C
Form 211C	Permission to pay Lump Sum tax u/s. 14D
Form 212	MST Return
Form 213	Daily Account of MST Commodities
Form 214	Application for Permission to pay composition for works contract
Form 214A	Application for Permission to pay composition for works contract
Form 215	Permission to pay composition for works contract
Form 215A	Permission to pay composition for works contract
Form 216	Statement for composition of works contract
Form 216A	Statement for claiming the credit for the amount deducted as tax
Form 217	Audit Report u/s.63 GVAT Act, 2003
Form 301	Notice for Provisional Assessment
Form 302	Notice for Audit Assessment
Form 303	Notice for Re-assessment
Form 304	Assessment Order
Form 305	Demand Notice
Form 306	Application for Provisional Refund
Form 307	Refund / Interest Payment Order
Form 308	Refund Adjustment Order

Gujarat VAT Forms List

Form 309	Notice for Imposing Penalty
Form 310	Order for compounding of offences
Form 401	General notice for seeking information
Form 402	Movement of goods within / going outside the state
Form 403	Goods entering into the state from other states
Form 404	Application for Transit pass
Form 405	Issue of Transit pass
Form 501	Application for Appeal
Form 502	Application for revision
Form 503	Notice before passing Order in Appeal / Revision
Form 504	Notice before passing order in rectification
Form 601	Application for enrolment as STP
Form 602	List of STPs
Form 603	Authority by Practitioner
Form 604	Authority by a Relative
Form 701	TDS Exemption Certificate
Form 702	Statement by the contractor to the sub-contractor
Form 703	TDS Certificate
Form 704	Yearly Declaration of contractee
Form 705	Register to be maintain by the person responsible for deduction of tax at source
Form 706	Application for allotment of TAN under sub section (4A) of sec. 59B
Form 707	TAN under sub section (4A) of sec. 59B
Form 708	Application for cancellation of TAN
Form KVIC1	Application for Certificate entitlement
Form KVIC2	Certificate of entitlement

Appendix 2

Schedule

SCHEDULE I
(see sub section (1) of Section 5)

Goods, the Sales or Purchase of Goods which Are Exempted from Tax

Sr. No.	Description of goods	Conditions and exceptions subject to which exemption is granted
1	Agate (<i>Akik</i>) Stones and articles made there from	-----
2	(i) Agricultural implements operated exclusively by human or animal agency for exclusive use in agricultural operations and the parts thereof, which are ordinarily not also used otherwise than as such parts,	-----
	(ii) Opener (Huller) and thrasher for agriculture use.	
3	Aids and implements used by handicapped persons.	
	(1) Braille educational equipment, Braille typewriters, Braille writing slates and Braille watch.	
	(2) Group hearing aids and Hearing aids.	
	(3) Induction group aids.	
	(4) Speech trainer.	
	(5) Language master	-----

Schedule

	(6) Audiometer.	
	(7) Voice chord.	
	(8) Walkers.	
	(9) Wheel chair.	
	(10) Calipers of all types.	
	(11) Artificial limbs.	
	(12) Crutches.	
	(13) Orthopaedic footwear and Orthopaedic implants.	
	(14) Tricycles and auto-tricycles for handicapped persons	
	(15) AH types of splints.	
	(16) Heart valves.	
	(17) Prosthetic aids for leprosy affected people.	
	(18) Intra-ocular lens used for cataract operation	
4	Deleted	
5	Bangles, Mangalsutra made of any kind of material other than gold, silver or other precious metals (studded or not studded with precious stones or pearls whether real, artificial or cultured.)	-----
6	Betel leaves and <i>pan</i> , <i>tambul</i> , <i>vida</i> , or <i>patti</i> prepared from betel leaves	-----
7	Kumkum, sindur and comb commonly known as <i>kanska</i> , <i>kanski</i> , Hair pin	-----
8	Books, periodicals and journals, time tables for railways and passenger transport services	Except which are specified in entry 56 in Schedule II

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9	(1) Bread in any form	-----
	(2) Khakhra, papad, papad pipes	
	(3) Sev made out of wheat flour or maida	
	(4) Unfried potato katti	
9A	Brooms and broom sticks (unbranded)	-----
10	Cattle, sheep and goats	-----
11	Cattle feed including fodder, grass, hay and straw and concentrates, (excluding cottonseeds, oilcakes and de-oiled cakes.)	-----
12	(i) Cereals and pulses;	-----
	(ii) Flour of cereals and pulses except Maize flour;	
	(iii) Wheat flour, Rava, Suji or maida made from wheat.	
13	Charkha and other implements and spare parts thereof meant for use in the production of handspun yarn, as may be specified by the State Government by notification in the Official Gazette.	-----
14	Deleted	-----
15	Chillies, tamarind and turmeric whole or in powder form.	Except when sold in sealed package under a brand.
		Explanation- The word "brand" means any goods sold under a trade mark registered under the Trade Marks Act, 1999 (47 of 1999).

Schedule

16	Coconut in shell (other than /copra).	-----
17	Condoms, loops and contraceptive devices.	-----
18	<i>Deshi Nalia</i>	-----
19	Deleted	
20	Eggs	-----
21	Electrical energy	-----
21A	Fabrics of all types on which additional excise duty is levied and collected in lieu of sales tax under the Additional Duties of Excise (Goods of Special Importance) Act, 1957.	-----
22	<i>Farsan</i> and eatables (other than sweetmeats) as the State Government may by notification in the Official Gazette, specify for the purpose of this entry.	Except when sold in sealed containers under a brand Explanation- The word "brand" means any goods sold under a trade mark registered under the Trade Marks Act, 1999 (47 of 1999).
23	(i) Firewood and Charcoal, (ii) Omitted w.e.f 1.4.08	-----
24	Fish, Sea food, and other aquatic products	Except when sold in sealed containers under a brand Explanation- The word "brand" means any goods sold under a trade mark registered under the Trade Marks Act, 1999 (47 of 1999).
25	Fishing nets	-----

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26	(i) Fresh flowers (excluding artificial flowers) (ii) <i>Veni, gajra</i> , garlands and such other articles prepared from fresh flowers (excluding those of artificial flowers)	-----
27	Flower, fruit and vegetable seed, seeds of lucerne grass (<i>Rajka</i>) and of sann hemp, bulbs, tubers and plants other than orchids	-----
28	Fresh fruits, fresh vegetables, edible tubers and garlic	-----
29	Gar but not including <i>Kakavior Kakab</i> or molasses	-----
30	<i>Haar, Pavitra, Kalagi, Mugat, Modh.</i> etc. made from artificial silk yarn and artificial silk yarn waste.	-----
31	Hand Carts or animal driven carts	-----
31A	Handicrafts articles as specified by the State Government by notification in the <i>Official Gazette</i> .	-----
32	Handlooms, parts and accessories thereof	-----
33	(i) Handloom fabrics, (ii) <i>Patoia</i> sarees or other articles woven on handlooms. (iii) Silk <i>Kinkhab</i> fabrics, that is to say handloom cloth interwoven-with silk yarn and <i>jari</i> thread	-----
34	<i>Heena</i> Powder (Mahendi)	-----
35	Human blood including blood-components.	-----

Schedule

36	Hurricane and hurricane lamps of all kinds and spare parts and accessories thereof	-----
36A	Kerosene stove and spare parts and accessories thereof.	-----
36B	Khadi garments and goods or made-ups thereof as may be specified by the State Government by notification in the <i>Official Gazette</i>	-----
37	<i>Khakhra pan</i>	-----
38	Kites (Patang)	-----
39	Manure, that is to say Organic manure (excluding chemical fertilizers, oil cakes or de-oil cakes)	-----
40	Meat	Except when sold in sealed containers
41	(i) Milk - whole or separated, or pasteurized milk (except milk powder) (ii) Butter milk, Curd, Lassi, and <i>Chakka</i>	-----
42	Deleted	-----
43	Musical instruments (handmade and other than electronic musical instruments) and Harmonium reeds	-----
44	<i>Padia and patrala</i>	-----
45	<i>Pawrah</i> and pick-axe	-----
46	Plantain leaves	-----
47	Poultry	
48	Poultry feed	-----
49	<i>Rakhadi</i>	-----

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50	Salt	-----
50A	Slates and slate pencils and chalk sticks and chalk lumps	-----
51	(i) Stamp papers sold by Government Treasuries or vendors	-----
	(ii) Postal Items like envelope, post card etc, sold by Government.	
51A	Sugar of all types on which additional excise duty is levied and collected in lieu of sales tax under the Additional Duties of Excise (Goods of Special Importance) Act, 1957.	-----
51B(i)	Threads, twine, string or rope prepared from coir or jute known as <i>Bhindi, Bhindiwan</i>	-----
51(B)(ii)	<i>Varat and Varatdi</i>	-----
51C	Deleted w.e.f. 1st April, 2007	-----
52	Toxoids or sera	-----
53	Water (other than aerated, mineral, purified water, medicinal, ionic, distilled, battery, de-mineralized water and water sold in sealed container)	-----
54	(i) Wooden brushes meant for household purposes;	-----
	(ii) Articles made from wood, that is to say <i>Dhoka, Welan, Bajoth, Patia-Patli and Cradles.</i>	
	(iii) Wooden frames of Drum, <i>Dholak, Tadla, Kongaor bonga.</i>	

SCHEDULE II
(See Section 7 and Section 9)

Goods, the Sales Purchase of which is subject to Tax and the rate of Tax

Sr. No.	Description of goods	Rate of tax
1	Agricultural implements to which entry 1 in schedule I does not apply and agricultural machinery.	Four paise in the rupee
2	Bamboo whether whole or split and articles made of Bamboo	Four paise in the rupee
3	Bearings of all types, including ball-bearing, roller bearings, taper bearing and niddle roller bearings and spare parts and components thereof	Four paise in the rupee
4	Beltings	Four paise in the rupee
5	Betel nut and Arecanut powder	Four paise in the rupee
6	Bicycles, tricycles, cycle rickshaws, pedal rickshaws, and cycles combination and & accessories and parts thereof	Four paise in the rupee
6A	Biscuites (unbranded)	Four paise in the rupee
7	Bolts, nuts, screws and fastners	Four paise in the rupee
8	Bone meal	Four paise in the rupee
9	Omitted w.e.f 31st July, 2009	
10	(i) Bricks of all kinds including fly ash bricks, refractory bricks, and hollow block bricks (ii) Roofing tiles known as <i>MangSori Nalia</i> .	Four paise in the rupee
11	Buckets, drums, trunks, <i>Ghamesa</i> and <i>Tagara</i> made of GP sheets or CR Sheets.	Four paise in the rupee
12	Deleted	
13	(i) Bullion and specie, gold, silver, and other precious metals, (ii) Articles or jewellery made of gold or silver or both or of other precious	One paise in the rupee

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	metals (studded or not studded with precious stones or pearls whether real, artificial or cultured)	
	(iii) Precious stones, semi-precious stones and pearls of all types	
14	Candle made of wax	Four paise in the rupee
15	Deleted	
16	Castings or Cast Iron casting	Four paise in the rupee
17	Caustic soda and silicate of soda	Four paise in the rupee
18	Omitted w.e.f 31st July, 2009	
19	Chemical fertilizers of all types	Four paise in the rupee
19A	Cigarette made from tobacco.	Twenty-seven and a half paise in the rupee
20	(i) Coal including coke in all its forms but excluding charcoal	Four paise in the rupee
	(ii) Fly ash of coal	
	(iii) Coal gas	
21	Coir and coir products excluding coir mattresses	Four paise in the rupee
22	Coffee beans and seeds, cocoa pods, green tea leaf and Chicory tubers or chicory roots whether cut or dried or processed	Four paise in the rupee
23	Communications equipment such as, Private Branch Exchange (P.B.X) and Electronic Private Automatic Branch Exchange (E.P.A.B.X) etc.	Four paise in the rupee
24	(i) Cotton, that is to say, all kinds of cotton (indigenous or imported), in its unmanufactured state, whether ginned or unginned, baled, pressed or otherwise,	Four paise in the rupee
	(ii) Cotton waste	
25	Country liquors that is all liquors other than foreign liquors manufacture in India	Sixty paise in the rupee

Schedule

	and foreign liquors that is potable foreign liquors brought into or manufactured in India including spirit, wines and fermented liquors	
26	Crucibles	Four paise in the rupee
27	Crude oil, that is to say, crude petroleum oil and crude oils obtained from bituminous materials such as the shale, calcareous rock sand, whatever their composition whether obtained from normal or condensation oil deposits or by the destructive distillation of bituminous minerals and whether or not subjected to all or any of the following processes, -	Four paise in the rupee
	(i) Decantation,	
	(ii) de-salting	
	(iii) dehydration	
	(iv) stabilisation in order to normalise the vapour pressure	
	(v) elimination of very light fraction with a view to returning them to the oil deposits in order to improve the drainage and maintain the pressure	
	(vi) the addition of only those hydrocarbons previously recovered by physical methods during the course of the above mentioned processes	
	(vii) any other minor process (Including addition of purpoint depressants or flow Improvers) which does not change the essential character of the substance.	
28	Drilling rigs of all types and spare parts and accessories thereof.	Four paise in the rupee

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28A	(i) Drugs, medicines and vaccines including Bulk drugs but excluding-	Four paise in the rupee
	(a) food and dietary supplements including food for special dietary uses, and	
	(b) cosmetics and toilet preparations including tooth paste, tooth powder, hair oil, face and body lotions and cream soaps.	
	(ii) all types of medical equipment, devices and implants excluding the goggles, spectacles of sun-glass and sun-glass which are not correctives. (Notification No. (GHN-22) VAT-2013/SCH-II(28A)(22)-TH dated 04.10.2013)	
	(iii) Bandages, dressings, syringes, medicated ointments manufactured or imported into India, stocked, distributed or sold under the licence granted under the Drugs and Cosmetics Act, 1940.	
29	Dyes	Four paise in the rupee
30	(i) Edible oils,	Four paise in the rupee
	(ii) Washed cotton seed oils	
	(iii) Vegetable non-essential oils,	
	(iv) Hydrogenated vegetable oils including vanaspati	
31	Electrodes	Four paise in the rupee
32	Fabrics of all types to which entry 21A in Schedule I does not apply	Four paise in the rupee
32A	Ghee	Four paise in the rupee
32B	(i) Granules and resins of plastic including HDPE, LDPE, LLDPE, PVC, PP	Four paise in the rupee
	(ii) PVC Stabilizer	

Schedule

33	Herb, bark, dry plant, dry root, commonly known as jadibooti.	Four paise in the rupee
34	Hides and skins whether in raw or dressed state	Four paise in the rupee
34A	Honey	Four paise in the rupee
35	Hose pipes.	Four paise in the rupee
36	Hosiery goods	Four paise in the rupee
37	Husk including groundnut husk.	Four paise in the rupee
38	Ice	Four paise in the rupee
39	Imitation jewellery	Four paise in the rupee
40	Incense sticks commonly known as, <i>agarbatti, Padi, Dhoop or dhupbatti and Loban</i>	Four paise in the rupee
41	Incorporeal goods or intangible goods, that is to say, 'copyright, patent, Trademarks, Brand name, Import Licence , Goodwill, Technical knowhow, export permit or quota, DEPB, carbon credit.	Four paise in the rupee
42	Industrial cables (High voltage cables, XLPE Cables, jelly filled cables, optical fibers cables and speciality communication cables).	Four paise in the rupee
42A	Industrial inputs or agricultural inputs as may be specified by the State Government by notification in the <i>Official Gazette</i> .	Four paise in the rupee
43	Iron and steel, that is to say -	Four paise in the rupee
	(i) Pig iron and cast iron including ingot, moulds, bottom plates ,iron scrap, cast iron scrap, runner scrap	
	(ii) Steel semis (ingots, slabs, blooms and billets of all qualities, shapes and sizes)	

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(iii)	Skelp bars, tin bars, sheet bars, hoe bars and sleeper bars,
(iv)	Steel bars (rounds, rods, squares, flats octagons and hexagons, plain and ribbed or twisted; in coil form as well as straight lengths)
(v)	Steel structural, (angles, joints, channels', tees, sheet piling sections Z sections or any other rolled sections.
(vi)	Sheets, hoops, strips, and skelp, both black and galvanised, hot and cold rolled, plain or corrugated in all qualities in straight lengths and in coil form as rolled and in rivetted conditions
(vii).	Plates both plain and chequered in all qualities
(viii)	Discs, rings, forgings and Steel-castings
(ix)	Tool, alloy and special steel of any of the above categories
(x)	Steel melting scrap in all forms including steel skull, turnings and borings
(xi)	Steel tubes, both welded and seamless of all diameters and lengths, including tube fittings,
(xii)	Tin-plates both hot dipped and electrolytic and tin free plates,
(xiii)	Fish plate bars, bearing plate bars, crossing sleeper bars, fish plates, bearing plates crossing sleeper and pressed steel
(xiv)	Sleepers rail-heavy and light crane rails ;

Schedule

	(xv) Wheels, tyres, axles and wheel seats	
	(xvi) Wire rods and wire-rolled, drawn, galvanised, aluminised, tinned or coated such as by copper	
	(xvii) Defective, rejects, cuttings or end pieces of any of the above categories	
44	Iron Powder	Four paise in the rupee
45	IT products as may be specified by the State Government by notification in the Official Gazette.	Four paise in the rupee
45A	(1) Jari thread and embroidery materials of gold, silver and gilded metal including <i>badla kasab, champa, gota and fulthappa</i>	Four paise in the rupee
	(2) Jari materials that is to say <i>badla, kasab champa, gata and fulthappa</i> not containing gold or silver metal	
46	Jute that is to say the fibre extracted from plants belonging to the species <i>corchorous Capsularies</i> and <i>corchorous olitorous</i> and the fibre known as <i>mesta</i> or <i>bimli</i> extracted from plants or the species <i>hibiscus cannapius</i> and <i>hibiscus sadarifavar altissima</i> (and the fibre known as <i>sunh</i> , <i>sunh-hemp</i> extracted from plants of the species <i>Crotalaria juncea</i>) whether baled or otherwise.	Four paise in the rupee
46A	Kerosene Sold through the Public Distribution System	Four paise in the rupee
46B	Kerosene	Twenty Five paise in the rupee
47	Deleted	
48	(i) Kirana and spices of all varieties and forms, as may be specified by	Four paise in the rupee

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	the notification, including Amchur, Alma (Aiwa), Asalia, Coconut copra, Dry fruits, Isabgul, Katingada seeds, Khas khas (red poppy seeds), Jira (Cummin Seed), Vairiyali (Ani Seeds), Methi (fengru seeds), Suva, Dhana, dhana dal, and Pepper and spices,	
	(ii) Processed fruits, processed vegetables including fruit jams, jelly, pickle, fruit squash, paste, fruit drink and fruit juice	
	(iii) Following goods, when sold in sealed packages under a brand:	
	(a) deleted.	
	(b) Powder of <i>chillies</i> , tamarind of turmeric or powder of any other <i>Masala</i>	
	(c) <i>Farsan</i> that is to say eatables (other than sweet preparations)	
	(d) Meat, Fish and all Sea food	
	Explanation. The word "brand" means any goods sold under a trade mark registered under the Trade Marks Act, 1999 (47 of 1999).	
48A	Lignite	Twenty paise in the rupee
49	Linear Alkyl Benzene (LAB.)	Four paise in the rupee
49A	Low Sulphur Heavy Stock	Fifteen paise in the rupee
49B	Lubricants	Fifteen paise in the rupee
50	Milk powder whole or skimmed	Four paise in the rupee
51	Minerals and Ores	Four paise in the rupee
51A	Naphtha	sixteen paise in the rupee
52	(i) Non-ferrous metals and alloys	Four paise in the rupee
	(ii) Rolled and extrusion products, sheets, rods, bars, slabs, blocks, ingots, circle, casting and scraps	

Schedule

	(made from non-ferrous metals and alloys)	
53	Oil cakes or de-oiled cakes of all types including cottonseed oil cake	Four paise in the rupee
54	(i) Oilseeds of all types	Four paise in the rupee
	(ii) Peanuts	
	(iii) Other seeds not specified in schedule I	
55	Packing materials as may be specified by the Government	Four paise in the rupee
56	(i) Papers of all types including newsprint.	Four paise in the rupee
	(ii) Stationary articles such as -	
	exercise books, graph book and laboratory note book, drawing books, examination answer books, catalogues and publications to which entry 8 of Schedule I does not apply;	
	Pre printed or Printed material, calendar or Calendar ; Charts, maps and globes for educational use;	
	Writing instruments such as Fountain pens, stylograph pens, ball-point pens, Lead pencils and pencils of all types and spare parts and accessories of pens and pencils;	
crayons, foot rules, slide rules, geometrical instruments, scientific instruments, measuring instruments mathematical instruments or parts thereof or mathematical instruments boxes, school colour boxes, black board, rubber erasers, pencil sharpners, dissection boxes, Audio picture cards, Printing ink, cartridges and toner, drawing pin, drawing brushes, rubber rings, stationery articles made of plastics		

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57	Pesticides, weedicides and insecticides	Four paise in the rupee
58	Pipes of all varieties including G.I. Pipes, C.I. pipes, ductile pipes and PVC pipes	Four paise in the rupee
58A	Machinery (including spare parts, accessories and components thereof) used in manufacture of goods excluding domestic appliances (whether fitted or not with electric motor) such as grinder, mixer, grinder-cum mixer, juicer, blender, water purifier, flour mill, toaster, oven, etc.	Four paise in the rupee
59	Plastic footwear	Four paise in the rupee
60	Readymade garments and articles prepared from any textile	Four paise in the rupee
61	Renewable energy devices and components and parts thereof. Explanation.- For the removal of doubt it is clarified that the renewable energy devices and components and parts thereof do not include battery operated vehicle and equipments of any type.	Four paise in the rupee
62	Raw wool and wool tops	Four paise in the rupee
63	Safety matches.	Four paise in the rupee
64	Screen printing blocks meant for use in printing fabrics	Four paise in the rupee
65	(i) Sewing machines (ii) Needles of all types	Four paise in the rupee
66	Silk fabrics	Four paise in the rupee
67	Sim cards	Four paise in the rupee
67A	Soap (hand made)	Four paise in the rupee
68	Software	Four paise in the rupee
69	Soda ash	Four paise in the rupee
70	(i) Sport goods excluding footwear (ii) Equipment of physical exercise	Four paise in the rupee

Schedule

71	Starches and maize flour and topioca flour	Four paise in the rupee
72	Steam	Four paise in the rupee
73	Sugar of all types to which entry 51A in Schedule I does not apply.	Four paise in the rupee
74	Sugarcane	Four paise in the rupee
74A	Sweets and sweetmeats, including Chikki and Revdi	Four paise in the rupee
74B	Tea in leaf or powder form	Four paise in the rupee
75	(i) Threads, twines, stings or roaps prepared from any materials or goods or waste thereof other than those specified in entry 51 B in Schedule I	Four paise in the rupee
	(ii) Sewing threads.	
76	<i>Timru</i> leaves or Beedi leaves	Four paise in the rupee
76A	Tobacco of all types and tobacco products such as bidi, gutkha, pan masala, snuff containing tobacco.	Twenty Two and a half paise in the rupee
76B	Tools meant for use by carpenters and blacksmith	Four paise in the rupee
76C	Toys other than electronic toys	Four paise in the rupee
77	(i) Tractors of all types, Power tillers and trailer of tractors	Four paise in the rupee
	(ii) Tractor- trailers	
78	(i) Transformers, switch gears, switch boards, and spares parts and accessories thereof	Four paise in the rupee
	(ii) Transmission towers and parts thereof	
79	Umbrella of all types and parts and accessories thereof	Four paise in the rupee
80	Utensils of all types	Four paise in the rupee
81	Vessels of every description to be used for plying on water	Four paise in the rupee

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82	(i) Water pumps and water pumping sets including Centrifugal, monobloc or submersible pumps and parts thereof,	Four paise in the rupee
	(ii) Hand pumps and parts and fittings thereof	
82A	Weighing Scales of all types other than Electronic weighing scales	Four paise in the rupee
83	Wet dates known as <i>khajur</i> .	Four paise in the rupee
84	Winding wires including super enamelled copper winding wire and plastic coated winding wire	Four paise in the rupee
85	Wires, nails and blue tacks	Four paise in the rupee
86	(i) Yarn or yarn waste of all types (including cotton yarn)	Four paise in the rupee
	(ii) Fibres or fibre waste of all types.	
87	All goods other than those specified in schedule I or Schedule III and in the preceding entries of this schedule.	Twelve and half paise in the rupee

SCHEDULE III
(See sections 7 and 9)
Goods, the Sales or Purchase of which is Subject to
Tax and the Rate of Tax

Sr. No.	Description of goods	Rates of Tax
1	High speed diesel	Twenty four paise in the rupee
2	Aviation Gasoline (Duty Paid)	Thirteen paise in the rupee
3	Aviation Gasoline (Boned)	Twenty-six paise in the rupee
4	Aviation turbine fuel (Duty Paid)	Thirty paise in the rupee
5	Aviation turbine fuel (Boned)	Thirty-eight paise in the rupee
6	Any other kind of Motor spirit excluding natural gas and liquefied petroleum gas	Twenty-six paise in the rupee

Explanation.- For the purpose of this Schedule,.

- (a) "motor spirit" means,
- (i) any inflammable hydro-carbon (including any mixture of hydro-carbons or any liquid containing hydro-carbons) which is capable of being used for providing reasonable efficient motive power for any form of motor vehicle or vessel of any kind of aircraft; and
 - (ii) power alcohol, that is, ethyl alcohol of any grade (including such alcohol when denatured or otherwise treated), which is either by itself or in admixture with any such hydro-carbon, is capable of being used as aforesaid but does not include such form of inflammable hydrocarbon materials as the State Government may, by notification in the official Gazette, specify in this behalf;
- (b) the rate of tax in column 3 indicates that the tax on goods to which entry relates shall be charged on the basis of sale price of the respective goods.

Appendix 3

Frequently Asked Questions

Q- 1. Define applicability of VAT on Software licence

Ans. Applicability of VAT and Service Tax has always remained subject of discussion and confusion. But if we put it in a simplified way , it will be easy to determine applicability of VAT or Service Tax

The main difference between Service and Goods is “Transferability of Title of Ownership”. Generally, in any transaction related to Software if the element of Sale or Purchase comes VAT will be levied.

- (1) Sale of Licensed Pre-packaged/Canned Software : Only VAT will be applicable .

Refer landmark Judgement of Supreme Court in Case of TCS V. State of Andhra Pradesh (2004). In which Supreme Court marked that

“We see no difference between a sale of a software programme on a CD/floppy disc from a sale of music on a cassette/ CD or a sale of a film on a video cassette/ CD. In all such cases, the intellectual property has been incorporated on a media, for purpose of transfer. Sale is not just of the media which by itself has very little value. The software and the media cannot be split up. What the buyer purchases and pays for is not the disc or the CD. As in the case of paintings or books or music or films, the buyer is purchasing the intellectual property and not the media; i.e., the paper or cassette or disc or CD. Thus a transaction of sale of computer software is clearly a sale of ‘goods’ within the meaning of the term as defined in the said Act. The term, "all materials, articles and commodities" includes both tangible and intangible/incorporeal property which is capable of abstraction, consumption and use and which can be transmitted, transferred, delivered, stored, possessed, etc. The software programmes have all these attributes.

The Supreme Court held that canned software is "goods".

Further, another way to determine whether only VAT will be applicable is :

If MRP based valuation is applicable as per the Legal Metrology Act to the product than , then Excise Duty after Abatement on MRP/RSP + VAT will be applicable.

Frequently Asked Questions

- (2) Sale of Licensed Software Online: Service Tax + VAT will be applicable
Because it includes Sale of license i.e. there is “Transfer of Right to Use”

Whether the license to use software is in the paper form or in electronic form makes no material difference to the transaction.

Note: License to use software which does not involve the “Transfer of Right to Use” is not Sales or Deemed Sales of goods. If restrictions are imposed on usage of software, than it will not be a transaction of Sale Of License. Therefore in such cases only Service Tax will be applicable.

- (3) On Site Development of Software: Liable to Service Tax
(4) Sale of Customized Software and License: Service Tax +Vat will be applicable

However, if software is “goods” and MRP based valuation applicable as mentioned above than, only VAT will be applicable

- (5) Delivery of Content /Upgrades Online: Only Service Tax applicable
(6) Advice, Consultancy, Training, Sale of subscriptions, Support, Implementation of Software: Only Service Tax Applicable
(7) Customization or Configuration Services: Only Service Tax will be levied. VAT will be applicable if any ‘software’ is delivered as part of the customization or configuration service.

Q-2 How VAT liability in case of Composite AMC can be determined?

Ans. Composite AMC which includes charges for Material as well as for services, VAT liability is determined as per Rule18AA of Gujarat VAT Rules, 2006.

Q-3 As well as alternate option to pay Composite Tax is also available as per Section 14A of Gujarat VAT Act. Q-3 Determine applicability of Gujarat VAT if there is interstate works contract

Ans. If interstate works contract, occasions the movement of goods from one state to another, than VAT will not be levied

Ref: Projects and Services Centre vs. State of Tripura (1991) 82 STC 89 (Gau).

Q-4 Whether Benefit of Composition Scheme for Work Contract is available if total turnover exceeds 75 Lacs?

Ans: The total turnover limit applicable for lumpsum payment of tax u/s 14(1)(a) of Rs. 75Lacs is not applicable for Composition Scheme for Works Contract.

Q-5 Determine applicability of VAT in case of Sub Contract of Works Contract.

Ans. As per the judgment of Supreme Court in case of L&T and another Vs. State of Andhra Pradesh and others (2006). It was observed by SC that wherever a contractor executes a work contract without employing a sub contractor the deemed sale of goods involved in such execution of works contract would attract the tax only once and whenever the contractor employs a subcontractor, the transfer of property in same goods involved in execution of such works contract attracts the tax twice over, which in our view is plainly irrational and violation of Article 14 of the Constitution of India.

From the above judgment it is clear that if sub contractor is paying tax on turnover of goods involved in works contract, then Contractor is not required to pay VAT again on such turnover of goods involved in works contract. If both the contractor & sub contractor are registered dealers then contractor can deduct the amount paid to sub contractor in determining his liability to pay VAT and sub contractor pays VAT on his portion of works executed by him.