

# INDIRECT TAXES UPDATE – 158

## VALUE ADDED TAX

### UTTARAKHAND VAT

*Last quarter return for FY 2015-16 can be filed upto 31.05.2016 without late fees*

The Uttarakhand Government vide Circular No. 332/2016/19(120)/XXVII(8)/2012 dated 25<sup>th</sup> April, 2016 has extended the due date for filing last quarter returns for FY 2015-16 to 30.05.2016 (from 30.04.2015) without payment of any late fees.

[Circular No. 332/2016/19(120)/XXVII(8)/2012 dated 25<sup>th</sup> April, 2016]

### ANDHRA PRADESH VAT

*Tenders for Government Authorities will not include the tax element until its finalization*

Government Departments/ PSUs and other Government Bodies are directed to exclude the tax element from the prices quoted by the bidders in the tenders for procurement of goods. After the tenders are finalized, the goods will be supplied at the quoted price after including the tax separately i.e. VAT rate or CST rate, as the case may be. If the supplier is registered under the APVAT then tax may be deducted while making payment of bill and remit it to the Commercial Taxes Department.

[Notification G.O.MS.No. 170 dated 26<sup>th</sup> April, 2016]

*Comments:* To maintain parity and reduce distortion in price between suppliers within the State and suppliers outside the State, the Government has mandated that all tenders issued by Government Departments / PSU's shall exclude the tax component. This circular is necessitated since the price quoted by bidders from outside the state including CST rate (2%) is much lower than the price quoted by bidders within the State including AP VAT rate (14.5% or 5%).

### MAHARASHTRA VAT

*Amendments made to the Maharashtra Value Added Tax Act, 2002*

The following amendments proposed by Maharashtra Bill No. L. A. BILL No. XVIII of 2016 has received the assent of the Governor on 26<sup>th</sup> April 2016 and has made following modification in Maharashtra Value Added Tax Act, 2002:

### **Section 16 : Rejection / Cancellation of Registration Certificate**

- The prescribed authority may pass a rejection order without giving an opportunity of being heard but after intimating the applicant, if the registration application is:
  - not complete or
  - documents required have not been uploaded on [www.mahavat.gov.in](http://www.mahavat.gov.in) or
  - documents are inconsistent or
  - prescribed conditions are not fulfilled

Further, if the applicant complies with all the discrepancies intimated within 30 days from the date of intimation of rejection order and if such compliance is approved by the prescribed authority then the application so rejected, shall stand restored. However, the applicant shall be eligible to rectify the discrepancies only once.

- If any person has obtained registration by fraud or by misrepresentation of facts then the Commissioner may cancel the registration certificate with effect from such date as he may deem fit after giving a reasonable opportunity of being heard to the dealer.

### **Section 20 (Returns & Self-assessment)**

A revised return for any omission or incorrect statement may be furnished at any time before a notice of assessment is served or before the expiry of a period prescribed for furnishing the audit report i.e. within 9 months and 15 days of the end of the year (earlier 10 Months) to which the report relates to, whichever is earlier.

### **Section 23 (Assessment)**

Returns for the period commencing on or after 01.04.2012 and filed within the due date would be assessed on the basis of such return. Further if assessment order is not made within 4 years from the end of the year to which such returns relate then such returns shall be deemed to have been accepted.

An intimation of assessment proceeding shall be communicated to the dealer within 6 months before the date of expiry of the period of limitation for assessment. If the dealer agrees with the intimation and files the return or revised return along with full payment of tax and interest, then a confirmation order shall be passed and the assessment proceedings shall be deemed to have been closed.

### **Section 26 (Appeals)**

An appeal can also be preferred against the order of Advance Ruling Authority.

A new **Section 28A (Determination of tax liability as per fair market price)** has been inserted by providing that during the course of any proceedings if any transaction is entered for a sale price which is below the fair market price (FMP) so as to pay less tax, then the

Commissioner shall determine the tax liability as per the FMP while passing an order in such cases.

### **Section 31 (Deduction of tax at source)**

It has been provided to transfer the credit of TDS by the contractor to the subcontractor for the TDS deducted by principal on payment made to a contractor. Further, the employer awarding the contract shall be liable to obtain registration for TDS & such TDS return shall be filed by him. No registration is required to be obtained by an employer if he is already registered under the Act. Penalty upto the amount of tax deductible may be imposed for not obtaining such registration. A further penalty of upto Rs. 5,000 may be imposed for failure to submit the return. The employer may also furnish a revised return on or before the expiry of a period of 9 months from the end of the year to which the return relates.

### **Section 55 (Advance Ruling)**

This section has been substituted with the following:

- The Commissioner or the ARA shall make an advance ruling within 90 days from the date of acceptance of the application for the questions prescribed.
- Application may be withdrawn within 30 days from the date of its submission.
- No application shall be accepted where the question raised in the application:
  - is already pending before the Tribunal/ Bombay High Court/ Supreme Court or
  - involves a transaction which is designed apparently for the avoidance of tax.
- The acceptance of the application shall be communicated within 30 days from the date of submission.
- The Advance Ruling (AR) shall be binding on all the officers, appellate authority or on the ARA/ Commissioner for similarly situated persons.
- The AR shall not affect the liability of the applicant or of any other person similarly situated in respects of any sale or purchase affected prior to the Advance Ruling.
- The appeal / rectification against the AR order can be filed within 30 days.

### **Section 70 (Power to collect statistics)**

A sub-section (3) has been inserted stating that any person who fails to furnish information shall be liable to a penalty of a sum not exceeding Rs. 1 lakh and in case of continuing default for a period beyond 2 months then a further penalty of Rs. 1,000 for every day.

**Section 56 (Determination of disputed questions)** has been deleted.

*[MAHARASHTRA ACT No. XV OF 2016]*

### **[Amendments made to Maharashtra Value Added Tax Rules, 2005](#)**

Following amendments have been made in the Maharashtra Value Added Tax Rules, 2005 which is effective from 01.04.2016:

**Rule 8 (Application for registration of dealers liable to tax)**

Any dealer liable to pay tax shall (including voluntary registration) submit a registration application electronically on [www.mahavat.gov.in](http://www.mahavat.gov.in) in Form 101 along with Form 105 (to be submitted electronically) declaring the name of manager of business or authorized person and PAN. Hitherto only Form 101 was required to be submitted.

As such, every application for registration shall be made electronically (even where passport photo is to be affixed). Further, a proof of having current account in bank & PAN is not required to be submitted to the registering authority while making such application.

**Rule 17 (Submission of Returns)**

It has been provided that return forms will be available on [www.mahavat.gov.in](http://www.mahavat.gov.in) in the electronic form only i.e. no hard copies of the same can be obtained from Department.

A dealer who is holding Certificate of Entitlement under the Package Scheme of Incentives except the Power Generation Promotion Policy, 1998, and if he is liable to file return then he shall file Form 231 (normal return) in addition to the return in Form 234 (return for dealers holding certificate of entitlement).

From 01.04.2016 returns are to be submitted electronically on the website.

- Sub-rule (4A) has been inserted stating that for the period commencing from 01.04.2016, a monthly return is to be filed within 21 days by the registered dealers if during the previous year his-
  - tax liability had exceeded Rs. 10 lakhs or,
  - refund had exceeded Rs. 1 crore.
- Other registered dealers shall file a quarterly return within 21 days.
- Dealers who have not opted for the composition scheme and are not required to file Audit Report shall file the return along with other details of the entire year in Annexures appended to Form 704 (Audit Report).

**Rule 17A (Electronic Filing)**

Any Document submitted electronically on the [www.mahavat.gov.in](http://www.mahavat.gov.in) shall be deemed to have been submitted to the registering authority unless expressly provided for submission.

**Rule 18 (Special provision for first and last return in certain cases and for dealers under the Package Scheme of Incentives)**

- A sub-rule (1A) has been inserted stating that where a dealer who obtains registration on or after 01.04.2016 and -
  - has not applied for registration within 30 days of the prescribed limit of turnover, then for the unregistered period the dealer is required to file the return from the first day of sales liable to VAT or purchases made till the date he obtains Registration Certificate. Thereafter, for the registered period the first return will be filed from the date of effect of registration.

- has applied for registration within the above time limit then the first return shall be for the month in which he makes sale liable to VAT or for which he can avail credit of the taxes paid on his purchases. Thereafter, he shall file the returns from the date of obtaining registration certificate.
- In case of registration cancellation w.e.f. 01.04.2016, the Annexure in Form 704 is required to be filed with the other details for entire year or for the part of the year.
- A sub-rule (3A) has been inserted stating that w.e.f. 01.04.2016-
  - A dealer to whom Certificate of Entitlement (excluding the Certificate of Entitlement granted under the Power Generation Promotion Policy, 1998) has been granted then he shall also file a return for the period starting from the first day of the quarter/ month till the day he obtains the certificate. Further, if the dealer has executed any works contract or has transferred the right to use any goods or has part of the business under composition, then he shall file a monthly return in Form 233 in addition to Form 234.
  - The last return shall be filed for the period starting from 1<sup>st</sup> day of the month till the date on which certificate ceases. The next return will be for the period from the date on which such certificate ceases till the end of the month.
  - For the immediately succeeding year the dealer will file return according to sub-rule (4A) of Rule 17 as mentioned above.
  - The above provisions shall also apply to a dealer to whom a Certificate of Entitlement has been granted by way of deferment of payment of tax.

*Comments: The returns to be filed by a dealer covering the period on non-registration would need to be distinguished and identified separately. Hitherto such provision was not available where the dealer was required to file the return from the date of registration which includes non-registered period as well.*

#### **Rule 45 (Method of Payment)**

From 01.04.2016 a dealer may electronically get a copy of the acknowledgement of the payment made.

[Notification No. VAT.1516/CR-52/Taxation-1.- dated 22<sup>nd</sup> April, 2016]

### **RAJASTHAN VAT**

#### **Cancellation of wrongly generated Declaration Forms/Certificates**

Assessing authorities may cancel CST declaration forms beyond 6 months from the date of generation after approval of the Deputy Commissioner (Administration) having jurisdiction. The detailed process is as follows:-

- Assessing Authority shall enter the date of application in "Cancel CST Forms" & if the cancellation is within 6 months then the system will allow such cancellation.
- A manual application for permission to cancel CST declaration Forms after 6 months shall be submitted to the Deputy Commissioner (Administration) which will be processed manually.
- If the date of cancellation application is beyond 6 months then the system shall not allow the Assessing Authority to cancel CST forms until the order number and order date of the Deputy Commissioner (Administration) has been entered allowing the dealer for submission of cancellation application of CST forms.

[\[Circular No. 1/2016-17 No. F.16 \(97\)/Tax/CCT/14-15/183-184 dated 26<sup>th</sup> April, 2016\]](#)

*Comments: To ease the process of cancellation of wrongly generated CST declaration forms beyond 6 months, the above facility has been introduced.*

## **PUNJAB VAT**

[Date for e-filing of Form VAT-15 for the quarter ending 31.03.2016 extended upto 06.05.2016](#)

Punjab Government has brought to the notice of dealers/ chartered accountants/ lawyers/ other stakeholders that the due date for filing online quarterly returns in Form VAT-15 for the quarter ending 31.03.2016 has been is extended from 30.04.2016 to 06.05.2016.

[\[Public Notice dated 26<sup>th</sup> April, 2016\]](#)

*Source: Respective State Commercial Taxes Website*

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