

## Maharastra VAT VS Model GST Law.

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### Preamble:

There are a large number of VAT practitioners who would find a lot of similarities in the Model GST Law. The GST law has been a mixture of the VAT laws, Service Tax, Central Excise, Customs and others. Therefore while many aspects would be similar there would be many which are different. Broadly the similarities would be easy for the VAT practitioner but the aspects where there is a difference would have to be unlearnt and re learnt. GST a5t glance will indicate the following:

1. Definitions: All laws.
2. Levy: All laws
3. Composition: Very limited but concept from VAT law- many differences.
4. Exemptions: Principles as per Central Excise/ Service Tax
5. Classification: Customs & Central Excise ( Partially adopted in some VAT laws)
6. Valuation : Rules to be notified- Maybe as per Central Excise
7. Credit: Mix of VAT & Central Excise
8. Registration: Based on VAT
9. Books of accounts: Based on VAT law
10. Mandatory Audit: based on VAT
- 11.Demands/ Appeals: Based on Central Excise

This document is a start for the practitioners in the State of Maharashtra to understand the GST in a better way. It maybe noted that the other State laws may have some differences which maybe examined further.

This document contains identification of significant provisions under Maharashtra Value Added Tax Act ('MVAT Act') and their comparison with similar provisions of Draft Revised Model State GST Law (GST Act) which was release in November 2016.The similar provisions have been shaded in green to enable focus.

SR. NO	Section/ Heading	MVAT Act	GST Act.
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<b>Definitions</b>			
<b>1</b>	<b>Section</b> <b>The definition of "Agriculture"</b>	<b>Section 2 (1)</b> As per the current provisions of MVAT Act, Agriculture includes the following: <ul style="list-style-type: none"> <li>• Floriculture</li> <li>• Horticulture</li> <li>• the raising of crops, grass or garden produce and also grazing</li> </ul> Agriculture does not include the following: <ul style="list-style-type: none"> <li>• dairy farming</li> <li>• poultry farming</li> <li>• stock breeding</li> <li>• the mere cutting of wood or grass</li> <li>• gathering of fruit</li> <li>• raising of man-made forests</li> <li>• rearing of seedlings or plants</li> </ul>	<b>Section 2 (7)</b> The definition of "Agriculture" in GST Act is largely adopted from MVAT Act. <b>In addition to activities covered in MVAT, 'sericulture' is also included in the definition of 'Agriculture'.</b>  All the exclusions in MVAT Act are also excluded in GST.
<b>2</b>	<b>Section</b> <b>Definition of "agriculturist"&amp; "to cultivate personally)</b>	<b>Section 2(2), Section 2(7)</b> The definition of 'Agriculturist' and 'to cultivate personally' in GST is exactly same as those definitions under the current MVAT Act.	<b>Section 2(8), Section 2(106)</b> The definition of 'Agriculturist' and 'to cultivate personally' in GST is exactly same as those definitions under the current MVAT Act.
<b>3</b>	<b>Section</b> <b>Definition of "business"</b>	<b>Section 2(4)</b> As per current provisions of MVAT Act, following are included in the definition of business: <ol style="list-style-type: none"> <li>1. Any service, trade, commerce or manufacture, any adventure in the nature of service, trade, commerce or manufacture, whether or not the engagement in such activities is with a motive to make gain or profit and whether or not any gain or profit accrues from such activities.</li> <li>2. Any transaction of sale or purchase of 'capital assets' pertaining to such service, trade, commerce, manufacture, adventure or concern</li> <li>3. Any transaction in connection</li> </ol>	<b>Section 2 (17)</b> The Definition of "Business" in GST Act is wider than the one contained current MVAT Act. 1. The import of said clause is considered in section 2(17)(a), (b) and (c) of the GST Act.  The import of these clauses is considered in section 2(17) (d) of the GST Act. <b>However, it may be noted that term 'capital asset' is defined in MVAT Act, but is not defined under GST Act</b>

		with the commencement or closure of business.	
		<p>4. The activity of raising of man-made forest or rearing of seedlings or plants.</p> <p>5. Sale or purchase of any goods, the price of which would be credited or, as the case may be, debited to the profit and loss account of the business under the double entry system of accounting.</p>	These clauses are not specifically included in the definition of 'business' under the GST Act.
		<p>6. Under current MVAT Act, certain persons like (club, association, society, Central Government, State Government bodies, local authority etc.) are regarded as "deemed dealer" and are liable to pay MVAT notwithstanding the fact that they do not undertake any business.</p>	<p>The following additional activities are included in the definition of Business under GST Act. ("deemed business")</p> <ul style="list-style-type: none"> <li>- Provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members, as the case may be</li> <li>- Any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities</li> <li>- Admission, for a consideration, of persons to any premises</li> <li>- Services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation.</li> <li>- Services provided by a race club by way of totalisator or a licence to book maker in such club.</li> </ul>
<b>4</b>	<b>Section</b>	<b>Section 2(5)</b>	<b>Section 2(19)</b>
	<b>Definition of "capital asset"</b>	The current MVAT Act defines "Capital Asset" by borrowing its meaning from definition of Income Tax Act, but does not treat jewellery held for personal use property not connected with the business as capital asset.	GST Act does not contain definition of 'Capital asset'. Instead it uses the expression 'capital goods' and defines it to mean goods, the value of which is capitalised in the books of accounts of the person claiming the credit and which are used or

			intended to be used in the course or furtherance of business.
<b>5</b>	<b>Section</b>	<b>Section 2(8)</b>	<b>Section 2(98)</b>
	<b>Definition of "dealer"</b>	<p>Definition of "Dealer" assumes a great significance in current MVAT Act. Only a dealer is required to obtain registration under the provisions of section 16 of the MVAT Act. Unless a person falls within the definition of a dealer, he is not liable to obtain registration (irrespective of whether he sells goods or not). Thus, under MVAT Act, incidence of Tax is decided upon whether a person is a "dealer" or not. Ex: Following persons are not regarded as "dealer" as they are specifically excluded from the definition of "dealer" and hence are not liable under MVAT Act.</p> <ul style="list-style-type: none"> <li>- An agriculturist who sells exclusively agricultural produce grown on land cultivated by him personally</li> <li>- An educational institution carrying on the activity of manufacturing, buying or selling goods, in the performance of its functions for achieving its objects</li> <li>- A transporter holding permit for transport vehicles (including cranes) granted under the Motor Vehicles Act, 1988 (5 of 1988), which are used or adopted to be used for hire or reward shall not be deemed to be a dealer, in respect of sale or purchase of such transport vehicles or parts, components or accessories thereof</li> </ul> <p>It's for this reason, definition of "dealer" under MVAT Act is very comprehensive and contains various deeming fictions, to cover various classes of persons therein.</p>	<p>Under GST Act, any person who is registered or is made liable for registration is regarded as "Taxable Person". Therefore, unless a person is excluded from requirements under Registration, he shall be treated as taxable person.</p> <p>As per schedule V, following persons are not liable for registration.</p> <ul style="list-style-type: none"> <li>- an agriculturist, for the purpose of agriculture</li> <li>- any person engaged exclusively in the business of supplying goods and/or services that are not liable to tax or are wholly exempt from tax under this Act</li> </ul> <p>Thus, under the GST, a person becomes a taxable person, because he obtains or is liable to obtain registration.</p>

		Thus, under MVAT Act, a person takes or is liable to obtain registration because he is a dealer.	
<b>6</b>	<b>Section Definition of "goods"</b>	<b>Section 2(12)</b> Under the current definition of "goods" contained in MVAT Act, following are excluded from the definition of "goods" - Newspapers - Actionable claims - Money - Stocks, shares, securities	<b>Section 2 (49)</b> Under GST, only money and securities are excluded from the definition of "goods", whereas the 'actionable claim' is specifically included in the definition of "goods".
		Under MVAT, the following are included in the definition of "goods" - live stocks, - growing crop, grass and trees and plants including the produce thereof including property in such goods attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale	Under GST, live stocks are not specifically included in the definition of goods. Further, the expression " <i>attached to or forming part of the land which are agreed to be severed before supply or under the contract of supply</i> " is used not only with reference to growing crops or grass or trees and plants but is with broadly with reference to any 'thing'.
<b>7</b>	<b>Section Definition of "manufacture"</b>	<b>Section 2(15)</b> Under MVAT Act, the term "Manufacture" is defined to include producing, making, extracting, altering, ornamenting, finishing or otherwise processing, treating or adapting any goods.	<b>Section 2(63)</b> Under GST Act, the definition of term "Manufacture" is borrowed from Central Excise Act, 1944.
<b>8</b>	<b>Section Definition of "Person"</b>	<b>Section 2(17)</b> Under MVAT Act, "person" includes the following - Individual - A Hindu Undivided Family - A firm - Any company or society or club or association or body of individuals whether incorporated or not - Any State Government, the Central Government - A local authority - Every artificial juridical person	<b>Section 2(73)</b> The definition of "person" in GST Act is almost identical and includes all the persons as per MVAT Act and further specifically includes the following - A Limited Liability Partnership - An association of persons or a body of individuals, whether incorporated or not, in India or outside India - Any corporation established by or under any Central, State or Provincial Act or a Government

		not falling within any of the preceding descriptions	company as defined in section 2(45) of the Companies Act, 2013 (18 of 2013) - Trust
<b>9</b>	<b>Section</b>	<b>Section 2(18)</b>	<b>Section 2(74)</b>
	<b>Definition of 'place of business'</b>	Under the MVAT Act, definition of 'place of business' is inclusive and includes the following places - a warehouse, godown or other place where a dealer stores his goods - any place where the dealer keeps his books of accounts.  A place where the dealer is engaged in a business through agent, the place of business of such agent is deemed to be 'place of business' only for the limited purpose of section 64 which deals with inspection of accounts and documents and search of premises.	Under GST Act, definition of place of business covers both the places as per MVAT Act, and in addition thereto covers the following places - A place from where the business is ordinarily carried on - Any other place where a taxable person provides or receives goods and/or services. - A place where a taxable person is engaged in business through an agent, by whatever name called.
<b>10</b>	<b>Section</b>	<b>Section 2(30)</b>	<b>Section 2 (44)</b>
	<b>Tax free goods vs Exempt Good</b>	Under the current MVAT Act, "tax free goods" means goods against which the rate of sales tax is shown to be NIL. in the schedule.	Under GST Act, "exempt supply" is defined to mean supply of any goods/services which are not taxable under the Act and includes such supply of goods/services which attract Nil rate of tax or which may be exempt from tax under section 11. <b>The definition of exempt supply under GST is therefore broader than that under the current MVAT Act.</b>
		<b>Levy Of Tax</b>	
<b>11</b>	<b>Section</b>	<b>Section 5, 6, 7 &amp; 8</b>	<b>Section 8 (1), section 2(57)</b>
	<b>Levy of Tax</b>	Under the current MVAT Act, levy of tax is on 'sale of goods'. Hence the term 'sale' is defined in section 2(24) of the MVAT Act. Section 5, 6 and 7 deals with levy i.e. tax payable on sale of goods.  Section 5 provides for the goods on which tax shall not be levied,	Under section 8(1) of the GST Act, the levy of tax is on all types of 'supply' and not just on 'sale'. The 'sale' is considered as one of the forms of supply. Besides, <i>transfer, barter, exchange, license, rental, lease or disposal</i> are also regarded as supply for the purpose of levy. Levy is on 'goods' as well as

		<p>subject to certain conditions. Such goods and conditions subject to which tax is not payable, are incorporated in Schedule A.</p> <p>Section 6 provides for the goods on which tax shall be levied. Such goods are incorporated in Schedules B, C, D &amp; E. Section 6 provides for tax shall be payable on the 'turnover of sale' and at the rates set out in those schedules.</p> <p>Section 7 provides that when goods sold are packed form, the rate of tax on sale of packing material, shall be the same as levied on the goods so sold.</p> <p>Section 8 provides for the goods which are not liable to tax. It includes the following</p> <ul style="list-style-type: none"> <li>- Where sale or purchase takes place outside the State or</li> <li>- in the course of the import of the goods into the territory of India</li> <li>- export of the goods out of such territory</li> <li>- in the course of inter-State trade or commerce</li> </ul> <p>The principles for formulating whether sale or purchase takes place in the aforesaid manner or not are adopted from section 3,4 and 5 of the CST Act.</p> <p>Section 9 provides that amendment to schedule by the State Government by way of Notification in the Official Gazette. The amendment can be qua entry in the schedule or qua the rates of tax.</p> <p>Thus under MVAT Act, levy of tax is only on those sale of goods</p>	<p>'services'. The meaning of the term 'supply' is defined in section 3 of the GST Act and is broader than the concept of 'sale'.</p> <p>Just as the levy under MVAT Act is on sale of goods in the State of Maharashtra, the levy under State GST is on all 'intra-state supplies'.</p> <p>The term intra-state supply of goods and services is defined in section 2(57) and 2(58) of the GST Act. The principles for determining whether supply is intra-state supply or not are adopted from section 4 of the IGST Act.</p> <p>Following supplies of goods are regarded as intra-state trade or commerce which are liable to tax under State GST Act.</p> <ul style="list-style-type: none"> <li>- supply of goods where the location of the supplier and the place of supply are in the same State</li> </ul> <p>Following supplies of goods are excluded from the scope of intra-state supplies of goods</p> <ul style="list-style-type: none"> <li>- supply of goods in the course of inter-State trade or commerce (i.e. where the location of the supplier and the place of supply are in different States)</li> <li>- Supply of goods in the course of import into the territory of India till they cross the customs frontiers of India.</li> <li>- Supply of goods, when the supplier is located in India and the place of supply is outside India</li> <li>- Supply of goods and/ or services to or by a SEZ developer or an SEZ unit</li> </ul>
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		which take place in the State of Maharashtra.	<p>- Any supply of goods in the taxable territory, not being an intra-State supply.</p> <p>There appears to be no specific provision for amending any entry in the Schedule, although section 8 provides for determination of rates by Notifications of Central/State Government.</p> <p><b>Thus under State GST, levy of tax is only on those supply of goods/services which take place in the State of Maharashtra. However, in case of supply of goods/services to or by a SEZ developer or an SEZ unit, State SGST shall not be levied.</b></p>
<b>12</b>	<b>Section</b>	<b>Section 6A, 6B</b>	<b>Section 8(3)</b>
	<b>Levy of Tax</b>	Under the current MVAT Act, levy of tax is also on 'purchase of certain goods in certain circumstances'. Section 6A and 6B deals with tax payable on purchase of certain goods. Goods which are subject to purchase tax are 'cotton' & 'oil seeds'.	Under section 8(3) of the State GST Act, State Government may, on the recommendation of the Council, by notification, specify categories of supply of goods the tax on which is payable on reverse charge basis and the tax thereon shall be paid by the recipient of such goods and/or services.
<b>13</b>	<b>Section</b>	<b>Section 42</b>	<b>Section 9</b>
	<b>Composition</b>	<p>Section 42 of MVAT Act deals with composition levy in following classes of dealers.</p> <ul style="list-style-type: none"> <li>- Dealers who are engaged in the business of reselling of goods at retails (i.e. B to C).</li> <li>- Dealers who are running eating house, restaurants, refreshment room or boarding establishments</li> <li>- Dealers who are caterers and serve food and non-alcoholic drinks</li> <li>- Dealers running bakeries.</li> <li>- Dealers in second hand motor vehicle</li> <li>- Dealers selling certain type of</li> </ul>	<p>Section 9 of the GST Act provides for composition scheme. Following conditions are common in Composition schemes under MVAT Act and that under State GST</p> <ul style="list-style-type: none"> <li>- The dealer/Taxable person is not entitled to set-off</li> <li>- Such dealer/ taxable person shall not issue tax invoice.</li> <li>- Such dealer/Taxable person shall not collect composition amount as tax from the recipient to whom supply is made.</li> </ul> <p>The scheme is different from those contained in MVAT Act in following</p>



		<p>Liquor.</p> <ul style="list-style-type: none"> <li>- Dealers who are engaged in execution of works contract</li> <li>- Builders and Developers.</li> <li>- Mandap Keepers</li> </ul> <p>There are various composition schemes for aforesaid classes of dealers. Composition rate, eligibility criteria and conditions prescribed differs from scheme to scheme.</p>	<p>aspects:</p> <ul style="list-style-type: none"> <li>- The turnover eligibility criteria under GST [aggregate turnover is preceding financial not to exceed Rs.50 Lakhs] is same for all classes of dealers.</li> <li>- The composite rate is different for manufacturers and for others.</li> <li>- If taxable person applies for Composition Scheme under Maharashtra GST Act, then he shall also apply for composition schemes in respect of its registered businesses in other States. [Under MVAT Act, a dealer engaged in works contract business, can apply for composition rate in respect of one individual contract and can adopt normal levy for another contract.]</li> </ul> <p>Following are other significant provisions relating to Composition</p> <ul style="list-style-type: none"> <li>- Composition scheme is not applicable to dealers who make supply of goods which are not leviable to tax under Maharashtra GST Act.</li> <li>- It's not applicable to any taxable person who makes inter-state outward supplies.</li> <li>- Person ( who is subjected to TCS) who makes supply of goods through e-commerce operator</li> <li>- Manufacturers of certain notified goods.</li> </ul>
	<p><b>Special Set-Off provisions in respect of Composition Scheme</b></p>	<p>Composition Schemes for certain dealers namely, restaurants, eating house, refreshment room, boarding establishment, factory, canteen clubs, hotels and caterers andretailers contain specific provisions to cover the following situations regarding set-off provisions</p>	<p>Similar provisions are contained in Section 18(3) &amp; 18 (7) of SGST Act.</p> <ul style="list-style-type: none"> <li>- Section 18(3) provides when taxable person opts out of or ceases to pay tax under composition scheme, he shall be entitled to take credit of input tax in respect of inputs</li> </ul>

		<ul style="list-style-type: none"> <li>- Such dealer opts out or ceases to be eligible for composition scheme [ entitlement for set-off to be claimed in the first return filed as non-composition dealer after opting out, in respect of goods held in stock on the date of opting out and in respect of which no set-off is claimed earlier]</li> <li>- Such dealeropts in for composition scheme [reversal of set-off claimed by the dealer in respect of goods held in stock as on date of opting in the composition scheme]</li> </ul>	<p>held in stock or contained in semi-finished goods or finished goods held in stock and on capital goods ( at reduced percentage point basis) on the date he becomes liable to pay tax under normal levy</p> <ul style="list-style-type: none"> <li>- Section 18(7) provides that, where taxable person opts in for composition levy, he shall pay amount equivalent to credit of input tax in respect of inputs held in stock or contained in semi-finished goods or finished goods held in stock and on capital goods (at reduced percentage point basis) on the date immediately preceding the date, he becomes liable to pay tax under normal levy.</li> </ul>
<b>Valuation Provisions</b>			
<b>14</b>	<b>Section</b>	<b>Section 2(33), section 2(25) Section 2(32), Section 2(20) Section 28A</b>	<b>Section 15</b>
	<b>Valuation</b>	<p>Under the current MVAT Act, tax is payable on 'turnover of sale of goods' or as the case may be 'turnover of purchase of goods'.</p> <p>'Turnover of sale' the aggregate of the amounts of sale price received and receivable by a dealer in respect of any sale of goods made during a given period</p> <p>Following are <i>included</i> in the 'turnover of sale'</p> <ul style="list-style-type: none"> <li>- Valuable consideration paid or payable to a dealer for sale of such goods</li> <li>- Any sum charged for anything done by the seller in respect of the goods at the time of or before delivery thereof.</li> <li>- Duties levied under Central Excise Act, or Customs Act or</li> </ul>	<p>Under GST Act, tax shall be levied on value of taxable supply as may be determined u/s 15 of the Act. As per section 15, Value of supply shall be the "transaction value", i.e. price actually paid or payable for the said supply of goods where the supplier and recipient of the supply are not related and the price is the sold consideration.</p> <p>Section 15(1) deals with the concept of transaction value.</p> <p>Section 15(4) provides for the value to be adopted in cases, where 'transaction value' is not applicable.</p> <p>Section 15(5) provides for cases, where the value shall be fixed by the Act.</p>

		<p>Bombay Prohibition Act.</p> <ul style="list-style-type: none"> <li>- Amount received by the seller by way of deposit, whether refundable or not, in connection with or incidental to the said sale of goods.</li> </ul> <p>Following are <i>excluded</i> in the 'turnover of sale'</p> <ul style="list-style-type: none"> <li>- the cost of insurance for transit or of installation, when such cost is separately charged</li> <li>- tax paid or payable to a seller in respect of such sale</li> <li>- Service tax levied and collected separately from the purchaser.</li> <li>- sale price, if any, refunded by the seller, to a purchaser, in respect of any goods purchased and returned by the purchaser within the prescribed period</li> <li>- Deposit, if any, refunded in the prescribed period, by the seller to a purchaser in respect of any goods sold by the dealer.</li> </ul> <p>'Turnover of purchase' is also defined in similar manner</p> <p>It may be noted that section 28A of the current MVAT Act, empowers the commissioner to determine the tax liability as per fair market price as against the actual sale price, in certain prescribed class of dealers.</p>	<p>Section 15(2) deals with what shall be included in the 'Transaction Value' and section 15(3) deals with treatment to be given for 'discount'.</p> <p>The concept of 'transaction value' on parameters like 'related persons' is not there in the current MVAT Act. Whereas the concept of substitution of sale price by the 'fair market value' (i.e. value substituted by Act) is applicable only to limited goods (Rule 21A of the MVAT Rules). <b>Hence, this is a significant departure from current MVAT Act.</b></p>
<b>Point of Taxation</b>			
<b>15</b>	<b>Section</b>	<b>Section 2(32) &amp; 2(33), Section 63(5) &amp; 63(6)</b>	<b>Section 12 &amp; 14</b>
	<b>Point of Taxation.</b>	Under the current MVAT Act, there is no specific provision as regards Point of Taxation. The Levy is on "turnover of sale' or as the case may be 'turnover of purchases' during the 'given period'. The period may differ from dealer to	Under GST, the liability to pay SGST shall arise at the time of supply determined under section 12 of the said Act. As per section 12, there is possibility of levy of tax on the Advance payments. <b>This is a significant departure</b>

		<p>dealer. 'Turnover' includes price received and receivable in respect of sale or as the case may be purchase made during the given period. The Point of Taxation under the MVAT Act, is therefore, point of sale or purchase. Hence tax is not payable on advances received by a dealer, unless the sale is effected by him. In respect of goods delivered on hire-purchase or any system of payment by instalment or in respect of the transfer of the right to use any goods for any purpose (whether or not for a specified period) the amounts of sale price received or receivable during a given period shall mean the amounts received or as the case may be, due and payable during the said period.</p> <p>As per section 63(5), sales returns and purchase returns are to be accounted for in return for the period In which appropriate entries for such sales/purchase returns are taken in books of accounts.</p> <p>As per section 63(6), debit notes or credit notes issued for variation in sales price or purchase price is to be accounted for in the return in the period in which appropriate entries for such debit notes/credit notes are taken in the books of accounts.</p>	<p><b>from current MVAT Act.</b> Provisions relating to Point of Taxation in GST are more comprehensive vis a vis the current MVAT Act.</p>
<b>Liability to Pay Tax &amp; Exemptions</b>			
<b>16</b>	<b>Section</b>	<b>Section 3 &amp; 4, Section 16(5)</b>	<b>Section 8(2)</b>
	<b>Liability to Pay Tax</b>	Under the provisions of current MVAT Act, the liability to pay tax is on every 'dealer'. Besides, if any person (whose turnover of sale or as the case may be purchases, does not exceed the prescribe limit), has been voluntarily registered under the	Under the GST Act, the liability to pay tax is on every Taxable person. Taxable person means any person who obtains (this includes the case of voluntary registration) or is liable to obtain registration under Schedule V of the Act. Schedule V also covers the cases

		<p>Act, then he shall be liable to pay tax from the date of effect of the certificate of registration without any threshold limit. Provisions concerning liability of persons registered under the MVAT Act are also contained in Section 16(5). If any dealer is succeeded in a business by any person in the following manners, then such person (i.e. successor) shall be liable to pay tax on sales or purchases of goods effected by him on or after the date of such succession without any threshold limit.</p> <ul style="list-style-type: none"> <li>- Where a dealer dies and his business is continued after his death by his legal representatives or any other person.</li> <li>- Where a dealer transfers or otherwise disposes of his business in whole or in part, or effects change in the ownership thereof, to / in favour of other person.</li> </ul>	<p>where the business is transferred on account of succession or otherwise, including transfer pursuant to scheme of scheme of arrangement for amalgamation or de-merger of two or more companies by an Order of High Court.</p>
<b>17</b>	<b>Section</b>	<b>Section 3</b>	<b>Schedule V, Section 2(6)</b>
	<b>Threshold Limit</b>	<p>Under the current MVAT Act, if in case of a dealer, turnover of either sale or, as the case may be, purchases made during the year, first exceeds the prescribed limit, then such dealer shall be liable to pay tax, with effect from 1<sup>st</sup> April of the said year, only to the extent his turnover of sale or as the case may be purchases exceeds the prescribed limit, in the said year, until his liability ceases [i.e. until his registration is cancelled and until his turnover of sales or purchases again exceeds the prescribed limit].</p> <p>For the purpose of computing 'turnover of sale' for the</p>	<p>Under the provisions of GST Act, as stated above, every person who obtains or is liable to obtain registration is regarded as taxable person. In case of suppliers, registration will be required to be obtained if aggregate turnover in a financial year exceeds Rs.20 Lakhs.</p> <p>For the purpose of determining threshold limit "aggregate turnover" is defined in section 2(6) as under:  <b>"aggregate turnover"</b> means the aggregate value of all taxable supplies, exempt supplies, exports of goods and/or services and inter-State supplies of a person</p>

		<p>prescribed limit, following shall be included:</p> <ul style="list-style-type: none"> <li>- Turnover of all sales, whether such sales are of taxable goods or not.</li> <li>- Sales made by the dealer on his own account, and also on behalf of his principals, whether disclosed or not</li> </ul> <p>For the purpose of computing 'turnover of purchase' for the prescribed limit, only the turnover of purchases of the goods that are liable to purchase tax as specified in sections 6A and 6B shall be considered.</p> <p>The prescribed turnover limit is Rs.10 Lakhs (in case of a dealer who is not an importer) where the value of taxable goods sold or purchased by him during the year is not less than Rs.10,000.</p>	<p>having the same PAN, to be computed on all India basis and excludes taxes, if any, charged under the CGST Act, SGST Act and the IGST Act, as the case may be"</p> <p><b>Thus, in GST aggregate turnover include turnover of the entity having one PAN on all India basis, and not just its turnover inside one State. This is significant departure from current MVAT Act.</b></p> <p>Further, aggregate turnover shall include all supplies made by a taxable person, whether on his own account or made on behalf of his principal.</p> <p>It is not clear as to whether, benefit of threshold limit shall be applicable to cases covered in Para 4 and 5 of Schedule V (i.e. transferee or to the successor in cases involving transfer of business, on account of succession or otherwise, including under the scheme or an arrangement for amalgamation or as the case may be de-merger.)</p> <p>The cases where the benefit of threshold limit is not applicable are enumerated in Para 6 of Schedule V.</p>
<b>18</b>	<b>Section</b>	<b>Section 8(2), (3), (3A), (3B), (3C), (3D), (4) &amp; (5), Section 41(4), (5).</b>	<b>Section 11</b>
	<b>Exemptions</b>	<p>Under the current MVAT Act, exemptions are granted either</p> <ul style="list-style-type: none"> <li>- in accordance with the Notifications issues by the Central Government [section 8(2)], or</li> <li>- By the general or special order published by the State</li> </ul>	<p>Under the State GST Act, the exemptions are granted by the Central or State Government, on recommendation of the GST Council,</p> <ul style="list-style-type: none"> <li>- By Notification.</li> <li>- By special order</li> </ul>

		Government in the official gazette [Section 8(3) to (5)]. - By Notifications issued by State Government and published in official gazette. [Section 41(4) & (5)]	
<b>Registration Provisions</b>			
<b>19</b>	<b>Section</b>	<b>Sections 16, 17, 18 &amp; 19.</b>	<b>Section 23, 24,25,26,27</b>
	<b>Registration</b>	Under the current MVAT Act, section 16(1) provides that a dealer liable to pay tax under the MVAT Act cannot engage in the business, unless he possesses a valid certificate of Registration under MVAT Act.	The provisions for Registration under the GST Act are very much identical with the provisions contained in MVAT Act.
	<b>Application for registration :</b>	<ul style="list-style-type: none"> <li>- Section 16(2) provides for application for registration within 30 days from the date on which dealer's turnover, first exceeds the prescribed limit.</li> <li>- In case of voluntary registration, applicant is required to deposit Rs.25,000 by way of security deposit.</li> <li>- Section 19 provides that, in following cases, at the time of application for registration, a dealer is required to send to a prescribed authority a declaration stating name of the person or persons who shall be deemed to be the manager or managers of such dealer's business. <ul style="list-style-type: none"> <li>• HUF</li> <li>• AOP</li> <li>• Club or Society</li> <li>• Firm</li> <li>• Company</li> <li>• Who is engaged in business as guardian or trustee or otherwise on behalf of another person.</li> </ul> </li> <li>- Further every person who is liable to obtain PAN under Income Tax Act, shall</li> </ul>	<ul style="list-style-type: none"> <li>- Section 23 (1) provides for application for registration in every such State in which he is so liable within 30 days of from the date he becomes liable for registration.</li> <li>- Section 23(3) provides for a voluntary registration by persons, though not liable to be registered under Schedule V.</li> <li>- Under GST Act, proper officer is empowered to proceed with registration of any person, where such person fails to obtain registration.</li> <li>- Every person shall have a Permanent Account Number issued under the Income Tax Act, 1961 (43 of 1961) in order to be eligible for grant of registration under GST.However PAN shall not be required in case of any specialized agency of the United Nations Organization or any Multilateral Financial Institution and Organization notified under the United Nations (Privileges and Immunities) Act, 1947 (46 of 1947), Consulate or Embassy offoreign countries, such other notified class of persons. They</li> </ul>

		communicate the same to the commissioner.	shall be granted a Unique Identity Number. Further, persons required to deduct tax at source shall have TAN in lieu of PAN.
<b>Procedure for grant of registration :</b>	<p>Section 16(3) provides for procedure for grant of certificate of registration. The prescribed authority, after scrutiny of application can grant the certificate of registration if application is found in order and prescribed conditions are fulfilled. In following cases, the application is liable to be rejected and applicant shall be communicated without giving opportunity of being heard.</p> <ul style="list-style-type: none"> <li>- The application is not complete</li> <li>- The prescribed documents are not uploaded</li> <li>- The documents are not consistent with the information contained in application or are not legible</li> <li>- The prescribed conditions are not fulfilled.</li> </ul> <p>If the applicant complied with all the discrepancies intimated in the rejection order within 30 days of from the date of intimation of rejection, the application shall be restored. However, such opportunity to rectify discrepancy shall be given only once.</p>	<p>Section 23(8) to (12) provides for grant of registration.</p> <ul style="list-style-type: none"> <li>- The registration or the Unique Identity Number, shall be granted or, as the case may be, rejected after due verification in the manner and within such period as may be prescribed.</li> <li>- A registration or Unique Identity Number shall be deemed to have been granted after the period prescribed under subsection (8), if no deficiency has been communicated to the applicant by the proper officer within that period.</li> <li>- Any rejection of application for registration or the Unique Identity Number under the GST Act shall be deemed to be a rejection of application for registration under the GST Act.</li> <li>- The Central or a State Government may, on the recommendation of the Council, by notification, specify the category of persons who may be exempted from obtaining registration under this Act.</li> </ul>	
<b>Amendment of Registration :</b>	<p>Section 16(4) provides for amendment to the certificate of registration based on information furnished under the Act or otherwise received. Section 18 provides for the circumstances leading to change in the business, the information of which is required to be furnished to the prescribed authority. Section 16(9) also provides for circumstances in which there is no need to apply for fresh</p>	<p>Section 25 deals with amendment of certificate of registration for any changes in information furnished at the time of registration or that furnished subsequently. The circumstances requiring amendment in registration are contained in Rules. Where a change in the constitution of any business results in change of the Permanent Account Number (PAN) of a registered taxable person, the said person shall apply for fresh</p>	



		registration certificate and mere furnishing of information under section 18 would be sufficient.	registration
	<b>Cancellation of Registration :</b>	<p>Section 16(6) provides for cancellation of registration, on application by the dealer in following cases:</p> <ul style="list-style-type: none"> <li>- Business is discontinued or otherwise disposed off or has been transferred.</li> <li>- Turnover of sales or as the case may be purchases during the year does not exceed the prescribed threshold limit</li> </ul> <p>The registration can also be cancelled by the commissioner on suo motu basis, in following circumstances.</p> <ul style="list-style-type: none"> <li>- Business is discontinued or otherwise disposed off.</li> <li>- A person who has voluntarily got himself registered and has not commenced business within six months from date of registration.</li> <li>- A person who has obtained registration by fraud or misrepresentation of facts.</li> </ul>	<p>Section 26 deals with Cancellation of registration certificate under GST on application by the dealer or his legal heirs in the following cases:</p> <ul style="list-style-type: none"> <li>- Business is discontinued or otherwise disposed off or has been transferred.</li> <li>- There is any change in the constitution of business. (leading to change in PAN)</li> <li>- The taxable person is no longer liable to be registered under Schedule V.</li> </ul> <p>Just as in MVAT the registration can also be cancelled by the proper officer in following circumstances.</p> <ul style="list-style-type: none"> <li>- A person who has taken voluntary registration and has not commenced business within six months of the date of registration.</li> <li>- The taxable person has contravened the provisions of GST or the rules made thereunder.</li> <li>- A person paying tax under section 9 has not furnished returns for three consecutive tax periods.</li> <li>- Any taxable person who has not furnished returns for a continuous period of six months.</li> </ul> <p>Also, GST Act provides for revocation of cancellation of registration if proper application is submitted by the taxable person in prescribed manner within 30 days of date of cancellation.</p>
<b>Returns</b>			
<b>20</b>	<b>Section</b>	<b>Section 20, Section 65, Rule 17</b>	<b>Section 32 to 42</b>

		to 20.	
	<b>Filing of Returns</b>	<ul style="list-style-type: none"> <li>- Section 20 of the MVAT Act provides for filing of correct, complete and self-consistent returns, for prescribed period and by prescribed dates, by different classes of dealers.</li> <li>- The periodicity of filling of return for every dealer is displayed on the web-site of the Department. Return is generally required to be filed within 21 days from the end of the period.</li> <li>- MVAT Act also contains provision whereby Commissioner may permit any dealer to file separate returns for all or any place of business or for different constituents of business.</li> <li>- MVAT Act provides for submission of returns electronically by all dealers. The return templates of various forms are available on website of the department. The dealer is required to download these forms and after making necessary data entry, upload the same, through his login, on the site. On uploading the system will generate acknowledgement of filing of returns.</li> <li>- Section 69 provides for Automation. As per Rule 17A, commissioner may introduce forms of returns, applications, declarations, Annexures, Memorandum of Appeal, report of Audit and any other document which is required to be submitted electronically.</li> <li>- The MVAT Act provides for filing of Annexure J1 (Details of Sales) and J2 (Details of Purchases) and Annexures C, D ( WCT certificates details),</li> </ul>	<ul style="list-style-type: none"> <li>- Section 34 of the SGST Act provides for filing of returns by various classes of taxable persons and the prescribed dates.</li> <li>- The periodicity for the purpose of fling of returns is also contained in section 34.</li> <li>- Besides return u/s 34, a Taxable person is also required to furnish information of details of outward supply and information of details of inward supply u/s 32 and 33 respectively. <b>The main difference in return system under MVAT Act and GST, is that under MVAT Act, the details of purchases and sales are required to be filed along with return, whereas under GST, return for outward supply is required to be filed on 10<sup>th</sup> of subsequent month, return of inward supply is required to be filed on 15<sup>th</sup> of subsequent month and return u/s 34 is required to be filed on 20<sup>th</sup> of subsequent month.</b> The purpose is to facilitate timely matching of data.</li> </ul>

		annexure H (Form H) and, Annexure I ( Pending C and F forms) along with returns.	
	<b>Checking prima facie errors/ completeness</b>	- Section 20(2) empowers commissioner to examine the whether the returns filed by the dealers are complete and self-consistent and, if not he can serve on dealer a defect notice within 4 months, asking him to file fresh return within 1 month of the date of service of such defect notice.	Under GST is the matching of data will takes place on monthly basis, the mismatch reports will be communicated to both the parties i.e. suppliers as well as receivers on continuous basis u/s 37.
	<b>Matching</b>	- With a view to prevent evasion of tax and ensuring proper compliance with the provisions of the MVAT Act, u/s 65 of the MVAT Act, Commissioner may collect information regarding purchase and sales effected by dealers and cause any sale or purchase to be cross checked. For this purpose, Commissioner may, by notification in official gazettes, require dealers to furnish such information, details and particulars as may be prescribed therein regarding transaction of sale or purchase effected by them during the period.	The SGST Act contains a detailed mechanism for the purpose of matching reversal and reclaim of Input Tax credit and matching, reversal or reclaim of reduction in output tax liability. Such provisions are contained in section 37 and 38 of the SGST Act.
	<b>Revised Returns</b>	As per section 20(4) a dealer can file revised return in following cases. <ul style="list-style-type: none"> <li>- Revision in returns at any time before the notice of assessment is served on him or before due date of filing of Audit report u/s 61, whichever is earlier.</li> <li>- If any omission or incorrect statement is discovered as a result of Audit u/s 61, not more than one revised return within 30 days of due date of filing of Audit Report.</li> <li>- If he agrees with any observations contained in any</li> </ul>	The returns can be revised by the dealers any number of times, based on the information obtained from GSTN through mismatch report or on otherwise. However time limit for making correction shall be earlier of the following dates <ul style="list-style-type: none"> <li>- Furnishing of return u/s 34 for the month of September following the end of financial year to which the correction pertain</li> <li>- Furnishing relevant annual return for the said year.</li> </ul>

		intimation received by him from department u/s 63(7) regarding payment of additional tax or reduction in set-off, then he shall file the revise returns within 30 days of service of such intimation.	
	<b>Late Fees</b>	Section 20(6) provides for payment of Late fees (maximum 5,000) for delay in filing of returns.	Provision for levy of late fees are contained in section 42 of the GST Act. The amount of late fee is Rs.100 per day during which delay continues subject to maximum of Rs.5000.
<b>Assessment</b>			
<b>21</b>	<b>Section</b>	<b>Section 23 (1)&amp; Section 23 (3)</b>	<b>Section 60, Section 66 – 67</b>
	<b>Assessment in case of registered persons who fail to file returns – without issuing notice or giving opportunity of being heard.</b>	As per section 23 (1) of MVAT Act, where registered dealer fails to file the return, commissioner may assess him to the best of his judgment, without serving him notice of assessment and without affording him an opportunity of being heard. If however, after the assessment order is passed, a dealer furnishes a return for the said period, the order passed before shall stand cancelled.	Provisions similar to section 23(1) of the MVAT Act -are contained in section 60 of the State GST Act for assessment of non-filers of returns. <b>However, under MVAT Act, there is no time limit for filing of return, whereas under State GST, the assessment order stands cancelled only if the return is filed within 30 days of service of assessment order. This is a significant departure in GST regime.</b>
	<b>Assessment in case of registered persons who fail to file returns –after issuing notice or giving opportunity of being heard.</b>	Section 23(3) of the MVAT Act, provides for assessment of registered dealers who have failed to file returns, after giving the dealer a notice and opportunity of being heard.	In GST, in such cases orders shall be passed under section 66(7)or, as the case may be, section 67(7) of the SGST Act. These sections provide for determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed. <ul style="list-style-type: none"> <li>- Section 66 is attracted, in cases not involving fraud, or any wilfull misstatement or suppression of facts.</li> <li>- Section 67 is attracted in cases, involving fraud, or any wilfull misstatement or suppression of facts.</li> <li>- This concept has been borrowed from central laws dealing with indirect taxes</li> </ul>

			(Service tax, Central Excise) and is commonly referred to as "show cause proceedings" or "adjudicating proceedings" - Provisions of section 66(4) and 67(4) also provides for circumstances where issue of show cause notice is not necessary. Similar provisions are contained in section 23(5B) of te MVAT Act.
	<b>Time Limit for passing order under this section</b>	- 3 years from the end of the year containing the said period for assessment orders passed u/s 23(1) - 5 years from the end of the year containing the said period for assessment orders passed u/s 23(3)	- 5 years from due date of filing of annual return for the year for assessment orders passed u/s 60 and 66(7) - 3 years from due date of filing of annual return for the year for assessment orders passed u/s 60 and 66(7)
<b>22</b>	<b>Section</b>	<b>Section 23(2)&amp; 23(2B)</b>	<b>Section 59</b>
	<b>Scrutiny of Returns.</b>	As per section 23(2) of the MVAT Act, in order to ascertain correctness and completeness of returns, Commissioner can serve upon dealer notice requiring him to attend and cause to produce such documents and evidences as mentioned in the notice. The commissioner shall accordingly complete the assessment based on documents produced and evidences on record. If dealer failed to comply with notice, commissioner shall pass best judgment assessment order.	Provisions similar to section 23(2) are contained in Section 59 of the SGST Act, where for the purpose of verifying the correctness of the return, a proper officer may scrutinise the return. The officer may call for documents and evidences and discrepancies, if any, shall be communicated to taxable person. If dealer fails to offer explanation or if such explanation is not acceptable to officer, he can initiate show cause proceedings u/s 66 or 67 of the Act. Unlike in the case of MVAT, in GST, although scrutiny of returns is done u/s 59, the order for determination of tax liability is passed u/s 66 or 67 of the Act.
	<b>Time Limit for passing order under this section</b>	4 years from the end of the year to which return relates.  However, as per section 23B(2), if dealer has filed returns or as the case may be revised returns, within time and no assessment order is made within said 4 years, then returns shall be deemed to	No time limit has been prescribed under section 59, However, since the order for determination of tax liability is passed either u/s 66 or 67 of the Act, the time limit of 3/6 months prior to time limit for passing of orders under those sections shall be considered as outer limit for the purpose of

		have been accepted.	section 59. [Section 66 (2) and Section 67(2)]
<b>23</b>	<b>Section</b>	<b>Section 23(4)</b>	<b>Section 61</b>
	<b>Assessment of Un-registered dealers</b>	Section 23(4) provides for assessment of un-registered dealers.	Similar provisions for assessment of unregistered dealers are contained in section 61 of the SGST Act.
	<b>Time Limit for passing order under this section</b>	8 years from the end of financial year containing the period to which dealer is liable to pay tax.	5 years from the due date of filing of the annual return for the year to which tax not paid relates
<b>24</b>	<b>Section</b>	<b>Section 23(5) &amp; 23(11)</b>	
	<b>Other provisions relating to assessment</b>	MVAT Act contains provisions for transaction assessment u/s 23(5) or cancellation of ex-parte assessment u/s 23(11)	There are no such provisions under SGST Act. Transaction assessment u/s 23(5) can however be said to be covered within the scope of section 66 and 67.
<b>Accounts, Invoices and Inspection</b>			
<b>25</b>	<b>Section</b>	<b>Section 63</b>	<b>Section 53</b>
	<b>Accounts &amp; Records</b>	<p>Section 63 of the MVAT Act requires every dealer liable to pay tax to keep true account of value of the goods sold or purchased by him.</p> <p>As per section 63(4), account shall ordinarily be maintained of following activities</p> <ul style="list-style-type: none"> <li>- Purchases , sales or delivery of goods made by him</li> <li>- Stock of goods</li> <li>- Payments made or received towards sale or purchase of goods</li> </ul> <p>The accounts shall be kept at the place of business specified in his certificate of registration or at such other places as commissioner may permit with his previous approval.</p>	<p>Provisions similar to section 63 of the MVAT Act are contained in section 53 of SGST Act. As per section 53(1) true and correct account shall be maintained in respect of following activities</p> <ul style="list-style-type: none"> <li>- production or manufacture of goods</li> <li>- inward or outward supply of goods and/or services</li> <li>- stock of goods</li> <li>- input tax credit availed</li> <li>- output tax payable and paid</li> <li>- such other particulars as may be prescribed in this behalf</li> </ul> <p>The accounts shall be maintained at Principal place of business and at respective places of business.</p> <p>Besides under GST, Every owner or operator of warehouse or godown or any other place used for storage of goods irrespective of whether he is a registered taxable person or not shall maintain records of consigner, consignee</p>

			and other relevant details of the goods as may be prescribed.
		Section 63(3) empowers commissioner to direct any dealer or class of dealer to maintain accounts showing such particulars regarding the aforementioned activities in such form and manner as may be prescribed. Such direction can be issued either by a notice in writing or as the case may be by notification in official gazette.	Section 53(2) empowers commissioner to notify classes of taxable persons to maintain additional accounts and documents as may be prescribed. Besides as per section 53(3), where commissioner considers that any class of taxable persons is not in a position to keep and maintain accounts in accordance with the provisions of this section, he may, for reasons to be recorded in writing, permit such class of taxable persons to maintain accounts differently.
		Section 63(7) empowers Commissioner to make addition if tax payable or amount of set off recorded in the books of accounts is found incorrect. In such cases, the commissioner is required to send to dealer intimation of the likely addition and may advise him to file return or revised return taking into account contents of intimation.	As per section 53(5), similar powers as that of section 63(7) are given to Proper Officer in GST, where the registered taxable person fails to account for the goods and/or services
<b>26</b>	<b>Section</b>	<b>Section 86</b>	<b>Section 28</b>
	<b>Issue of Invoices, Bill or Memorandum of Cash</b>	As per section 86 of the MVAT Act, if a registered dealer sells any goods, he shall issue to the purchaser a tax invoice or bill or cash memorandum containing prescribed particulars. The particulars are mentioned in section 86(2) of the Act. Where the value of the goods sold in a single transaction is not exceeding Rs.50, then there is no need to issue the bill or cash memorandum. A declaration to be incorporated in the invoice is provided in Rule 77 of the MVAT Rules.	Provisions relating to issue of tax invoice or bill of supply are contained in section 28 of the GST Act. There are provisions for timing of issue of invoice in following cases: <ul style="list-style-type: none"> <li>- supply of goods and services in general.</li> <li>- Provision for issue of revised invoice</li> <li>- issue of bill of supply by persons availing composition scheme or supply exempted goods/services. Such bill of supply may not be issued if the value of the goods or services supplied is less than Rs.100 except where the recipient of the goods or services requires</li> </ul>

			<p>such bill.</p> <ul style="list-style-type: none"> <li>- issue of receipt voucher in case of receipt of advance.</li> <li>- Issue of invoice by recipient in case of supplies taxable under RCM.</li> <li>- Issue of invoice in case of continuous supply of goods/services.</li> <li>- Issue of invoice in case of supply of goods (being sent or taken on approval or sale or return or similar terms)</li> </ul> <p>Particulars to be shown on the invoice are contained in Draft Model Invoice Rules.</p>
<b>27</b>	<b>Section Credit Notes/ Debit Notes etc</b>	<b>Section 63</b>	<b>Section 31</b>
		<p>Section 63(5) of MVAT Act provides for the accounting of return of goods purchased (i.e. outward supply) and return of goods sold (i.e. inward supply). Section 63(6) provides for accounting for price variation by issue of credit notes and debit notes. Such credit notes/debit notes shall specify tax and price separately. Such debit notes/credit notes shall be reported in returns in the period in which they are taken into books of accounts.</p>	<p>Provisions as to issue of debit notes or as the case may be credit notes are contained in section 31 of the GST Act. The credit notes/debit notes. As per the said section, in case of credit notes (which has the effect of reducing tax liability) , a registered taxable person shall declare the details of such credit note in the return for the month during which such credit note has been issued but not later than September following the end of the year in which such supply was made, or the date of filing of the relevant annual return, whichever is earlier. Although the details of debit notes (which has the effect of increasing tax liability) are required to be shown in return for the month during which such debit note has been issued, there is no time limit for disclosing such details in subsequent period.</p>
<b>28</b>	<b>Section Tax not to be collected by Unregistered person</b>	<b>Section 60</b>	<b>Section 29, Explanation to section 11(1)</b>
		<p>Section 60 of the MVAT Act bars any person from collecting any sum by way of tax in respect of sales of any goods which are not</p>	<p>Provisions similar to that of Section 60 of MVAT A/c are also contained in section 29 of the GST Act. Besides Explanation to section</p>



		liable to tax. A registered person is bared from collecting any amount by way of tax in excess of the amount that he is liable to pay. Similarly, unless a person is registered, he cannot collect any amount by way of tax.	11(1) provides that, Where an exemption in respect of any goods and/or services from the whole of the tax leviable thereon has been granted absolutely, the taxable person providing such goods and/or services shall not pay the tax on such goods and/or services.
<b>29</b>	<b>Section</b>	<b>Section 64</b>	<b>Section 79</b>
	<b>Inspection of accounts and documents</b>	Section 64 of the MVAT Act empowers Commissioner to require any dealer to produce before him in accounts and records or any information relating to his business. All accounts, registers and documents relating to various activities mentioned above, and all goods and cash kept in place of business shall be open to inspection by Commissioner. The commissioner may retain copies of such accounts and records or as the case may be inventory of goods and cash as he deems proper. The commissioner is empowered to perform inspection of accounts and records at the place of business of the dealer. He also has powers for seizure of documents and records in certain cases. There is no power to seize or confiscate goods in section 64 of the MVAT Act.	Provisions similar to Section 64 of the MVAT Act are contained in section 79 of the GST Act. Under GST regime, it appears that, power of inspection at the place of business, can be exercised only if officer has reason to believe that there is suppression or evasion of tax or contravention of provisions of law for the purpose of escapement of tax. Such inspection can be done at the following places. <ul style="list-style-type: none"> <li>- Place of business of Taxable persons</li> <li>- The persons engaged in the business of transporting goods</li> <li>- The owner or the operator of warehouse or godown or any other place</li> </ul> Section 79 also provides for seizure of documents as well as goods in certain circumstances.
<b>30</b>	<b>Section</b>	<b>Section 67 &amp; 68</b>	<b>Section 80</b>
	<b>Inspection of Goods in Movement</b>	Section 67 of the MVAT Act, empowers the establishment of check posts or the erection of barriers at certain places in State or at the borders of the State to check evasion of taxes. Section 67 specifies the responsibility of the owner or person-in-charge of a vehicle. Similarly Section 68 of the MVAT Act provides for obtaining transit pass at the time of entry of goods into the State, copy of which shall be handed over to the	There is no provision for establishment of check-post or erection of barriers in GST Act. However section 80 of the GST Act provides for inspection of conveyance by the proper officer. Under this section, a person in charge of conveyance carrying any consignment of goods of value exceeding a specified amount is required to carry prescribed documents and devices. The documents are prescribed in Rule

		offer in charge before the exit from the State.	2 of Draft Model Invoice Rules. Transporter is required to carry either duplicate copy of invoice, marked as 'Duplicate for Transporter' or Invoice Reference No. of GST-INV-1 uploaded on the portal by registered taxable person.
<b>31</b>	<b>Section</b>	<b>Rule 68</b>	<b>Section 54</b>
	<b>Retention of Books of Accounts and Records</b>	Under the MVAT Act, a dealer is required to preserve the books of accounts, registers etc, for a period not less than <b>8 years</b> from the expiry of the year to which it relates. As regards matters in litigation, the records shall be preserved beyond the said period of 8 years <b>till a final order is passed in respect of the said proceedings.</b>	As per section 54 of the GST Act, Books of accounts and other records shall be required to be retained until the expiry of <b>60 months</b> from the due date of filing of Annual Return for the year pertaining to such accounts and records. As regards matters under litigation, such accounts and records are to be maintained for a period of <b>one year</b> after final disposal of such appeal or revision or proceeding or investigation, or for the period specified above, whichever is later
<b>Audit</b>			
<b>32</b>	<b>Section</b>	<b>Section 61</b>	<b>Section 53(4), Rule 21 of Draft Return Rules.</b>
	<b>Audit</b>	The Audit under MVAT Act is required <ul style="list-style-type: none"> <li>- if, turnover of sales and the value of stock transfers or turnover of purchases exceeds Rs.1 Crore or</li> <li>- If dealer holds Entitlement Certificate under Package Incentive Scheme.</li> </ul>	Audit under GST is required if aggregate turnover of taxable person during a financial year exceeds Rs.1 Crore.
<b>Input Tax Set-Off</b>			
<b>33</b>	<b>Section</b>	<b>Section 48, Rule 52 to 55</b>	<b>Section 16 to 18</b>
	<b>Eligibility of Set-Off</b>	- Section 48 of the MVAT Act empowers the State Government to make rules for prescribing circumstances and conditions subject to which set off would be allowed of the whole or part of the tax paid in	- Section 16 of the GST Act provides for entitlement of input tax credit charged on inward supply of goods which are used or intended to be used in the course or furtherance of business.

		<p>respect of purchase of goods.</p> <ul style="list-style-type: none"> <li>- As per Rule 52, set off is allowed in respect of goods being capital assets and goods the purchases of which are debited to profit and loss account or trading account.</li> <li>- Section 48(2) provides that, claimant dealer can claim set-off only on the basis of valid tax invoice.</li> <li>- Section 48(5) provides that in no case the amount of set-off on any purchase of goods shall exceed the amount of tax in respect of the same goods, actually paid, into the Government Treasury.</li> </ul>	<ul style="list-style-type: none"> <li>- Similar to section 48(2) of the MVAT Act, Section 16(2)(a) also provides that for claiming the input tax credit, claimant should be in possession of valid tax invoice or such other prescribed document.</li> <li>- A condition similar to section 48(5) MVAT Act is incorporated in section 16(2)(c)</li> </ul> <p>In addition to above there are two more conditions as under:</p> <ul style="list-style-type: none"> <li>- Claimant dealer should have received the goods and</li> <li>- He must furnish his returns u/s 34.</li> </ul>
		<p>As per Rules 52 and 55, the general scheme of set-off is as under:</p> <ul style="list-style-type: none"> <li>- Set off is allowed only if the purchases are made from registered dealer.</li> <li>- Set-off is allowed only if dealer has obtained registration under MVAT Act and was registered dealer at the time of purchase. However, Set-off is also allowed in respect of goods effected on or after 1<sup>st</sup> April of the year in which the registration is obtained by the dealer, unless where such goods are sold or disposed of before the registration or are used or consumed in the manufacture of goods which are sold before the registration.</li> <li>- Maintenance of true account in a chronological order of purchases with prescribed particulars is necessary.</li> <li>- Set-off of MVAT, Entry Tax</li> </ul>	<ul style="list-style-type: none"> <li>- As per section 16(2)(a) set off is allowed only if the purchases are made from registered dealer</li> <li>- As per Section 16(1), set off is available only to a registered dealer.</li> <li>- As per section 18(1)/(2), if a person applies for registration within 30 days of he becoming liable for registration, then, he shall be allowed to take input tax credit in respect of inputs held in stock or contained in semi-finished or finished goods held in stock on the date immediately preceding the date on which he becomes liable to tax. However, if a person has applied for voluntary registration, the input tax credit is allowed for such inputs or finished goods held in stock immediately preceding the date of registration. There appears to be no provision for capital goods held in stock. <b>Under MVAT Act set-off is also allowed in respect of capital</b></li> </ul>

		<p>paid under the Maharashtra Tax on the entry of Motor Vehicles into Local Areas Act and Entry Tax paid on goods under Maharashtra Tax on the Entry of Goods into Local Areas Act, and purchase tax paid by the dealer are available.</p>	<p><b>assets purchased on or after 1<sup>st</sup> April but before the grant of registration, if such capital asset is not sold before the date of such registration.</b></p> <ul style="list-style-type: none"> <li>- Set off of Maharashtra State GST and/or IGST paid on both goods/services shall be allowed under the State GST Act.</li> </ul>
	<b>Reduction in Set-off</b>	<p>Rule 53 provides for reduction/additional conditions in set-off of tax in respect of purchase of certain classes of goods. Illustrative list of cases of such goods are as under:</p> <ul style="list-style-type: none"> <li>- If the claimant dealer manufactures tax free goods.</li> <li>- Packing material used for packing of tax free goods sold.</li> <li>- No reduction in set-off is allowed when goods are sold in the course of export out of territory.</li> <li>- Set-off pertaining to goods (other than capital assets) held in stock at the time of discontinuance of business.</li> </ul>	<p>Section 17 of the SGST Act provides for reduction of set-off in following cases</p> <ul style="list-style-type: none"> <li>- Where the goods are used partly for the purpose of business and partly for other purposes.</li> <li>- Where the goods are used partly for taxable supplies (including zero rated) and partly for exempt supplies. Zero rated supply is defined in section 16 of the IGST Act to mean (i)export of goods and (ii) supply of goods to SEZ developer or an SEZ Unit.</li> </ul> <p>As per section 26(7), input tax credit pertaining to inputs held in stock or contained in semi-finished goods or in finished goods held in stock at the time of cancellation of registration or the output tax payable on such goods whichever is higher shall be required to be paid.</p>
		<p>In addition to above, the reduction of set off is also provided in following cases.</p> <ul style="list-style-type: none"> <li>- Taxable goods used as fuel</li> <li>- Natural gas</li> <li>- Transfer of goods outside State of Maharashtra (other than exports) by way of stock transfer or branch transfer.</li> <li>- Where tax is paid under</li> </ul>	<p>All the other instances for reduction in set-off are not there in GST regime.</p>

		<p>works contract composition scheme u/s 42(3) of the MVAT Act.</p> <ul style="list-style-type: none"> <li>- Where the gross receipts of dealer in any year on account of sale are less than 50%</li> <li>- Capital assets namely office equipment, furniture and fixtures (except in certain cases.)</li> <li>- In cases where dealer has executed contract of processing of textiles.</li> <li>- In cases where the dealer is engaged in the business of transfer of right to use passenger motor vehicles. [such eligible set off to be claimed in the period in which right to use has been transferred]</li> </ul>	
	<p><b>Non-Admissibility of Set-off</b></p>	<p>Rule 54 deals with items in respect of which no set-off is available. These items are as under:</p> <ul style="list-style-type: none"> <li>- Purchase of passenger vehicle which are treated as capital asset and parts, components, accessories thereof except in certain cases.</li> <li>- Purchase of liquor.</li> <li>- Purchases effected by the employer by way of works contract when the contract results in immovable property other than plant and machinery.</li> <li>- Purchase of any goods the property in which is not transferred to any other person (whether as goods or in some other form), which are used in the erection of immovable property other than plant and machinery.</li> </ul>	<p>In following cases, no Input Tax Credit is allowed under GST Act.</p> <ul style="list-style-type: none"> <li>- Motor vehicle except in certain cases.</li> <li>- Supply of food and beverages except in certain cases.</li> <li>- Works contract services when supplied for construction of immovable property other than plant and machinery (except in certain cases)</li> <li>- Goods received by a taxable person for construction of immovable property on his own account, other than plant and machinery.</li> <li>- Goods on which tax has been paid under composition scheme.</li> <li>- Credit of SGST of any other State or CGST is not allowed for payment of Maharashtra SGST.</li> </ul>

		<ul style="list-style-type: none"> <li>- Dealers paying tax under composition scheme u/s 43 (2) and (3A)</li> <li>- Purchase of mandap, tarpaulin, pandal, shamiana, its decoration, furniture, fixture, lights and light fittings, floor coverings, utensils and other articles ordinarily used along with it, if the purchasing dealer has opted for composition scheme u/s 42(4)</li> <li>- Credit of CST paid on inter-state purchase is not allowed</li> </ul>	
		<p>In addition to above, in following cases, set -off is not allowed under MVAT Act.</p> <ul style="list-style-type: none"> <li>- Entry or purchase of motor spirits (HSD, ATF, Aviation Gasoline, Petrol ),</li> <li>- crude oil</li> <li>- purchase of consumables or goods treated as capital assets by dealer where such dealer is principally engaged in doing job work or labour work and not in the business of manufacturing of goods for sale.</li> <li>- Any purchase of goods of incorporeal or intangible nature (except certain goods)</li> <li>- Purchase of capital assets, which does not pertain to supply of food by hotelier</li> </ul>	<p>In addition to above, in following cases, set -off is not allowed under GST Act.</p> <ul style="list-style-type: none"> <li>- Goods used for personal consumption.</li> <li>- Goods lost/stolen/destroyed/ written off or disposed of by way of gift or free sample.</li> <li>- Where the depreciation has been claimed on tax component of the cost of capital goods under Income Tax Act</li> </ul>
	<b>Timing of Set-Off</b>	<p>Under the MVAT Act, it has not been specifically provided as to what is the point of time for the purpose of availment of set-off. Unless otherwise provided, under MVAT set-off shall be taken during the same period in which the purchases are effected.</p>	<p>Under the GST Act, it has not been specifically provided as to what is the exact point of time for the purpose of availment of Input Tax Credit. Unless otherwise provided, under MVAT set-off shall be taken during the same period in which the purchases are effected.</p>

		<p>Rule 52B provides for certain classes of goods in respect of which the set-off is limited to the extent of CST paid on inter-state sale or tax paid on local sale of corresponding goods. Further set-off is available only in the month in which corresponding sale of such goods is effected by selling dealer.</p> <p>In cases where the dealer is engaged in the business of transfer of right to use passenger motor vehicles, eligible set off to be claimed in the period in which right to use has been transferred.</p>	<p>Under GST Act, in certain cases, timing of availment of Input Tax credit on goods is deferred / postponed. [See provisos to Section 16(1) and 16 (2)]</p> <p>Under section 18(5), in certain cases, the time limit for availment of Input Tax Credit shall be one year from the date of issue of Tax Invoice.</p> <p>Under Section 16(4) Input Tax Credit cannot be taken after earlier of the following events</p> <ul style="list-style-type: none"> <li>- Furnishing return u/s 34 for the month of September of the next financial year to which such invoice pertains.</li> <li>- Furnishing of relevant annual return.</li> </ul> <p>Once the credit is availed it's credited to Electronic credit ledger and the same can be carried forward without any limit.</p>
	<b>Transfer of ITC in certain cases.</b>	<p>Rule 55 (7) provides for transfer of credit to successor in business in following cases</p> <ul style="list-style-type: none"> <li>- Where registered dealer dies, but his business is continued by any person or persons</li> <li>- Transfer or otherwise dispose of business or effects change in the ownership of business, in consequence of which the business is continued by another person.</li> </ul>	<p>Import of rule 55(7) of MVAT Act is incorporated in section 18(6) of the GST Act only on account of change in the constitution of business on account of sale, merger, demerger, amalgamation, lease or transfer of business with the specific provisions for transfer of liabilities. <b>However, it does not contain provision for transfer of ITC in case of change in constitution due to death of taxable person (Ex: from firm to sole proprietorship)</b></p>
<b>Liability in Special cases</b>			
<b>34</b>	<b>Section</b>	<b>Section 45</b>	<b>Section 128</b>
	<b>Agent Principal Relationship</b>	<p>Under the provisions of MVAT Act, where any person (i.e. agent) sells or purchases any goods on behalf of the Principal (dealer</p>	<p>Under GST Act, where an agent supplies or receives any taxable goods on behalf of his principal, such agent and his principal shall</p>

		within a State or a non-resident dealer), the agent as well principal shall be jointly and severally liable to pay the taxes on the turnover of such sale or purchases. If tax is paid by agent, the principal shall not be again liable to pay tax. It may be noted that, under MVAT Act, in case of works contract, the relationship between a contractor and a sub-contractor is deemed to be that of Principal and Agent.	be jointly and severally liable to pay the tax payable on such goods under the Act.
<b>35</b>	<b>Section</b>	<b>Section 44(3) &amp;Section 46</b>	<b>Section 132&amp; Section 135(3)</b>
	<b>Firms and Partner</b>	Under the provisions of MVAT Act, where any firm is liable to pay tax, the firm and each of the partners shall be jointly and severally be liable for such payment. Where a partner retires from the firm, he shall be liable to tax liability due upto the date of retirement (whether assessed or unassessed).	Similar provisions are contained in Section 132 of the GS Act. <b>However, the partner is required to intimate his retirement to the commissioner within one month and if no such intimation is given, then liability of such partner shall continue upto the date of intimation.</b>
	<b>Liability in case of dissolution of firm</b>	Where the firm is dissolved then every partner shall be jointly and severally to pay tax.	Similar provisions are contained in Section 135(3) of the GST Act.
<b>36</b>	<b>Section</b>	<b>Section 44(4A) &amp; Section 47</b>	<b>Section 129</b>
	<b>Amalgamation and Demerger of the Companies</b>	For the purpose of amalgamation/merger/demerger, company can opt for the date of transfer of business either as (i) date of order of the Court or Tribunal or Central Government or as (ii) the date on which the Registrar of Companies notifies the amalgamation, merger, demerger etc.  When in a scheme of amalgamation, two companies have sold and purchased goods during the period starting from the date on which the amalgamation of the two companies is to take effect and ending with the date of transfer as may be opted by the Companies as above, then such transaction of sale or purchases is	Similar provisions are contained in Section 129 of the Act. The law deems that supply of goods / services during the period commencing on the date from which the order takes effect <b>till the date of the order</b> , as the supplies between two distinct entities and shall accordingly be included in the respective turnover of the companies. The date on which the registrar of companies notifies the amalgamation, merger or demerger is not relevant in this case. The Cancellation of registration certificate of the old company will be with effect from the date of such order. However, for a new company, effective date within which it should apply for



		included in turnover of respective companies.	registration shall be the date on which the Registrar of Companies notifies the amalgamation, merger etc. giving effect to such order.
<b>37</b>	<b>Section Death of dealer</b>	<b>Section 44(1)</b> As per the provisions of MVAT Act, where a dealer liable to pay tax dies, and if his business is continued after his death by his legal representative or any other person, such legal representative or other person shall be liable to pay tax liabilities due from such dealers.	<b>Section 135(1)</b> Similar provisions are contained in section 135(1) of the GST Act.
		If however, the business of such person is discontinued whether before or after his death, his legal representative shall be liable to out of the estate of the deceased.	Similar provisions are contained in section 135(1) of the GST Act.
<b>38</b>	<b>Section HUF</b>	<b>Section 44(2)</b> In case of Partition of joint family property amongst various members or group of members, each such member of group of member shall be jointly and severally liable to pay tax liability.	<b>Section 135(2)</b> Similar provisions are contained in Section 135(2) of the GST Act. Such provisions are also applicable to partition of property amongst the members of AOP.
<b>39</b>	<b>Section Transfer of business and change in ownership other than above.</b>	<b>Section 44(4)</b> Where a dealer transfers or otherwise disposes of his business in whole or in part, or effects change in ownership thereof, such dealer and a person succeeding shall be jointly and severally be liable to pay tax liability due upto the time of such transfer, disposal etc.	<b>Section 127</b> Similar provisions are contained in section 127(1) of the Act. Such provisions are applicable also in cases, <b>where there is transfer of business by way of lease, leave and license, hire or in any other manner whatsoever</b>
<b>40</b>	<b>Section Guardian of a ward or trustee of trust</b>	<b>Section 44(5)</b> In case where the business is undertaken for a ward by a guardian, or for the beneficiary by a trustee under a trust, and the guardianship or trust is terminated then, ward/ beneficiary shall be liable to pay tax liability upto the time of such termination.	<b>Section 135(4)</b> Similar provisions are contained in section 135(4) of the GST Act.

