

# **Technical Guide to Rajasthan VAT**



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

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## Foreword

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

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

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

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

Date: 31<sup>st</sup> July, 2015  
Place: New Delhi

**CA. Manoj Fadnis**  
President



## Preface

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

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

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

I look forward to receiving feedback for further improvements in this Technical Guide at [itdc@icai.in](mailto:itdc@icai.in).

Date: 31<sup>st</sup> July, 2015

Place: New Delhi.

**CA. Atul Gupta**

Chairman

Indirect Taxes Committee



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**PART 1**  
**Glossary**



## **VAT Glossary/Important Definitions**

1. "Appellate authority" means a person not below the rank of the Deputy Commissioner authorized as such by the State Government.
2. "Assessing authority" means any officer not below the rank of Assistant Commercial Taxes Officer, authorized as such by the Commissioner.
3. "Assessment" means determination of liability under the Act.
4. "Auditor" means any officer not below the rank of Assistant Commercial Taxes Officer authorized as such by the Commissioner;
5. "Awarder" means any person at whose instance or for whose benefit works contract is executed.
6. "Business" includes–
  - (i) any trade, commerce or manufacture; or
  - (ii) any adventure or concern in the nature of trade, commerce or manufacture;  

whether or not such trade, commerce, manufacture, adventure or concern is carried on with a motive to make gain or profit, and whether or not any gain or profit accrues from such trade, commerce, manufacture, adventure or concern ; or
  - (iii) any transaction in connection with or incidental to or ancillary to such trade, commerce, manufacture, adventure or concern; or
  - (iv) any transaction in connection with or incidental or ancillary to the commencement or closure of such business; or
  - (v) any occasional transaction in the nature of such trade, commerce, manufacture, adventure or concern whether or not there is volume, frequency, continuity or regularity of such transaction.
7. "Business Manager" means a person appointed by dealer, authorized to receive notice and other documents under the act. All acts done by the business manager(s) in course of business shall be deemed to have been done by dealer.

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8. "Capital goods" means plant and machinery including parts and accessories, used in the manufacture unless otherwise notified by the State Government.
9. "Casual trader" means a person who, whether as a principal, agent or in any other capacity, has occasional transactions of a business nature involving buying, selling, supplying or distributing of goods as may be notified by the State Government whether for cash or deferred payment or for commission or remuneration or other valuable consideration.
10. "Commissioner" means a person appointed by the State Government to be the Commissioner of Commercial Taxes Department and shall include Additional Commissioner of Commercial Taxes Department.
11. "Contractor" means a person executing a works contract and includes a sub-contractor, or a person to whom such contract has been awarded under section 77 of the Act.
12. "Dealer" means any person, who carries on business in any capacity, of buying, selling, supplying or distributing goods directly or otherwise, or making purchases or sales as defined in clause (35) for himself or others, whether for cash or deferred payment, or for commission, remuneration or other valuable consideration and shall include:
  - (a) A factor, broker, commission agent, del credere agent or any other mercantile agent, by whatever name called and whether of the same description as herein before mentioned or not, who carries on the business of buying, selling, supplying or distributing any goods belonging to any principal whether disclosed or not;
  - (b) An auctioneer who sells or auctions goods belonging to any principal, whether disclosed or not and whether the offer of the intending purchaser is accepted by him or by the principal or a nominee of the principal;
  - (c) A manager or an agent, of a non-resident dealer who buys, sells, supplies or distributes goods in the State belonging to such dealer;
  - (d) Any society, club, trust or other association, whether incorporated or not, which buys goods from or sells goods to its members;

*VAT Glossary/Important Definitions*

- (e) the central or any State Government or any of their Departments or offices which, whether or not in the course of business, buy, sell, supply or distribute goods directly or otherwise, whether for cash or deferred payment or for commission, remuneration or other valuable consideration;
- (f) a casual trader;
- (g) Any trading, commercial or financial establishment including a bank, an insurance company, a transport company and the like which, whether or not in the course of its business, buys, sells, supplies or distributes goods, directly or otherwise, whether for cash or deferred payment, commission, remuneration or other valuable consideration.

Explanation – A person, who sells agricultural or horticultural produce, grown by himself or grown on any land in which he has an interest as owner or tenant as defined in the Rajasthan Tenancy Act, 1955 shall not be deemed to be a dealer in respect of such sales within the meaning of this clause.

- 13. "Deputy Commissioner (Administration)" "Assistant Commissioner", "Commercial Taxes Officer", "Assistant Commercial Officer" or "Junior Commercial Taxes Officer" means the person holding office with that designation under the State Government;
- 14. "Document" includes data, record or data generated image or sound stored received or sent in an electronic form or micro film or computer generated microfiche.
- 15. "Exempted goods" means any goods exempted from tax in accordance with the provisions of this Act.
- 16. "Firm", "Partner" and "Partnership" shall be the same as defined in the Indian Partnership Act, 1932.
- 17. "Form", means a form appended to the rules of Rajasthan VAT.
- 18. "Goods" means all kinds of movable property, whether tangible or intangible, including materials, articles and commodities used in any form in the execution of works contract, livestock and all other things attached to or forming part of the land which is agreed to be severed before sales or under the contract of sale, but excludes newspapers, money, actionable claims, stocks, shares and securities.

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19. "Importer" means a dealer who brings or causes to be brought into the State any goods or to whom any goods are dispatched from any place outside the State, for the purpose of sale or use in manufacturing and processing of goods for sale.
20. "Input tax" means tax paid or payable by a registered dealer on the purchase of any goods made from a registered dealer.
21. "Invoice" means a document containing details of Goods sold.
22. "Lease" means any agreement or arrangement whereby the right to use any goods for any purpose is transferred by one person to another whether or not for a specified period for cash, deferred payment or other valuable consideration without the transfer of ownership, and includes a sub-lease but does not include any transfer on hire purchase system or any system of payment by installments
23. "Lessee" means any person to whom the right to use any goods for any purpose is transferred under a lease.
24. "Lessor" means any person by whom the right to use any goods for any purpose is transferred under a lease.
25. "Manufacture" includes every processing of goods which brings into existence a commercially different and distinct commodity but shall not include such processing as may be notified by the State Government.
26. "Non-resident dealer" means a dealer who affects purchases or sales of any goods in the State but who has no fixed place of business or residence in the State.
27. "Notice or show cause notice" means a notice issued under the act or the rules in the form prescribed under these rules, where such notices issued electronically bearing a serial number generated by the computer the signature of the issuing authority shall not be required.
28. "Output tax" means the tax charged or chargeable under this Act by a registered dealer in respect of the sale of goods in the course of his business.
29. "Person" means
  - (a) any individual or association or body of individuals
  - (b) a Hindu Undivided Family or Joint Family
  - (c) a firm,

*VAT Glossary/Important Definitions*

- (d) a company whether incorporated or not,
  - (e) a co-operative society
  - (f) a trust, a club, an institution, an agency, a corporation,
  - (g) a local authority,
  - (h) a Department of the Government
  - (i) or other artificial or juridical person;
30. "Place of business" means any place in the State of Rajasthan where a dealer purchases or sells goods and includes
- (a) any warehouse, godown or other place where the dealer stores goods
  - (b) any place where the dealer processes, produces or manufactures goods
  - (c) any place where the dealer keeps his accounts, registers and documents;
  - (d) any vehicle or carrier wherein the goods are stored or business is carried on;
  - (e) any warehouse, railway station, railway goods yard, parcel office, or any other place where goods for transportation in the course of business or otherwise are kept by the dealers

Explanation– The dealer shall declare one of the places of business as his principal place of business in the application for registration, and his final accounts, annual statements, registers and documents, whether maintained manually or electronically, shall necessarily be kept at such place

31. "Prescribed" means prescribed by rules made under this Act.
32. "Purchase price" means the amount paid or payable by a dealer as valuable consideration for the purchase of goods including all ancillary and incidental expenses and statutory levies payable but excluding the tax payable under this Act.
33. "Raw material" means goods used as an ingredient in the manufacture of goods and includes processing material, consumables, preservative, fuel and lubricant required for the process of manufacture.

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34. "Registered dealer" means a dealer registered or deemed to have been registered under the provisions of this Act.
35. "Repealed Act" means the Rajasthan Sales Tax Act, 1994.
36. "Representative or Authorized representative" means
- (a) A person authorized in writing by dealer or a person to appear on his behalf before any officer appointed or authority constituted under the act or
  - (b) A person authorized in particular or in general by the commissioner or any other authority or officer to appear on their behalf before any officer appointed or authority constituted under the act or before any court.
37. "Resale" means sale of goods without performing any operation or manufacturing process.
38. "Reverse tax" means that part of the input tax for which credit has been availed in contravention of the provisions of section 18 of the Act.
39. "Rules" means the rules made under this Act.
40. "Sale" every transfer of property in goods by one person to another for cash, deferred payment or other valuable consideration and includes:-
- (a) a transfer, otherwise than in pursuance of a contract, of property in goods;
  - (b) a transfer of property in goods under works contract;
  - (c) any delivery of goods on hire–purchase system;
  - (d) a transfer of the right to use goods for any purpose;
  - (e) a supply of goods by an unincorporated association or body of persons to a member there to; and
  - (f) a supply, by way of or as part of any service, being food or any other article for human consumption or any drink (whether or not intoxicating)

Explanation– Notwithstanding anything contained in this Act, where any goods are sold in packing, the packing material in such case shall be deemed to have been sold with the goods.



*VAT Glossary/Important Definitions*

41. "Sale price" means the amount paid or payable to a dealer as consideration for the sale of any goods less any sum allowed by way of any kind of discount or rebate according to the practice normally prevailing in the trade, but inclusive of any statutory levy or any sum charged for anything done by the dealer in respect of the goods or services rendered at the time of or before the delivery thereof, except the tax imposed under this Act.

Explanation I – In the case of a sale by hire purchase agreement, the prevailing market price of the goods on the date on which such goods are delivered to the buyer, shall be deemed to be the sale price of such goods.

Explanation II – Cash or trade discount at the time of sale as evident from the invoice shall be excluded from the sale price but any ex post facto grant of discounts or incentives and like shall not be excluded.

Explanation III – If freight and other cost of transportation are borne by the dealer on behalf of the buyer, same shall not be includible if separately charged in Invoice.

42. "Special Economic Zone" shall have the same meaning as has been described under of section 2 of the Special Economic Zones Act, 2005
43. "Tax" means any tax or other levy by any name leviable under the provisions of the Act
44. "Tax Board" means Rajasthan Tax Board constituted under Section 88 of the Act.
45. "Tax period" means the period as may be notified by the State Government for deposit of tax payable under this Act.
46. "Taxable turnover" means, that part of turnover on which a dealer shall be liable to pay tax under the Act.
47. "Taxpayer's service office", means an office, if any, established as such by the commissioner, where a dealer or a person can submit his application, return or any other document(s) and shall also discharge such other functions as may be assigned to it by commissioner;
48. "Turnover" means the aggregate amount of sale price received or receivable by a dealer including purchase price of the goods which are subject to tax under sub section (2) of section 4 but shall exclude the sale price or part of sale price, if any, in respect of sales of goods

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which were purchased in the State by the dealer upon payment of tax on the maximum retail price of such goods or, where tax on maximum retail price of such goods were paid in the State on an earlier occasion;

49. "VAT invoice" means an invoice containing such particulars as may be prescribed, and issued by a dealer authorized.
50. "Vehicle or carrier" means any mode of transportation including human being or animal carrying goods from one place to another.
51. "Works contract" means a contract for carrying out any work which includes assembling, construction, building, altering, manufacturing, processing, fabrication, erection, installation, fitting out, improvement, repair or commissioning of any movable or immovable property.
52. "Year" means the period commencing from 1st April and ending on 31st March.

**PART 2**

**Introduction to VAT and  
Conceptual Understanding**



# Chapter 1

## Introduction & History of VAT in India

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### 1. Introduction of VAT

Within the state, tax on sales is a State subject. Over the period, many distortions amongst the States had come in taxation due to unhealthy competition among States by giving sales tax incentives to the assesses and a 'tax rate war' was prevalent. This eventually started to attract more revenue to State. Many steps were taken by the Union Government to remove the distortions and rationalise tax structures since 1999 and it was then decided to introduce uniform State Level Value Added Tax.

Introduction of VAT was difficult in India as Sales Tax was the State Subject and therefore sales tax on sales within the State can be levied and administered only by the respective State Governments. Even in respect of Central Sales Tax ('CST'), though the tax is levied under Central Sales Tax Act, 1956 (*a central levy*), the CST so collected is retained by the State government where the sale has originated. After a lot of persuasion by the Union Government, all States agreed to introduce State Level VAT w.e.f April 1, 2005. A High Level Empowered Committee consisting of senior representatives of all 29 States was constituted under the Chairmanship of Dr. Asim Dasgupta, the Finance Minister, West Bengal. A '*White Paper*' was released by Dr. Asim Dasgupta, Chairman of Empowered Committee, on January 17, 2005. The *White Paper* is a policy document indicating basic policies of State Sales Tax VAT.

### 2. Levy of tax under old State Sales Tax Acts

The sales tax systems prevailing in India were operated by and large as single point levy and were generally collected at the first point of sale in a State. All dealers having turnover exceeding a specified limit were required to register themselves with the sales tax authorities and file returns. The tax however was levied usually on the 'first sale' in the State at rates prescribed in the respective state laws. Interstate sales were taxed separately under the Central Sales Tax Act, 1956 administered by the States. Second and

subsequent sales were excluded from taxable turnover on the strength of evidence to show that the goods in question were indeed purchased from a registered dealer and the tax has been paid at first point. In case of last point of tax, the tax was paid by last registered dealer. It cannot be denied that the single point tax system had considerable amount of evasion.

### **3. Weakness of single point sales tax system**

The congenital economic and administrative weaknesses in the Sales Tax System of single point taxation were:

- (a) *Reduced tax base* - A single point tax system captures the value addition only at the level of the first seller or the importers. The capturing of value addition at the second and subsequent stages through the levy of turnover tax has not been quite effective.
- (b) *Multiplicity of Taxation* – This system allowed levy of different taxes on the same base, *i.e.* the State levies sales tax, turnover tax, entry tax, surcharge, Composition Scheme fee and the infrastructure development cess practically on the same base.
- (c) *Cascading Effect* – As inputs are subjected to sales tax at various stages, a tax on tax results in inflated pricing in the commodity's supply chain. As a consequence, the prices were artificially jacked up, which resulted in distorting producers' or distributors' choice and also allowed the intermediaries to collect unintended higher margins. On account of cascading and hidden effects of single point tax, the final or finished product becomes expensive making the same less competitive in interstate as well as in international markets.
- (d) *Absence of Transparency* – The exact incidence of tax was not visible especially in case of sales tax paid goods as the seller did not charge tax separately in sale voucher.
- (e) *Promotes Vertical Integration* – The sale tax system encouraged the vertical integration because the widespread taxation of inputs at every point of sale patronized the industries to go in for in-house production of their requirements rather outsourcing. This acted against the growth of ancillary industries and counteracted against efficient economic choices.
- (f) *Inefficient administrative control* – Due to collection of the major part of taxes at the first stage in sale tax system, the concentration of the department was on a small number of big dealers *i.e.* first sellers in respect

of imported goods. A large number of dealers who trade in these commodities in the subsequent level of distribution got ignored also resulting in evasion.

(g) *Multiplicity of rates* – The general perception of the single point sales tax system was that it was highly complex with multiplicity of rates, plethora of explanation, many rates in some group of items, extensive use of statutory forms, high and unrealistic quota of assessment, loss of revenue on value additions, tax rate war between States etc.

#### **4. Need of a new system of taxation i.e. VAT system**

Given the problems and difficulties faced in the sales tax regime, there was a consensus that an overhaul was required. Simultaneously, VAT emerged as a principal instrument of taxing domestic consumption worldwide.

#### **5. Historical background of VAT system**

The concept of the VAT system was first provided by F Vans Siemens, a German businessman in 1918 as an alternative to turnover tax in Germany. Since then numerous economists have recommended it in different contexts. Maurice Laure and Carl Shoup have contributed a lot in the evolution of this system. France was the first country in the world to introduce it in 1954; it was termed as "*Taes sur la valeur Adjoutee.*" The tax regime was reluctant in accepting VAT as a new system of taxation initially, but at later stages VAT emerged as the most important fiscal innovation of the current century. Currently operative in 130 countries, the scope of VAT has now been widened with the inclusion of tax on services and excise also.

Unlike other countries where VAT was already in place, India has a federal system of Government. Under a federal system of the government, VAT is introduced at different levels by the respective level of government i.e. federal level or state level as the case may be.

Brazil introduced the State level VAT in the middle of 1960. In that sense Brazil was the first country to introduce Federal or State level VAT.

Canada has introduced VAT at the provincial level as well as there is already one at the Central level. Then there are very small states like Newfoundland, Nova Scotia which have both the provincial VAT and the Central VAT. In Ontario the provincial VAT is administered by the province whereas the Central VAT is operated by the Centre.

## **6. VAT in India, VAT is not an unknown system to manufacturers**

A system of set-off of the duty paid on inputs and capital goods against the duty payable on final products has been available under the Central Excise Law already. An excellent codified system of duty credit was introduced by the former Finance Minister Late Shri V.P Singh in the year 1986 which was called as "Modified Value Added Tax" (MODVAT). It will not be out of place to mention that the Government of India had set up "Indirect Taxation Enquiry Committee" in 1976 under the Chairmanship of Shri L.K. Jha. The committee strongly recommended adoption of the Concept of VAT in India. However, at that time neither the dealers agree to accept the VAT nor was administration in a position to switch over to the new regime of taxation due to some practical difficulties. Here it has to be noted that India has a federal structure and while some taxes can only be levied by the State, others can be levied only by the Centre and for successful introduction of VAT, assent of all States is a must. So in these circumstances the Committee recommended MANVAT i.e. VAT at manufacturing level. The Government of India announced its "long term fiscal policy" in December 1985 and the policy contained the proposal to introduce Modified Value Added Tax. It was termed as 'modified' as it was restricted only to manufacturing stage. MODVAT scheme was introduced w.e.f. March 1, 1986. Initially, only selected items in 39 Chapters were covered under the scheme. Subsequently, the list of items covered was slowly expanded and by 1994, products in 77 Chapters out of 91 Chapters in CETA were covered under MODVAT scheme.

Textile sector was also brought under MODVAT during 1996 and Tobacco sector was covered in 2000. Thus MODVAT covered almost all manufacturing sectors except,

- (a) Matches which were not eligible as final product and
- (b) High Speed Diesel (HSD) and Motor Spirit (Petrol) were not eligible as inputs.

MODVAT scheme was extended to capital goods w.e.f. March 1, 1994. Subsequently MODVAT was renamed as CENVAT on April 1, 2000.

In the year 1999, in the meeting of Chief Ministers and State Finance Ministers, the States agreed to introduce a unified Value Added Tax regime throughout the country by April 2002 (which was afterwards extended to April



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2003). It was also decided that the interim period would be used for preparation, computerization, training and publicity. So far as the technical assistance is concerned, it was cleared that the National Institution of Public Finance and Policy would provide technical assistance to States for introducing Value Added Tax. The Finance Minister of India remarked during the meeting that, “the present tax regime is disadvantageous and VAT is the best option for three main reasons, namely revenue, neutrality and efficiency.”

## Chapter 2

# Overview of Concept of VAT

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### 1. Basic Concept of VAT

VAT works on the principle that when raw material passes through various manufacturing stages and manufactured product passes through various distribution stages, tax should be levied on the 'Value Added' at each stage and not on the gross sales price. This ensures that the same commodity does not get taxed again and again and there is no cascading effect. In simple terms, 'Value Added' means difference between selling price and purchase price. VAT, thus avoids cascading effect of tax. Basically, VAT is multi-point tax, with provision for granting set-off (credit) of the tax paid at the earlier stage. Thus, tax burden is passed on when goods are sold. This process continues till goods are finally consumed. Hence, VAT is termed as 'consumption type' tax. VAT works on the principle of 'tax credit system'.

### 2. Meaning of cascading effect of tax:

Generally, a tax is related to selling price of product. In a typical supply chain, raw material passes through various stages and processes till it reaches the ultimate stage. If a tax is based on selling price of a product, the tax burden goes on increasing as raw material passes through various stages of manufacturing. For example, let us assume that tax on a product is 10% of selling price. Manufacturer 'A' supplies his output to 'B' at ₹ 100. Thus, 'B' gets the material at ₹ 110, inclusive of tax @ 10%. He carries out further processing and sells his output to 'C' at ₹ 150. While calculating his cost, 'B' has considered his purchase cost of materials as ₹ 110 and added ₹ 40 as his conversion charges. While selling product to C, B will charge tax again @ 10%. Thus C will get the item at ₹ 165 (150+10% tax). In fact, 'value added' by B is only ₹ 40 (150–110), tax on which would have been only ₹ 4, while the tax paid was ₹ 15. As stages of production and/or sales continue, each subsequent purchaser has to pay tax again and again on the material which has already suffered tax. This process of paying tax on tax is called cascading effect resulting into unnecessary inflation of prices

### **3. Disadvantages of cascading effect of taxes**

A tax purely based on selling price of a product has cascading effect, which has the following disadvantages:

- **Computation of Exact Tax Content was Difficult**

It becomes very difficult to know the real tax content in the price of a product, as a product passes through various stages and tax is levied at each stage. This is particularly important for granting Export incentives or for fixing regulatory prices. Varying Tax Burden - Tax burden on any commodity will vary widely depending on the number of stages through which it passes in the chain from first producer to the ultimate consumer.

- **Discourages Ancillarisation**

Ancillarisation is a very common practice these days. It means purchasing already manufactured parts/components and assembling them into the final product. However, earlier due to single point taxation system, if a component is purchased from outside, tax is payable on the other hand if the same component is manufactured in-house, no incidence of tax would arise. This tempted manufacturers to set up their own manufacturing units for manufacturing the components required which hindered the growth of Small Scale industries.

- **Concessions on basis of END use is not possible**

End Use Based Exemptions and rebates were not possible under single point taxation system as the end use of the goods cannot be determined while removing goods from the factory. The government could only exempt the levy of tax at the time of export but no system for granting rebate of the taxes paid on earlier stages on the goods can be worked out because there were no records of the taxes already paid on the goods.

### **4. VAT avoids cascading effect of tax**

The system of VAT works on tax credit method. In Tax Credit Method of VAT, the tax is levied on full sale price, but credit is given for tax paid on purchases. Thus, effectively, tax is levied only on 'Value Added'. Most of the countries have adopted 'tax credit' method for implementation of VAT. The aforesaid illustration will work out as follows under VAT system.

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B will purchase goods from A @ ₹ 110, which is inclusive of duty of ₹ 10. Since B is going to get credit of duty of ₹ 10, he will not consider this amount for his costing. He will charge conversion charges of ₹ 40 and sell his goods at ₹ 140. He will charge 10% tax and raise invoice of ₹ 154 to C. (140 plus tax @ 10%). In the Invoice prepared by B, the duty shown will be ₹ 14. However, B will get credit of ₹ 10 paid on the raw material purchased by him from A. Thus, effective duty paid by B will be only ₹ 4. C will get the goods at ₹ 154 and not at ₹ 165 which he would have got in the absence of VAT. Thus, in effect, B has to pay duty only on value added by him. This is illustrated numerically in the following table:

Details	Transaction without VAT		Transaction With VAT	
	A	B	A	B
Purchases	-	110	-	100
Value Added	100	40	100	40
Sub – Total	100	150	100	140
Add Tax 10%	10	15	10	14
Total	110	165	110	154

*Note* - 'B' is purchasing goods from 'A'. In the second case, his purchase price is ₹ 100/- as he is entitled to VAT credit of ₹ 10/- i.e. tax paid on purchases. His invoice shows tax paid as ₹ 14. However, since he has got credit of ₹ 10/-, effectively he is paying only ₹ 4/- as tax, which is 10% of ₹ 40/-, i.e. 10% of 'value added' by him.

Simply put, 'value added' is the difference between selling price and the purchase price.

## 5. White Paper on State-Level VAT

The advantages as enumerated in *para 2.20* of White Paper on State-Level VAT, 2005 are as follows:

### 5.1. Advantages of State Level VAT

The advantages are as follows, as enumerated in *para 2.20* of White Paper on State-Level VAT, 2005:

- Rationalization of tax burden, which is expected to bring down price level.
- Ending unhealthy tax-rate 'war' among States.

- Trade diversion among States, which affects all States.
- Simplicity and transparency.

## **5.2. Highlights of State Level VAT**

The highlights are as follows -

### *Tax Credit:*

Manufacturer will be entitled to credit of tax paid on inputs used by him in manufacture. A trader (dealer) will be entitled to get credit of tax on goods which he has purchased for re-sale (para 2.3 of White Paper on State-Level VAT, 2005). No credit is available in case of inter-state purchases.

### *Credit of tax paid on capital goods:*

Credit will be available of tax paid on capital goods purchased within the State. Credit will be available only in respect of capital goods used for manufacturing or processing. The credit will be spread over three financial years. There will be a negative list of capital goods (para 2.4 of White Paper on State-Level VAT, 2005), however States have deviated from these provisions. Some States allow credit at one go while some allow over a period of 12 months and so on.

### *Instant credit:*

Credit will be available as soon as inputs are purchased. It is not necessary to wait till these are utilised or sold (para 2.3 of White Paper on State-Level VAT, 2005).

### *No credit of CST paid:*

Credit of Central Sales Tax (CST) paid on inputs and capital goods purchased from other States will not be available [para 2.6 of White Paper on State-Level VAT, 2005).

### *Transitional Credit of stock as on 1-4-2005:*

Input tax as already paid on goods lying in stock as on 1-4-2005 (which are purchased on or after 1-4-2004) will be available to dealer. Detailed stock statement will have to be submitted to sales tax authorities. This credit will be available over a period of six months after an interval of 3 months needed for verification [para 2.7 of White Paper on State-Level VAT, 2005). States have deviated from these provisions.

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*One-to-one correlation not required:*

VAT does not require one-to-one i.e. Bill-to-Bill correlation between input and output. Credit is available as soon as inputs/ capital goods are purchased. The credit can be utilised for payment of VAT on any final product. It is not necessary to wait till the particular input is actually consumed/ sold.

### 5.3. Tax rates in VAT System

Ideally, VAT should have only one rate. Though this is not possible, it is essential that there should be minimum varieties of rates. Broadly, following VAT rates were proposed [para 2.18 and 2.19 of White Paper on State-Level VAT, 2005]

Description/Class of Goods	Rate of VAT
<ul style="list-style-type: none"><li>Natural/unprocessed produces in unorganized sector</li><li>Produces legally barred from Taxes</li></ul>	0%
<ul style="list-style-type: none"><li>Gold, Silver ornaments</li><li>Precious/semi-precious Stones</li></ul>	1%
<ul style="list-style-type: none"><li>Basis Necessities</li><li>Industrial and Agricultural Inputs</li><li>Declared Goods</li><li>Capital Goods</li></ul>	4%
<ul style="list-style-type: none"><li>On other Goods</li></ul>	12.5%

- No VAT on AED items (textile, sugar and tobacco) in first year. Position to be reviewed later.
- Aviation turbine fuel (ATF) and petroleum products (petrol, diesel and motor spirit) will be out of VAT regime. Liquor, cigarettes, lottery tickets, will also be taxed at a higher rate. These will have uniform floor rates for all States. Tax paid on these will not be eligible for input tax credit.

Subsequently, some changes were made in the rate structure of few goods. For example, specified life saving medicines have been exempted from VAT. Broadly, VAT rates of all States follow this pattern, but still there are many variations.

#### **5.4. Concession for small dealers**

VAT will be payable only by those dealers whose turnover exceeds ₹ 5 lakhs per annum. Others can register on optional basis. Dealers having turnover exceeding 5 lakhs should register within 30 days from the date of liability to get registered [para 2.9 of White Paper on State-Level VAT, 2005] In case of Karnataka, the limit is only ₹ two lakhs. Most of States have kept the limit as ₹ 5 lakhs (However, lately most of the States have increased the limits to INR 10 Lakhs.)

#### **5.5. Composition scheme for dealers with turnover up to ₹ 50 lakhs**

Small dealers having gross turnover exceeding ₹ 5 lakhs but less than ₹ 50 lakhs have the option to avail of composition scheme. They will have to pay a small percentage of gross turnover as tax. They will not be entitled to any input tax credit [para 2.9 of White Paper on State-Level VAT, 2005]. Dealers who make inter-state purchases are not eligible for the composition scheme. This provision applies to VAT law of almost all States. The scheme is optional. They can opt to pay normal VAT and avail credit of input tax.

#### **5.6. No credit if output goods are stock transferred to another State**

If the final products are transferred to another State as stock transfer or branch transfer, input credit availed will have to be reversed on pro-rata basis, which is in excess of 4%. In other words, in case of goods sent on stock transfer/branch transfer out of State, 4% tax on inputs will become payable e.g. if tax paid on inputs is 12.5%, credit of 8.5% is available. If tax paid on inputs is 4%, no credit is available.

#### **5.7. No input credit in certain cases**

In following cases, the dealer is not entitled to input credit

- (a) Inputs used in exempted final products
- (b) Final product not sold but given as free sample
- (c) Inputs lost/damaged/stolen before use. If credit was availed, it will have to be reversed.

## **5.8. No credit on certain purchases**

Generally, in the following cases, credit is not available–

- (a) Purchase of automobiles (except in case of purchase of automobiles by automobile dealers for re-sale)
- (b) fuel

There are variations between provisions of various States.

## **5.9. Zero rated sale**

Certain sales are 'zero rated' i.e. tax is not payable on final product in certain specified circumstances. In such cases, credit will be available on the inputs i.e. credit will not have to be reversed. Distinction between 'zero rated sale' and 'exempt sale' is that in case of 'zero rated sale', credit is available on tax paid on inputs, while in case of exempt goods, credit of tax paid on inputs is not available.

As per para 2.5 of White Paper on State-Level VAT, 2005, export sales are zero rated, i.e. though sales tax is not payable on export sales, credit will be available of tax paid on inputs. In respect of sale to EOU/SEZ, there will be either exemption of input tax or tax paid will be refunded to them within three months. If supplies to EOU/ SEZ are considered as exempt from sales tax, then the question will arise whether these are 'zero rated' or 'exempt goods'.

## **6. Procedural provisions**

General procedural provisions are as follows -

### **6.1. Tax Identification Number**

A system of audit checks will have to be established to keep check on bogus invoices. One essential requirement is to give TIN (Tax Identification Number) to all registered dealers, so that a check is maintained that (a) The tax as shown in the invoice has indeed been paid (b) There is no double credit on the basis of the same invoice. TIN will have to be indicated on each invoice issued. It will be an 11- digit numerical code. First two digits will indicate State Code [para 2.10 of White Paper on State-Level VAT , 2005). Thus, State level computer network with check based on TIN will be established. Otherwise, misuse will be rampant.



## **6.2. Invoice based credit**

Tax credit will be given on the basis of document, which will be a 'Tax Invoice', cash memo or bill. Such invoice can be issued only by a registered dealer, who is liable to pay sales tax. The invoice should be serially numbered and duly signed, containing prescribed details. The tax payable should be shown separately in the Invoice. The dealer should keep counterfoil/duplicate of such invoice duly signed and dated [para 2.8 of White Paper on State-Level VAT , 2005). In case of manufacturer, invoice issued under Central Excise Rules should serve purpose of VAT also, if the invoice contains required particulars.

## **6.3 Debit note and credit note**

If sale price is increased/ reduced subsequent to sale, the transaction will be recorded through proper debit/ credit note. The buyer will adjust the input credit available to him accordingly.

## **6.4 Provisions of assessment**

Dealer is required to self-assess his tax and pay the duty amount so calculated. It is known as self-assessment. There will be no compulsory assessment at the end of the year. If notice is not issued within the prescribed time, the dealer will be deemed to have been self- assessed [para 2.12 of White Paper on State-Level VAT, 2005) Returns will be filed monthly/quarterly, as prescribed, along with *challans*. Returns will be scrutinised and if there is technical mistake, it will have to be rectified by the dealer [para 2.11 of White Paper on State-Level VAT, 2005) As per Rajasthan VAT Act, if the dealer does not receive any intimation within two years from the end of the accounting year, it is deemed that his return has been accepted by sales tax authority.

## Chapter 3

# Introduction to Rajasthan VAT

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### Introduction of VAT in Rajasthan

1. Although the Rajasthan VAT Bill 2003 was presented and passed by the legislative assembly on 11<sup>th</sup> March 2003 and 23 States of the Country introduced VAT system with effect from 1<sup>st</sup> April 2005 but most States including Rajasthan refrained from introducing the same on the pretext of one or more political and non-political grounds.
2. The traders' lobby also opposed the introduction of VAT and the traders observed strikes opposing VAT and cited the possibility of harassment by the Tax Department. They also argued that to maintain the record of transaction of sale and purchase would be cumbersome in VAT system.
3. Some expressed apprehension that introduction of VAT would lead to price rise. States were reluctant to introduce the VAT because they said it would reduce their revenue. The Central Government acknowledged the possibilities of reduction in revenue following substitution of Sales Tax by VAT and offered to compensate the States for the revenue reduction for 3 years.
4. In Rajasthan also the Trade Associations, were objecting to VAT on the above mentioned grounds. After a periodic interaction with Traders' Associations, Rajasthan Chamber of Commerce and Industry, Tax experts and the Government of Rajasthan came out with some amendments in the Rajasthan Value Added Tax Act, 2003 on 8<sup>th</sup> March, 2006 vide the Rajasthan Finance Act, 2006 (Act No. 5 of 2006).
5. Ultimately the Government of Rajasthan switched over to VAT w.e.f. 1<sup>st</sup> April, 2006 by issuing a notification under section 1(3) of the Rajasthan Value Added Tax Act, 2003 on dated 31<sup>st</sup> March, 2006. It is by now quite clear that in India we are now headed for a state based VAT regime wherein Central Sales Tax will continue to regulate and be levied on interstate movement of Goods.

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## Chapter 4

# E-Governance

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*This chapter deals with Rule 79A and 79B of Rajasthan Value Added Tax Rules, 2006.*

### **Consent to use website of Commercial Taxes department (Rule 79A)**

- A registered dealer can give his consent for using the official website of the commercial taxes department for his official dealing with the department including
  - Submission of returns,
  - Applications, and
  - Receipt notices,
  - Communications or intimationsby submitting an undertaking in the manner as provided in the official website of the department, after enrolling himself by using his TIN as login id and password created by himself.
- Such dealer shall generate a copy of such undertaking through the official website of the department and shall affix his signature on it and the duly filled in and signed undertaking shall be submitted by such dealer to the assessing authority or to the officer authorized by the Commissioner in this behalf<sup>1</sup>.

### **Provisions regarding e-governance (Rule 79B)**

1. The Commissioner may notify the date from which any return, application, communication or intimation shall be submitted by the dealer or person electronically through the official website of the Commercial Taxes Department, in the manner as provided therein.

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<sup>1</sup> Amended vide NOTIFICATION No. F. 12(79)FD/Tax/2014-113 Dated 1st October 2014

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Most of the dates are already notified and other different dates may be notified by the Commissioner for different purposes.

2. To facilitate e-governance, the Commissioner may change the procedure given in these rules to such extent that is inconsistent or incompatible with electronic forms of communication and payment and such change shall not invalidate any action for the mere reason that it is repugnant to the procedural provisions of these rules.

# Chapter 5

## Registration of Dealers

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*This chapter deals with section 3, 11 to 16 of Rajasthan Value Added Tax Act, 2003 and Rule 12 to 17 of Rajasthan Value Added Tax Rules, 2006.*

### 1. Registration Requirement

Every dealer being a dealer specified in column 2 below would be required to comply with the registration formalities mentioned in column 3:

S. No.	Nature	Requirement
1.	Importer of goods [section 3(1)]	Always required to be registered (obligatory)
2.	Manufacturer of goods [section 3(1)]	If the turnover exceeds ₹ 5,00,000/-
3.	Other dealer [section 3(1)]	If the turnover exceeds ₹ 10,00,000/-
4.	Casual Trader*	According to Sec 11(1) casual trader is not liable to get registered because dealers liable to pay tax u/s 3(1) or 3(5) shall get themselves registered u/s 11(1). A casual trader is liable to pay tax u/s 3(3) of the Act; therefore, he is not liable for registration.
5.	A dealer registered under central sales tax act 1956 [section 3(5)]	Compulsorily liable for registration under the Act.
6.	A dealer dealing exclusively in exempted goods	Not required to register
7.	A dealer opting for composition scheme under section 3(2) of the Act	Obligatory registration

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\* Casual Trader: As per section 2(8) "A person who, whether as principal, agent or in any other capacity, has occasional transactions of a business nature involving buying, selling, supplying or distributing of such goods as may be notified by the state government whether for cash or deferred payment or for commission or remuneration or other valuable consideration".

As per Notification No.F12(52)FD-TAX-09-PT-113 dated 31.12.2010 a casual trader is a person who deals in the following commodities:

*Marble and granite in all their forms*

*Soapstone*

*Gypsum*

*Coal ash*

*Bullion, articles, ornaments and jewellery made of gold and silver and artificial Jewellery.*

*Jeera*

*Dhaniya*

*Cereals*

*Pulses*

*Oil seeds*

*Unginned cotton*

*Lime stone including kota stone but excluding Nimbahera Stone*

*Iron Scrap*

*Non-ferrous metal scrap*

### **What is Turnover?**

As per section 2(41) of the Act, turnover means the aggregate amount of sales price received or receivable by a dealer including purchase price of the goods which are subject to tax under section 4(2) of the Act, but shall exclude the sales price or part of sale price, if any, in respect of sales of goods which were purchased in the state by the dealer upon payment of the tax on the maximum retail price of such goods or, where tax on MRP of such goods were paid in the state on an earlier occasion.



## 2. Types of Registration under the Act

There are two different approaches of registration with the authorities, which dealers can use as per their requirement:

### 2.1. Obligatory Registration (Section 11)

- Every dealer who is liable to pay tax u/s 3 (1) or 3(5) of the Act, shall get himself registered by submitting an application to the authority competent to grant registration.
- The certificate of registration shall be granted from the date the dealer becomes liable to pay tax under section 3.
- The authority competent to grant registration shall grant registration after making the required enquiry.
- The certificate of registration shall not be transferable and it shall remain in force unless it is cancelled.
- Where a dealer is registered under the repealed Act he shall be deemed to have been registered under this Act from the date of commencement of the Act, provided he has submitted such information as has been required by the Commissioner under the repealed Act by notification in the Official Gazette.
- When a dealer, who is liable to get registration, does not make application under sub-section (1), the authority competent to grant registration, after affording an opportunity of being heard to such dealer, shall grant him a certificate of registration from the date he becomes "*liable to pay tax under this Act and such registration*" shall take effect as if it has been granted under sub-section (2).
- Where an already registered dealer is intending to do business at one or more additional places in the State, he shall be granted a branch certificate under the certificate of registration already held by him.
- Where a dealer has one or more additional registration under the repealed Act, he shall inform to his assessing authority or authority competent to grant registration within sixty days from the commencement of this Act, as to which of the registrations shall be treated registration under this Act and which of the registration certificates may be converted into branch certificates. If the dealer fails to do so, the Commissioner or any officer authorized by him for this

purpose, shall declare one such registration to be the registration under this Act and shall issue branch certificate in lieu of remaining registration certificates.

- A dealer dealing exclusively in exempted goods shall not be required to get registration under this act.

## **2.2. Voluntary Registration (Section 12)**

- Any person intending to commence or having commenced a business where he is not liable to get registered under section 11 may apply to the authority competent to grant registration in the prescribed form for registration.
- The authority competent to grant registration after making the required enquiry may grant a certificate of registration in the prescribed manner from the date of application or from the date of commencement of business.
- In this case, the provisions of section 11 *mutatis mutandis* shall apply.

## **3. When to apply for the registration under the Act (Rule 12)**

An application for grant of registration certificate under the Act shall be submitted by a dealer within:

- 30 days from the day on which dealer becomes liable to pay tax u/s 3 (1) or 3(5) of the act. or
- 30 days from the day on which an order or intimation for the execution of a works contract is received by a works contractor and his turnover of the goods involved in the execution of such contract is likely to exceed the limits laid down in section 3 of the Act.

## **4. Procedure for getting registration [Rule 12(2)]**

For getting registration, concerned dealer shall submit an application in *Form VAT 01* electronically through the official website of the department in the manner as provided therein. The dealer shall generate the acknowledgement through the official website of the department, attest it by affixing his signature on it, and submit the duly signed acknowledgement to the authority component along with the following document:

- Declaration of Business manager in Form VAT 02 (**Rule 13**): At the time of registration every dealer should declare the name of his

business manager(s) in form VAT-2. Such declaration shall be signed by proprietor in case of proprietorship, all partners in case of partnership, MD/Director or authorized signatory in case of company, Karta in case of HUF, authorized signatory in all other cases.

- Affidavit on ₹ 10/- stamp paper in Form VAT- 01B.
- Copy of Partnership deed/MOA-AOA/trust deed/MOA of society certified by the applicant.
- Copy of resolution passed by BOD, in case of a company and of governing body, in case of other entities, for authorization of a person to the application for registration certified by the applicant.
- Security bond required to be furnished as per section 15(2) in Form VAT 64 as prescribed in rule 77.
- Two signed Photos of Concern dealer (proprietor in case of proprietorship, all partners in case of partnership, MD/Director or authorized signatory in case of company, Karta in case of HUF, authorized signatory in all other cases).
- Copy of PAN
- Copy of rent deed or rent receipt or electricity bill or telephone bill or water bill or own property documents, in support of address proof; and Duly cancelled blank cheque

## **5. Important information to be filled in registration form [Rule 12(3)]**

Following information should be correct in application:

- PAN Number
- Information regarding bank account with IFSC code of the branch
- Contact Number
- Email Address

If the above information is not furnished or if the furnished information is incorrect, it shall be deemed that application for grant of registration is not complete in all aspects.

## **6. Provisional registration**

There is no provision for provisional registration under the Act.

## **7. Authority Competent to Grant Registration (Section 13)**

- Every dealer liable to get registration has to declare his principal place of business in the application for registration.
- The Assistant Commissioner or the Commercial Taxes Officer having territorial jurisdiction over such principal place of business or any other officer not below the rank of Assistant Commercial Taxes Officer, authorized specially or generally by the Commissioner, shall be the authority competent to grant registration to such dealer.
- In the case of a non-resident dealer, an officer not below the rank of Assistant Commercial Taxes Officer authorized by the Commissioner shall be the authority competent to grant registration.
- If a dealer, after being granted registration, changes his principal place of business outside the territorial jurisdiction of the present assessing authority he shall seek the permission in writing for such change of the assessing authority from the Commissioner or any other officer authorized by the Commissioner in this behalf.
- Unless such permission is accorded, the present assessing authority shall continue to be the assessing authority of the dealer.
- Where a decision on the grant of permission is not accorded within a period of sixty days from the date of the application seeking change of assessing authority, such permission shall be deemed to have been granted.

## **8. Issuance of Registration certificate (Rule 14)**

- On receipt of the duly signed acknowledgement generated through the official website of the department if authority competent finds application complete in all respect and is accompanied with the documents prescribed, it will issue the registration certificate in Form VAT-03 duly digitally signed by him within 24 hours of receipt of such acknowledgement.
- The certificate of registration and the branch certificate of the registration, as the case may be, shall be forwarded to the dealer electronically on the email address as provided in Form VAT 01.

- After issuance of registration certificate authority competent conduct an enquiry within 45 days from issuance of such certificate to verify the facts and statements made in the application for registration.
- The registration certificate shall be kept at the principal place of business and shall not be transferable.
- For all other branches/ other business places, a certified copy of registration certificate to be known as the Branch Certificate of registration shall be issued.
- The authority competent to grant registration or the authorized officer, while issuing the Branch Certificate of registration, shall mention in the original certificate of registration, full address of such other place(s) of business along with the name and style in which such business is carried on.
- In case, where, such other place(s) of business is / are outside his jurisdiction, he shall send a copy of the Branch Certificate of registration within seven days from the date of issue of such Certificate, to the Deputy Commissioner (Administration) of the concerned Zone, who after due verification of facts, shall inform back to the authority competent to grant registration or the authorized officer within thirty days of such communication.
- The Branch Certificate of registration shall be valid so long as the original certificate of registration is valid, unless revoked earlier.

## **9. Issuance of Duplicate registration Certificate (Rule 15)**

- In case, original certificate is lost or misplaced or accidentally destroyed, dealer shall apply to authority competent for duplicate certificate of registration.
- Dealer shall file Form VAT-04 electronically through the official website of the department, along with proof of payment of a fee of ₹ 100.
- The Authorized officer shall issue him a Duplicate certificate of registration in Form VAT-03.

## **10. Appointment/Change in Business Manager (Rule-13)**

- In case of a dealer registered under the repealed act, he shall submit such declaration within a period of 60 days of publication of these

rules to the assessing authority and/or the authorized officer. The commissioner may further extend this period for a maximum of 60 days.

- In case of any change in business manager(s), dealer should inform to assessing authority and/or authorized officer within 15 days from the date of such change in Form VAT-02
- The declared Business manager shall be authorized to receive notice and other documents under the act, and all the activities carried out by business manager or acts done by the business manager shall be treated as carried out or done by the registered dealer and dealer will be responsible for the same in the course of business.

## **11. Authorization for Collection of Tax (Section 14)**

A dealer may start collecting taxes on his sales from the date of application for obligatory or voluntary registration as the case may be in accordance with the provisions of this Act, and in that case all the provisions of this Act, as are applicable to registered dealers shall mutatis mutandis apply to him.

## **12. Furnishing of Security for Registration (Section 15)**

At the time of grant of obligatory registration to the dealers covered under sub-section (1) or (5) of section 3:

- (a) the initial security shall be in the form of surety of two dealers registered under this Act, or
- (b) where the dealer is not in a position to furnish such surety, he shall submit security in the form of National Saving Certificate or in cash or in the form of three years of bank guarantee of a nationalized bank.
  - The amount of security in the second case would be-

<b>Cases</b>	<b>Amount</b>
Small Scale Manufacturing Unit	₹ 10,000/-
Medium Scale Manufacturing Unit	₹ 15,000/-
Large Scale Manufacturing Unit	₹ 25,000/-
Any other case other than specified above	₹ 10,000/-

A registered dealer can give surety to four dealers only.

- At the time of grant of voluntary registration to the dealers covered under section 12:
  - (a) the initial security shall be in the form of surety of two dealers registered under this Act, or
  - (b) where the dealer is not in a position to furnish such surety, he shall submit security in the form of National Saving Certificate or in cash or in the form of three years of bank guarantee of a nationalized bank, of the amount of ₹ 10,000/-.

### **13. Other Provisions for Security (Section 15(1))**

- The authority competent to grant registration may at any time require the dealer to furnish initial security or subsequent security after grant of certificate in the prescribed manner and within the specified time as may be considered necessary for-
  - (a) for the timely payment of the amount of tax or other sum payable by him under this Act; and
  - (b) for the safe custody of books of accounts or any other documents required to be maintained under this Act and the rules made there under:

*"Provided that no security under this section shall be required to be furnished by a department of the Central Government or the State Government or a public sector undertaking, corporation or company owned or controlled by the Central Government or the State Government."*

- The amount of security, in case of a dealer who is already registered or deemed to be registered under this Act, may be increased by the assessing authority, for reasons to be recorded in writing, to twenty five percent of the annual tax liability of the immediate preceding year. However, in case of dealers registered in the current year, such increase in the security amount may be twenty five percent of the highest tax liability of the preceding months or the quarters, as the case may be.

- Where the security furnished by a dealer under sub-sections (2) and (4) is in the form of a surety bond and the surety becomes insolvent or dies, the dealer shall, within thirty days of the occurrence of any of the aforesaid events, inform the assessing authority and shall, within ninety days of such occurrence, furnish a fresh surety bond or furnish in a prescribed manner other security for the amount of the surety bond.
- The assessing authority may, by order in writing, forfeit the whole or any part of the security furnished by a dealer—
  - (a) For realizing any amount of tax, penalty, interest, erroneously availed input tax credit or any other sum payable by him under this Act; or
  - (b) For any loss caused to the Government by negligence or willful default on his part in ensuring the safe custody or proper use of the books of accounts or any other documents required to be maintained under this Act and the rules made there under.
- Where as a result of an order of forfeiture under sub-section (6), the security furnished by any dealer is rendered insufficient; he shall make up the deficiency within a period of thirty days from the date of the communication of the said order.
- No dealer shall be required to furnish additional security under sub-section (4) and no order of forfeiture of the whole or any part of the security shall be passed against him under sub-section (6) unless he has been afforded an opportunity of being heard.

#### **14. Amendment and Cancellation of Registration Certificate (Section 16 read with Rule 16)**

- Every registered dealer or his legal representative shall inform via Form VAT-05 submitted electronically through the official website of department within 30 days of the occurrence of any event or change as referred to in sub section (2) and (3) of section 16 to the assessing authority and authority competent to grant registration.
- Section 16(2): Where any change or event does not alter the basic status of a dealer then only the certificate of registration already granted to the dealer shall be amended accordingly from the date of the occurrence of the change or event.



Events that do not change the basic status of the holder:

- Change in the name of business or
- Change in the place of the business,
- Opening of a new place of business or
- Dropping of old place of business,
- Addition, deletion or modification in the description of goods,
- Acquisition of any business, sale or disposal of the business in part,
- Change in the constitution of the firm without dissolution.

➤ Section 16(3): Where any change or event alters the basic status of a holder, a fresh certificate of registration shall be required to be obtained by the dealer.

Events that change the basic status of the holder:

- Conversion of a proprietary concern into partnership firm or *vice versa*,
- dissolution of an existing firm and
- creation of new firm,
- formation of a firm into a company or *vice versa*.

**Rule 16(2) Opening a new branch:** *Where a dealer wishes to open branch (es), he shall apply in form VAT06 submitted electronically through the official website of the department in the manner provided therein, for issue of a branch certificate of registration to the authority competent to grant registration or the authorized officer. The authority competent to grant registration or the authorized officer shall issue him an amended certificate of registration in Form VAT-03 in the manner as prescribed in rule 14.*

**Rule 16(3) For Cancellation of registration certificate/Closure of Business:** *If the business of a dealer is*

- *Discontinued permanently or*
- *The business of the dealer is transferred and the transferee already holds the certificate of the registration, or*

- *The dealer ceases to be required to be registered under the act, The dealer shall submit an application electronically through the official website of the department in form VAT06A along with the return upto date of the occurrence of the such event as prescribed in section 21 of the act within 30 days of the occurrence of such event to his assessing authority or any officer authorized by the commissioner in this behalf for the cancellation of the certificate of the registration.*

*The assessing authority or any officer authorized by the commissioner shall assess the application within 180<sup>2</sup> days of the receipt of such application and shall cancel his certificate of registration.*

**Cases where Assessing authority may cancel the Certificate of registration [Section 16(4)]:**

The assessing authority or authority to grant registration may, after affording an opportunity of being heard and after recording reasons in writing, cancel the certificate of registration of a dealer in the following cases from such date as he may deem appropriate:

Where:

- (a) any business in respect of which a certificate of registration has been granted to a dealer under this Act, is discontinued permanently; or
- (aa) a dealer has discontinued business at his principal place of business; or
- (b) in the case of transfer of business by a dealer, the transferee already holds a certificate of registration under this Act; or
- (c) a dealer has ceased to be required to be registered and to pay tax under this Act; or
- (d) a dealer has obtained the certificate of registration by misrepresentation of facts or by fraud; or
- (e) a dealer has obtained a certificate of registration against the provisions of this Act; or
- (f) a dealer has failed to furnish security within the period specified under section 15 and a period of ninety days has elapsed ; or

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<sup>2</sup> Substituted vide Notification S.O.257 No. F. 12 (23) FD/TAX/2015-193-Dated 9th March, 2015. Earlier this time limit was 30 days.

- (g) a dealer issues false or forged VAT *"invoices; or"*
- (h) *"a dealer has failed to furnish information, statement or return as required by Commissioner under sub-section (2) of section 91 within the period specified thereunder-"*

- Section 16(5) If there is any reason which in the opinion of the Commissioner warrants action in the interest of State revenue, the Commissioner may at any time, for reasons to be recorded in writing and after giving the dealer an opportunity of being heard, cancel the certificate of registration held by any dealer from such date as the Commissioner may specify in this behalf.
- The cancellation of certificate of registration shall not affect the liability of any person to pay tax due for any period till the date of such cancellation and till it remained unpaid.

#### **15. Penalty for not making application for registration: (Section 56)**

According to provision of section 56, where any person has without reasonable cause failed to make an application to get himself registered under the act, within specified time, the authority competent may grant him registration and may direct such person to pay penalty a sum not exceeding ₹ 1000.

## Chapter 6

# Various Returns under RVAT

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*This chapter deals in section 21 of the Rajasthan Value Added Act, 2003 and Rule 19, 19A and 20 of the Rajasthan Value Added Rules, 2006.*

**1.** Every registered dealer shall assess his liability under the Act, and shall furnish return, for such period, in such form and manner, and within such time and with such late fee not exceeding fifty thousand rupees, for delayed furnishing of returns, as may be prescribed, to the assessing authority or to the officer authorized by the Commissioner.

### **2. Mandatory filing of e-return [Rule 19(2)]**

Every dealer shall submit return electronically through the official website of the department, unless otherwise notified by the Commissioner.

The Return shall be digitally signed by the dealer or his business manager.

However, where the dealer has given his consent to use the official website for submitting return in the prescribed manner, he may submit return without digital signature.

If the amount of tax, interest or late fee, if any, is not paid electronically, the dealer shall furnish the copy of [e-challan], receipt in Form VAT-38 or certificate of TDS as a proof of deposit, within 15 days of the last date for filing such returns.

### **3. Summary of Return under the Act**

<b>S No</b>	<b>Return Type</b>	<b>Form</b>	<b>Remarks</b>
1	Quarterly Return	VAT-10	To be filed online within 60 days of the end of the quarter who have deposited tax less then INR 50,000/- during the previous year To be filed online within 45 days of the end of the quarter other then above
		VAT 07A	Annexure to VAT-10 (purchase against VAT invoice)

*Various Returns under RVAT*

<b>S No</b>	<b>Return Type</b>	<b>Form</b>	<b>Remarks</b>
		VAT 08A	Annexure to VAT-10 (sales against VAT invoice)
2	Annual Return	VAT-11	To be filed by the person who opted for composition scheme u/s 3(2) or section 5 or section 8(3) within 90 days of the end of the relevant year
VAT-10A		By all dealers covered under rule 19 (5) within 10 months from the end of relevant financial year	
Audit Report		Audit report required u/s 73 within 9 months from the end of the relevant financial year	

### **3.1. Quarterly Return**

Quarter means the period of three months ending on 30<sup>th</sup> June, 30<sup>th</sup> September, 31<sup>st</sup> December and 31<sup>st</sup> March and month shall mean calendar month.

#### **VAT-10**

Return in Form VAT-10 shall be submitted by all dealers other than those enumerated in sub-rule (4) of rule 19, along with statement of purchases in Form VAT-07A and statement of sales in Form VAT-08A,-

- (a) Within sixty days of the end of the quarter by the dealers who have deposited less than ₹ 50000/- as tax under the Rajasthan Value Added Tax Act, 2003, including the Central Sales Tax Act, 1956, during the previous year;
- (b) Within forty five days of the end of the quarter by the dealers other than enumerated in clause (a) above.

### **3.2. Annual Return**

#### **VAT 11**

Return in Form VAT – 11 shall be submitted, within 90 days of the end of the relevant year, by the following class of dealers:

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- (a) who have opted for payment of tax under sub-section (2) of section 3;  
or
- (b) who exclusively deal in goods;
  - (i) which are exempted under the Act; or
  - (ii) on which option to pay tax in lump sum has been exercised under section 5, or
  - (iii) which are taxable at first point in the series of sales and the goods have suffered tax at the said first point; or
  - (iv) which are taxable at maximum retail price under sub-section (7) of section 4 and such goods have suffered tax at maximum retail price under the said sub-section; or
  - (v) which are exempted under sub-section (3) of section 8 on the condition of payment of exemption fee; or
  - (vi) As may be notified by the Commissioner.

**VAT-10A**

Annual Return in Form VAT-10A shall be submitted by all dealers covered under sub-rule (5) within 9 months from the end of the relevant year.

**4. How to file Return**

No physical return can be filed from the financial year 2011-12. All the returns required to be filed in VAT-10, VAT-10A or VAT-11 shall be filed electronically through the official website of the department.

**5. Late fees for late filing of return (Rule 19A)<sup>3</sup>**

Where a dealer furnishes the return after the prescribed time, he shall pay a late fee of-

- (i) rupees 20 per day subject to a maximum of rupees 1000, in case there is no turnover of the dealer during the period under return; and
- (ii) 0.05% of the net tax payable per day, subject to a minimum of ₹ 50 per day and maximum of ₹ 500 per day.

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<sup>3</sup> Substituted vide Notification S.O.257 No. F. 12 (23) FD/TAX/2015-193-Dated 9th March, 2015

The total late fee shall not exceed 10% of net tax payable for the period under return subject to a maximum to ₹ 25000 in all other cases.

## **6. Other Forms**

**6.1. Statement of imports of goods:** The registered dealer shall submit a statement of import of goods in Form VAT-48 along with the duplicate portions of Form VAT-47 and in case the original portion of the Form VAT-47 has not been retained by any officer mentioned in sub-rule (2), it shall also be furnished along with the duplicate portion of Form VAT-47 to the assessing authority or to the authorized officer. This form is to be submitted at the time of filing of request for issue of Form 47.

**6.2. Statement of USED form VAT 49:-** The dealer shall submit a statement of the used Form VAT-49 in Form VAT-50 along with the duplicate portion of Form VAT-49 and in case original portion of Form VAT-49 has not been retained by any officer mentioned in sub-rule (1), it shall also be furnished along with the duplicate portion of Form VAT-49 to the assessing authority or to the authorized officer. However, in case such original and or duplicate portion of Form VAT-49 is not received back by the dealer, an account of use of such forms during the quarter duly supported by an affidavit of the consignor shall be submitted to the assessing authority or to the authorized officer. This form is to be submitted at the time of filing of request for issue of Form 49.

## **7. Requisition of return from an unregistered dealer**

The assessing authority or the authorized officer, may by a notice in Form VAT-14, require any unregistered dealer to furnish within the time specified in the notice, a return or returns in Form VAT-10 in respect of the period specified in the notice; however, such notice shall not be with respect to any period prior to five years from the date of issue of such notice.

On the service of the notice under sub-rule (1), the dealer concerned shall file the return or returns as directed in the notice. If dealer fails to comply, the assessing authority or the authorized officer shall proceed to assess the dealer to the best of his judgment.

## **8. Revision in return [Rule 19(8)]**

Where a dealer discovers any omission or error in Form VAT-10 or Form VAT-10A or Form VAT-11 furnished by him, he may furnish revised return within 15 days<sup>4</sup> from the last date of submission of annual return except after issue of any notice u/s 25 or 27, as the case may be.

However if dealer has been issued the notice under sub-section (1) of section 24, he may furnish the revised return in pursuance of the notice within such time as has been provided in the said notice.

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<sup>4</sup> Amended vide Notification S.O.257 No. F. 12 (23) FD/TAX/2015-193-Dated 9th March, 2015, Applicable from 09/03/2015. Earlier the limit was 9 months from the end of the relevant year.



# Chapter 7

## Payment of Taxes under RVAT

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*This chapter deals with Section 17 & 20 of the Rajasthan Value Added Tax Act, 2003 and Rule 11, 39 to 44 of the Rajasthan Value Added Tax, Rules, 2006*

### 1. Tax Payable by a dealer (Section 17)

The net tax payable by a registered dealer, other than the dealer covered u/s 3(2) or u/s 5, for a tax period shall be calculated as under:

$$T = (O+R+P)-I$$

Where:

T is net tax payable

O is amount of output tax

R is amount of reverse tax

P is the amount of tax payable u/s 4 (2) and

I is the amount of Input Tax

### 2. Point of Tax

- The first sale by a registered dealer in the state shall be regarded as the first point in series of sale or such point in the series of sales as may be notified by the state government.
- The last point in the series of sales shall be the sale in such series by a registered dealer to a consumer or to an unregistered dealer or to a registered dealer for purpose other than resale within the state or to a registered dealer who has opted for payment of tax u/s 3(5) or 5 of the act.
- The multiple points in the series of sales shall mean the sale in such series in the state by every registered dealer.
- The tax leviable u/s 4 of the act shall be at multiple points in the series of sales, unless otherwise specifically directed by the state government by a notification.

- Except above, different points in the series of sales for registered dealer or class of registered dealers may be notified by the state government.

### **3. Provision related to payment of tax**

Tax payable by a dealer u/s 4(1) or u/s 6(1) or any other sum payable under any other provision of the Act is to be deposited in the government treasury or a bank authorized to receive that sum on behalf of state government by means of Challan in Form VAT-37

### **4. Mode of payment of tax, demand or other sum (Rule 3(9))**

Payment of tax, demand or other sum shall be made by a dealer or person through Electronic Government Receipt Accounting System, hereinafter referred to as 'e-GRAS', in the manner as provided therein.

#### **Subsidy under RIPS**

The subsidy, if any, disbursed under the Rajasthan Investment Promotion Scheme-2010 or under any customized package by the State Government, and disbursed by the Commercial Taxes Department of the State Government, shall be adjusted against the tax payable through a challan in Form VAT-37B. The date of deposit shall be deemed to be the date on which adjustment has been made by the treasury.

#### **Payment to CTD against VAT 38**

Any amount of tax, demand or other sum payable under the Act or the rules or any notification, to the assessing authority or the in-charge of a check post or a Flying Squad or to any other officer authorized under sub-section (4) of section 76 of the Act, may be accepted by such authority or the in-charge or officer or a Junior Commercial Taxes Officer and a receipt in Form VAT-38 shall be issued to the depositor.

#### **Payment of tax by registered dealer- to contractor- u/s 77**

A registered dealer shall deposit the amount of tax to a contractor, in respect of goods specified under clause (8) of section 2 and livestock at a particular check post or for a specified area, where the Commissioner has permitted such contractor to collect tax under section 77, and such registered dealer shall obtain a receipt in Form VAT-39 from such contractor.

### Payment Date- e-GRAS

The date of payment of tax, demand or other sum shall be deemed to be the date of deposit as shown in the e-GRAS.

### 5. Payment schedule of tax<sup>5</sup>

#### SCHEDULE

<i>Class of dealers</i>	<i>Interval for tax payment</i>
Dealers with annual tax liability of rupees 40 crore and above for the year immediately preceding to the current year.	(1) The amount of tax charged or collected from 1 <sup>st</sup> day to 10 <sup>th</sup> day of the month, shall be deposited upto 15 <sup>th</sup> day of the month; (2) The amount of tax charged or collected from 11 <sup>th</sup> day to 20 <sup>th</sup> day of the month, shall be deposited upto 25 <sup>th</sup> day of the month; and (3) The amount of tax charged or collected from 21 <sup>st</sup> day to the end of the month shall be deposited upto 5 <sup>th</sup> day of the immediately next month.
Dealers with annual tax liability of INR 50,000 and above but below rupees 40 crore for the year preceding the current year	Monthly within 14 days from the closing of each month
Dealers dealing in all kinds of Kota stones, marble and granite	Immediately on completion of transaction of sale or purchase where such goods pass through check-post established under section 76 of the Act.
Dealers who have exercised option under sub-section (2) of section 3 of the Act	Quarterly within 14 days from the closing of each quarter.
Other than above Dealers	Quarterly within 14 days from the closing of each quarter

<sup>5</sup> Amended vide Notification No. F.12(23)FD/ TAX / 2015-207) dated 09.03.2015, effective from 01/04/2015

The date of payment for the above purpose shall be the date on which cash is deposited or a DD/banker's cheque is encashed and deposited in the account of state government. If the cheque is cleared after the last date of payment, interest u/s 55 of the act will be payable for delayed period.

## **6. E-payment of tax mandatory**

In order to facilitate the registered dealers of the State for deposit of tax under the Act and the Central Sales Tax Act, 1956, an arrangement has been made with the State Bank of Bikaner and Jaipur that they will open and maintain the zero balance account of such dealers for payment of tax to be made electronically, in the manner as provided in rule 39 of the Rules.

Presently, all the dealers are required to make payment electronically.

## **7. Payment of tax by a casual trader (Rule 41)**

A casual trader shall deposit tax in cash with the in-charge of the check post or the assessing authority, or any official authorized by the assessing authority, under section 28 (6), who shall issue a receipt in Form VAT-38 to such casual trader.

*Please refer to the definition section for the meaning of Casual dealer.*

## **8. Payment of tax by a person, other than a casual trader or a registered dealer, who carries on business temporarily for a period not exceeding one hundred and twenty days in a year (Rule 42)**

- Any person, other than a casual trader or a registered dealer, who carries on business temporarily for a period not exceeding one hundred and twenty days in a year, shall before commencing his business make an application in Form VAT-43, to the Assistant Commissioner or the Commercial Taxes Officer, as the case may be, having jurisdiction with reference to the place of business of such person or to any other officer authorized by the Commissioner in this behalf, mentioning the detail of goods to be sold.
- On receipt of the application the officer shall determine the amount of tax to be levied on goods mentioned in the application, and shall take a security in cash or in the form of demand draft of an amount

equivalent to the amount of tax determined. After furnishing of such security the person shall be entitled to commence his business.

- Such person shall inform about his daily sale proceeds to the officer mentioned in sub-rule (1).
- At the closure of his business, the said officer shall determine his final tax liability and adjust the security amount against the final tax liability of such person. Where the amount of security is more than the final tax liability of such person the said officer shall refund the excess amount. Where the amount of security is less than the final tax liability of such person the said officer shall recover the balance amount.
- In the absence of application, the officer, mentioned in sub-rule (1) shall suo motu determine the liability of tax payable by such person, having regard to the specific facts and circumstances of the case.
- The tax determined under sub-rule (3) or (4) shall be deemed to be a demand under the Act.

### **9. Payment of tax by a person whose registration is cancelled under the act (Rule 43)**

In case the registration certificate of a dealer is cancelled, he shall pay tax in respect of all taxable goods held in stock and capital goods on the date of such cancellation. In such cases the tax shall be determined on the basis of book value, written down value or market price whichever is higher, within a period of fifteen days from such cancellation.

### **10. Interest on failure to pay tax**

W.e.f. 01 October, 2014 in case of any delay in payment of amount required to be deposited under any of the sub-sections (1), (2) and (3) the amount of interest under sub-section (1) of section 55 shall also be paid along with the amount of tax. Government has notified following rates for this purpose:-

<b>S. No.</b>	<b>Class of person/persons</b>	<b>Rate of Interest (per annum)</b>	<b>Notification No.</b>
1.	Dealer(s) declared sick under the provisions of- 1. The sick industrial	8% Compounded on annual basis	F.12(59)FD/Tax/2014-26 dated 14.07.2014

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	companies (special provisions) Act, 1985 (Central Act no. 1 of 1986), or 2. The companies act, 2013		
2.	Dealer(s) not covered in s.no.1 above	12% compounded on annual basis	F.12(59)FD/Tax/2014-26 dated 14.07.2014
3.	On refund	6%	Notification S.No.1785 dated 12.07.2004

## Chapter 8

# Lump Sum Payment in Lieu of Tax

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*This chapter deals in section 5 & 6 of Rajasthan Value Added Tax, 2003 and rule 17A of Rajasthan Value Added Tax rules, 2006*

1. A dealer may, opt for payment of tax in lump sum in accordance with provision of section 5, by submitting an application in Form VAT-69, electronically through the official website of the department.

### 2. Time limit for submitting application

- Application shall be filed within:
  - 30 days of issuance of registration certificate
  - 30 days of issuance of any notification u/s5 whichever is later.
- A registered dealer can also exercise such option from the beginning of any year by submitting the application, within 30 days of commencement of the year.
- If the dealer fails to submit the application within the prescribed time limit, he can file the application in Form VAT-69 electronically with applicable interest along with late fee of ₹ 100 per day, subject to maximum of 100% of the lump sum amount of the tax which has become due.
- No application shall be entertained:
  - After the close of the relevant year; or
  - Where any enquiry is pending relating to evasion or avoidance of tax u/s25 or u/s 27 of the act.

### 3. Grant of Application and issuance of certificate

Within 7 days of receipts of application grant permission to generate certificate for payment of tax in lump sum in Form VAT-70, electronically through the official website of the department.

This certificate shall remain in force unless the dealer opt out from option of payment of lump sum, or the dealer has closed the business or the certificate is cancelled by the assessing authority or officer authorized by the commissioner in this behalf.

#### **4. Time for payment of lump sum tax**

The dealer should deposit the lump sum amount in accordance with the provisions of section 20, as if lump sum is tax.

Further, dealer shall reverse the input tax credit availed by him on the closing stock

#### **5. Option of opting from lump sum payment in lieu of tax**

- A dealer may opt out of it by submitting an application in Form VAT-71, electronically through the official website of the department.
- In such case the dealer shall be liable to pay tax as per the section 4(1) from the date he has opted out and for earlier period he shall be required to pay tax in lump sum in accordance with the provisions of section 5.

#### **6. Notification no. F.12(59) FD/Tax/2014-18 dated 14.07.2014**

W.e.f. 14.07.2014, provides that the class of dealers specified in column no.2 of the table given below may opt to pay lump sum in lieu of tax. Amount of lump sum payable in lieu of tax shall be as specified in column no.3 against each of them in the said table.

<b>S.no.</b>	<b>Class of Dealers</b>	<b>Lump sum in lieu of tax</b>	<b>Remarks</b>
1.	Registered dealers engaged in sale of synthetic gems and stones of all kinds, precious and semiprecious gems and stones (including kharad) of all kinds, pearls (whether real or cultured), diamonds,	₹ 500 for every ₹ 2,00,000 or part thereof, of the turnover of goods in the relevant period.	



*Lump Sum Payment in Lieu of Tax*

S.no.	Class of Dealers	Lump sum in lieu of tax	Remarks
	jewellery, ornaments, article made of gold, silver and other precious metals and alloys thereof with or without precious or semi precious stones including diamonds but excluding bullion, within the state.		
2.	Registered dealers having retail outlet of petroleum companies and engaged in the sales of lubricant, yellow cloth and fan belt, in the state.	₹ 100 for every ₹ 10,000 or part thereof, of the turnover of goods in the relevant period.	
3.	Registered dealers engaged in manufacturing and trading of cement being manufactured by them in their Mini Cement plants whose installed capacity is upto 200TPD, within the state.	₹ 1,56,000/- per month for installed capacity up to 50TPD, and shall be increased proportionately for installed capacity above 50 TPD.	However , for dealers who are paying lump sum tax under notification no.F.12 (63) FD/Tax/2005-70 dated 11.07.2006, as amended from time to time, shall pay the amount as per that notification for the year 2013-14.
4.	Registered dealers engaged in sale of all kinds of cooked food namely meals and non alcoholic drinks, in the name and style of dhabas or	₹ 3,000 for every ₹ 1,00,000 or part thereof of the turnover of the specified	However, for dealers who are paying lump sum tax under notification

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S.no.	Class of Dealers	Lump sum in lieu of tax	Remarks
	<p>bhojnalayas, having annual turnover in the immediately preceding year was not more than ₹ 30 lacs and who satisfy the following conditions:</p> <p>a) They do not hold the bar license for the premises of the dhaba/bhojnalaya; and</p> <p>b) Their premise for the customers is not fully air conditioned.</p>	<p>goods in the relevant period.</p>	<p>no.F.12 (87) FD/Tax/2006-111 dated 14.11.2006, as amended from time to time, shall pay the amount as per that notification for the year 2013-14.</p>
5.	<p>Registered dealers engaged in sale of foreign liquor, Indian made foreign liquor and beer, which do not hold the license for retail off or the license for retail on, issued by the excise department of the state.</p>	<p>1/6 of the gross amount of the printed retail price of the goods sold in the relevant period.</p>	<p>The dealer shall be allowed to claim set off in the lump sum amount, of the amount of tax paid on the purchase of foreign liquor, Indian made foreign liquor and beer made by him within the state from the manufacturing dealer of the state and sold within the state.</p>
6.	<p>Registered dealers, commonly known as developers/builders who, as work contractors, undertake</p>	<p>₹ 1300 for every ₹ 2,00,000 or part thereof, of the consideration</p>	<p>This shall be applicable only when: The dealer shall</p>

*Lump Sum Payment in Lieu of Tax*

<b>S.no.</b>	<b>Class of Dealers</b>	<b>Lump sum in lieu of tax</b>	<b>Remarks</b>
	the construction of flats, dwellings or buildings or premises and transfer them along with goods(whether as goods or in some other form) and land or interest underlying the land in pursuance of an agreement.	received in the relevant period.	purchase goods used in the execution of the work contract from a registered dealer of the state; and In case of use of any goods in the execution of the work contract, which is procured or purchased from dealer other than the registered dealer of the state, the dealer shall, in addition to the lump sum amount, be liable to pay an amount equal to the amount of tax that would have been payable had the goods been purchased in the state from a registered dealer.
7.	Registered dealers engaged in leasing out tent and their accessories, decorative	Rupees five hundred for every rupees two	

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<b>S.no.</b>	<b>Class of Dealers</b>	<b>Lump sum in lieu of tax</b>	<b>Remarks</b>
	articles and exhibits, sound amplifier & public address system.	lac or part thereof, of the turnover of goods mentioned in column number 2 in the relevant period subject to the condition that such dealer shall make purchase of taxable goods mentioned in column number 2 from a registered dealer of the State. The dealer may opt for payment of lump sum in lieu of tax with effect from 01.04.2014.	

The tax in lump sum specified u/s 5(1) shall not exceed the limit of maximum tax liability as provided u/s 4(1).

## Chapter 9

# Declaration Forms

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*This chapter deals with Rule 21 of the Rajasthan Value Added Tax Rules, 2006.*

### **FORM VAT-15- Purchase within the state for export outside the country**

A dealer, who claims exemption from payment of tax on sale of goods to another dealer in the course of export of those goods out of the territory of India within the meaning of sub-section (3) of section 5 of the Central Sales Tax Act, 1956, shall furnish a declaration in Form VAT-15 obtained from and duly filled and signed by the exporter, along with his return.

Procedure for obtaining Form VAT-15

- For obtaining declaration Form VAT-15, the dealer shall submit an initial application to his assessing authority, electronically through the official website of the department.
- Intimation of such permission shall be communicated to the dealer, through the official website of the department.
- Reason when application can be cancelled by Assessing authority:
  - When applicant dealer has failed to comply with an order demanding additional security u/s 15 of Rajasthan VAT Act, 2003.
  - He does not require declaration forms applied for.
  - When he has not made proper use of forms previously.
  - When he fails to make payment of any outstanding demand under Rajasthan VAT Act, 2003
  - When he fails to pay tax or any other sum.
  - When he failed to furnish any return or returns in accordance with provision for immediately preceding 2 years.

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- When he has not make verification of facts and statements made in the application of registration in accordance with Rajasthan VAT Act, 2003.
- After grant of permission for generation of declaration in form VAT-15, the dealer shall submit a subsequent application for generation of declaration form VAT-15.
- After submission of application, the system shall generate duly filled in declaration Form VAT-15, separately for each transaction.

### **Incorrect Particulars in VAT 15**

- (1) Where any dealer, after generation of declaration Form VAT-15 discovers that he has filed in incorrect particulars or any other information at the time of generating the declaration mentioned above, and intends to rectify the same, he shall submit an application to his assessing authority within sixty days of the generation of such declaration form, mentioning therein the incorrect particulars or any other information furnished by him which he wants to rectify and the correct particulars or any other information in respect thereof. Such application shall be accompanied with the printed copy of such declaration, along with an undertaking in the Form of an affidavit mentioning therein the particulars of the transactions for which the declaration was generated and the statement that he has not issued the printed copy of such declaration to any person including the selling dealer in case of any loss to the State exchequer, he shall indemnify the same to the State Government along with the interest and penalty, if any. The assessing authority on receipt of such application along with affidavit of undertaking, on being satisfied shall cancel the printout of declaration submitted by the dealer along with the application and shall keep the application along with cancelled print out of declaration and undertaking of indemnity on the record of the dealer. The assessing authority shall cancel such declaration in the system through the computer network.
- (2) No registered dealer who has generated the declaration Form(s) through the Official Website of the Department shall either directly or otherwise, transfer the same to any other person except for the lawful purpose.

### **Other rules related to from VAT-15**

- (1) Every registered dealer shall keep the declaration Form(s) generated by him through the Official Website of the Department, in safe custody and shall be personally responsible for the loss of Government revenue, if any, directly or indirectly from any theft, loss or destruction thereof. If any such form is stolen, lost or destroyed, the dealer shall immediately report the fact to his assessing authority or the officer authorized by the Commissioner in this behalf, and shall issue public notice of such theft, loss or destruction, and take such further action(s) as directed by the assessing authority or the officer authorized.
- (2) The dealer who reports theft, loss or destruction from his custody of any declaration Form(s) generated by him through the Official Website of the Department, shall be required to furnish security by the way of any indemnity bond in Form VAT-65 against any possible misuse of the form, and when any form duly completed and signed by the dealer is reported to have been stolen, lost or destroyed while in transit between the purchasing dealer and the selling dealer or between the selling dealer and the assessing authority, the purchasing dealer or selling dealer, as the case may be, shall be required to furnish any indemnity bond as aforesaid.
- (3) Where an indemnity bond under sub-rule (11) is to be furnished by the selling dealer, it shall be of such amount as the assessing authority having regard to the circumstances of the case may decide and shall be furnished within such period as may be specified by the assessing authority.
- (4) Before furnishing declaration Form to the selling dealer, the purchasing dealer or his business manager or any person specifically authorized by him in his behalf shall affix his signature in the space provided in the Form for this purpose. Thereafter the purchasing dealer shall retain the counterfoil of the form and the two portions "original" and "duplicate" shall be handed over by him to the selling dealer.

The selling registered dealer shall retain with him the portion marked "duplicate" and shall furnish to his assessing authority, the portion marked "original" of the Form 'VAT-15' received by him along with the evidence of export of goods.

- (5) No purchasing dealer shall furnish and no selling dealer shall accept a declaration Form, which is:-
- (i) forged or fake, or not generated through the Official Website of the Department; or
  - (ii) reported stolen, lost or destroyed under sub-rule (10); or
  - (iii) cancelled under sub-rule (8).

### **FORM VAT-47: Purchase of certain notified goods from outside the state to be accompanied with goods**

Declaration required to be carried with the goods in movement for import within the State.

A registered dealer:

- (i) who imports from any place outside the State, any taxable goods, as may be notified by the State Government, for sale; or
- (ii) who receives any taxable goods as may be notified by the State Government, consigned to him from outside the State or by way of branch transfer/ depot transfer/ stock transfer; or
- (iii) who intends to bring, import or otherwise receives any taxable goods as may be notified by the State Government, from outside the State for use, consumption or disposal otherwise than by way of sale;

shall furnish or cause to be furnished a declaration in Form VAT-47, completely filled in all respect in ink and ensure that the value date and month of use of such Forms shall be punched at the specified place provided for in the Form. The counterfoil of the Declaration Form shall be retained by such dealer and its portions marked as 'Original' and 'Duplicate' shall be carried with the goods in movement. However, where goods covered under single invoice are being carried in more than one vehicle, separate Form VAT-47 shall be accompanied with each of such vehicles along with photo copy of the original invoice and challan of goods carried in the vehicle.

### **FORM VAT-49- Export of certain goods outside the state to be accompanied with goods**

Declaration required to be carried with the goods in movement for export out of Rajasthan or in the course of inter-state trade or commerce.



A registered dealer who dispatches any taxable goods to a place outside the State-

- (i) for sale outside the State or by way of branch transfers/ depot transfers/ stock transfers, except the goods as may be notified by the State Government; or
- (ii) in the course of inter-state trade or commerce, as may be notified by the State Government; or
- (iii) in the course of export as defined in sub-section (3) of section 5 of the Central Sales Tax Act, 1956, as may be notified by the State Government;

shall furnish or cause to be furnished declaration Form VAT-49, completely filled in all respect in ink and ensure that the value date and month of use of such Forms shall be punched at the specified place provided for in the Form. Such dealer shall retain the counterfoil of the Form VAT-49 with him and the portions marked as 'Original' and 'Duplicate' shall be carried with the goods in movement. However, where goods covered under single invoice are being carried in more than one vehicle, separate Form VAT-47 shall be accompanied with each of such vehicles along with photo copy of the original invoice and challan of goods carried in the vehicle.

### **How to get VAT-47 and VAT-49 from the department**

- (a) Blank declaration Forms VAT-47 shall be obtained from the assessing authority or officer/person authorised by the Commissioner on payment in Government Treasury, authorised bank or the assessing authority/authorised officer, a sum of rupees fifty for each book containing twenty five declaration forms.
- (b) For obtaining declaration forms referred to in clause (a), the registered dealer shall apply in Form VAT-16A to the assessing authority or officer/ person authorised by the Commissioner stating his requirement of such forms. Where the Form VAT-16A is complete in all respect with requisite enclosures, the assessing authority or the authorised officer/ person shall issue sufficient number of forms subject to maximum limit fixed by the assessing authority from time to time.
- (c) All declaration forms issued under clause (b) shall be authenticated by the assessing authority or the authorised officer/ person with his seal and date of issue. The name of the dealer and registration number

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(TIN) shall be stamped at the appropriate place while issuing the said form to the dealer. Such forms shall remain valid for two years from the date of issue.

- (d) Every registered dealer shall keep the declaration forms received by him in safe custody and shall be personally responsible for the loss of Government revenue, if any, directly or indirectly from any theft, loss or destruction thereof. If any such form is stolen, lost or destroyed, the dealer shall immediately report the fact to his assessing authority and shall issue public notice of theft, loss or destruction, and take such further action as directed by the assessing authority.
- (e) The dealer who reports theft, loss or destruction of any blank or duly completed form shall be required to furnish security by way of an indemnity bond in Form VAT-65 against any possible misuse of the form, as prescribed in sub-rule (8) of rule 21, of such amount and within such period as may be required by the assessing authority.
- (f) Any unused declaration form or forms remaining in stock with a registered dealer on the permanent discontinuance or closure of his business shall be surrendered by him to his assessing authority within a period of 30 days from the date of such discontinuance or closure.
- (g) The Commissioner may, by notification in the Official Gazette, declare that forms of a particular series, design or colour shall be deemed obsolete and/or invalid for use with effect from such date as may be specified in the notification.

### **The application for forms will be rejected**

If the applicant is found to have failed to comply with an order demanding initial or additional security under section 15, the authorized officer may reject the application.

The authorized officer may, for reasons to be recorded in writing, reject the application of the applicant, on being satisfied that he has not made proper use of such forms previously issued to him or that he does not require the forms applied for.

The authorized officer shall withhold the issue of declaration forms to the applicant if he has defaulted,-

- (i) in making payment of any outstanding demand; or

- (ii) in paying tax under the provisions of section 20; or
- (iii) in furnishing any return or returns in accordance with the provisions of section 2 and rule 19 of these Rules;

till such time as the defaults referred to in sub-clauses (i), (ii) and (iii) are removed or made good; however, where the said authority in a particular case is satisfied that the interest of the State revenue so requires, it/he may, instead of withholding the declaration forms, issue such forms in such numbers and subject to such conditions and restrictions as may be considered reasonable.

Where the authorized officer does not proceed under clauses (a), (b) and (c), he shall issue the requisite number of declaration forms to the applicant or such lesser number of declaration forms which in his opinion, could satisfy the reasonable requirements of the applicant.

### **Loss of declaration forms**

The dealer who reports theft, loss or destruction from his custody of any blank or duly completed form, shall be required to furnish security by way of an indemnity bond in Form VAT-65 against any possible misuse of the form; and when any form duly completed and signed is reported to have been stolen, lost or destroyed while in transit between the purchasing dealer and the selling dealer or between the selling dealer and the assessing authority, the purchasing dealer or the selling dealer, as the case may be, shall be required to furnish an indemnity bond as aforesaid.

Where an indemnity bond under sub rule (8) is to be furnished by the selling dealer, it shall be of such amount having regard to the circumstances of the case, as may be required by the assessing authority within such period as may be specified.

Where both the foils "original" and "duplicate" of a declaration form are lost, the selling dealer may obtain a duplicate declaration form from the purchasing dealer and the purchasing dealer shall record the following certificate thereon in red ink duly signed by him:-

"I hereby declare that this is the duplicate of declaration form No.....signed on.....and issued to M/S.....on (date) ..... (Signature of the issuing/purchasing dealer)"

## **Closure of business & declaration form**

Any unused declaration form or forms remaining in stock with a registered dealer on the permanent discontinuance or closure of his business shall be surrendered by him to his assessing authority within a period of 30 days from the date of such discontinuance or closure.

## **Validity period of declaration forms**

All declaration forms shall be authenticated by the authorized officer with the seal of the office of issue, registration number and name of the dealer, date of issue and the period of its validity, while issuing the said forms to the dealer, and such forms shall remain valid for two years from the date of issue or for such further extended period of one year, as may be permitted by the authorized officer.

## **Other rules regarding declaration forms**

No registered dealers to whom declaration forms are issued by the authorized officer shall either directly or otherwise, transfer the same to any other person.

Every registered dealer shall keep the declaration forms received by him in safe custody and shall be personally responsible for the loss of Government revenue, if any, directly or indirectly from any theft, loss or destruction thereof, if any such form is stolen, lost or destroyed, the dealer shall immediately report the fact to his assessing authority or the authorized officer and shall issue public notice of theft, loss or destruction, and take such further action as directed by the assessing authority or the authorized officer.

Before furnishing a declaration form to the selling dealer, the purchasing dealer or his business manager or any person specifically authorized by him in this behalf shall fill in all the required particulars in the form and shall also affix his signature in the space provided in the form for the purpose. Thereafter, the purchasing dealer shall retain the counterfoil of the form and the other two portions marked "original" and "duplicate" shall be handed over by him to the selling dealer.

No purchasing dealer shall furnish and no selling dealer shall accept a declaration form, which is:

- (i) forged or fake, or not obtained under sub-rule (2); or
- (ii) time-barred for being use under sub-rule (5); or

*Declaration Forms*

- (iii) reported stolen , lost or destroyed under sub-rule (7); or
- (iv) declared obsolete and/or invalid by the Commissioner under sub-rule (14).

The Commissioner may, by notification in the Official Gazette, declare that forms of a particular series, design or colour shall be deemed obsolete and/or invalid for use with effect from such date as may be specified in the notification.

# Chapter 10

## Assessment under RVAT

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*This chapter deals with section 23 to 34 of the Rajasthan Value Added Tax, Act, 2003 and Rule 72 of the Rajasthan Value Added Tax Rules 2006.*

### **1. Self Assessment (Section 23)**

Every registered dealer who has furnished, all the returns under the provisions of section 21 or audit report as contemplated in section 73 along with all the returns under section 21, for the year, before issuance of any notice under sub-section (2) of section 24, shall, subject to the provisions of section 24, be deemed to have been assessed on the basis of such returns and such audit report, as the case may be.

### **2. Assessment - Scrutiny of returns (Section 24)**

Section 24(1): Assessment of dealer shall be made after the last date of furnishing of annual return for the year. However, the assessment of a closed business may be made immediately after its closure.

Section 24(2): Every return furnished by a registered dealer shall be subject to such scrutiny as may be determined by the commissioner, to verify, its correctness and if any error is detected, the assessing authority or the offices authorized by the commissioner shall serve a notice in the prescribed form to the dealer for rectification of the error and dealer may file the revised return within the specified time.

Section 24(3): Where the dealer, in pursuance of the notice issued:

- Furnishes the revised return or returns, in terms of the notice and deposits the tax, interest, late fee, if any, he shall be deemed to have been assessed u/s23.
- Does not furnish revised return or returns
- The revised return or returns furnished by the dealer is not in terms of the notice

The Assessing authority or the officer authorized by the commissioner shall assess the dealer to the best of his judgment on the basis of the material available on records.

Section 24(4): On failure to furnish the return u/s 21 penalty, for non-filing of returns, of an amount equal to 20% of the net tax payable subject to a minimum of ₹ 5000 shall be imposed on the dealer.

### **3. Time limit for passing assessment order**

Section 24(5): No assessment orders under this section shall be passed after the expiry of *two years* from the end of the relevant year; however, the Commissioner may for reasons to be recorded in writing, extend in any particular case, such time limit by a period not exceeding six months.

Section 24(6): Where any proceeding related to an assessment is subject to adjudication before the tax board or a competent court or any other authority under this act it shall be completed within two years from the final adjudication of such proceedings. Limitation of the two years shall be counted from the date of the communication of the order of such final adjudication to the assessing authority.

### **4. Assessment on failure to deposit tax or submit return or audit report**

Section 22(1): W.e.f. 16.05.2014, the best judgment assessment u/s 22 can be made by the assessing authority in the following circumstances:

- If a dealer has failed to deposit tax accordance with the provisions of section 20 within the notified period
- or has failed to submit a return in accordance with the provisions of section 21,
- or an audit report in accordance with the provision of section 73, within the prescribed period,

The assessing authority or the officer authorized by the Commissioner shall, after giving the dealer a reasonable opportunity of being heard, assess tax for that period to the best of his judgment.

### **5. Time limit for payment of tax**

Section 22(2): The tax assessed u/s 22(1), after adjustment of input tax credit and the amount deposited in advance in this behalf, if any, shall be payable by the dealer within thirty days from the date of service of the notice of demand. As soon as an assessment is completed the assessing authority

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shall serve a demand notice to a dealer in form VAT-17 along with a certified copy of such order.

However, the assessing authority or the officer authorised by the Commissioner, after reasons in writing, may reduce such period.

- Section 22(3): The tax deposited u/s 22(2) shall be adjusted in the assessment for the relevant period.
- Section 22(4): No order under this section shall be passed after the expiry of nine months from the end of the period for which the tax has not been deposited, or, as the case may be, from the last date of submission of return or audit report which has not been submitted.

### **General direction regarding deemed assessment:**

Commissioner, Commercial Taxes has been issued certain guidelines by Circular No. 1/2008 (S.No. 2302) dated 03.01.2008 which are reproduced below.

To promote self-assessment, section 23 of the RVAT Act, 2003, provides for deemed assessment of such dealers who had filed the requisite return under section 21 of the Act (read with Rule 19 of the RVAT Rules, 2006) subject to such scrutiny as may be determined under sub-section(1) of section 24 of the Act, for the purpose of scrutiny of returns under sub-section (1) of section 24 of the Act, the assessing authorities, besides using their own wisdom, shall comply with the following directions:- The Assessing Authority shall:-

1. Ensure that the returns received shall be entered in the register titled "Return and Tax Payment Register" enclosed as Annexure A;
2. Check the correctness of Computation of,-
  - (a) taxable turnover;
  - (b) liability of Output Tax;
  - (c) liability of purchase Tax;
  - (d) liability of Reverse tax;
  - (e) incentive/Deferment of tax claimed (amount, extent and period), if any, form the office record and from VAT-10,
  - (f) input tax credit claimed in the return on the basis of Form Vat-07 enclosed with the return; and



- (g) net tax payable, adjustment against central sales tax or any other demand, balance ITC carried forward to next tax period and refund claimed, if any.

In addition to the above, he shall also ensure that goods have been subjected to levy of tax at the notified rate.

3. Verify that for the sale claimed to have been made against statutory declaration forms, all such forms are received, filed in and in case of export, prescribed proof of export are submitted;
4. Ensure that interest in case of late deposit of tax or other due amount if any, has been correctly calculated.
5. Check that where the dealer is manufacturing taxable as well as exempted goods, ITC in respect of manufactured taxable goods is allowed, and ensure that dealer has not claimed ITC in respect of exempted goods.
6. Ensure that the claim of input tax credit in respect of capital goods is not claimed by the dealer other than a manufacturer and in case the capital goods are of more than rupees one lac, the of ITC is made in the specified installment only:
7. Ensure that input tax credit in respect of purchase of capital goods by an existing unit is claimed in twelve equal monthly installments. However, in case of an industry or expansion of diversification of an existing industry, the input tax credit shall be allowed in twelve equal monthly installments starting from the month of the first sale of the goods manufactured from such capital goods.
8. Ensure that in case of leasing transactions, ITC is availed as per sub rule (3), (4) and (5) of rule 18;
9. Check that in case purchase/manufactured goods are consigned outside the state by way of stock/branch/depot transfer by a dealer , the claimed input tax credit is limited to the amount of in excess of 4% of tax paid in the state with the help of office record including Vat-07 and Vat-50;
10. Ensure that no ITC is availed in respect of the goods taxable at first point only e.g., High and light speed diesel oil, petrol, Aviation spirit, kerosene, wheat and rice(sold through public distribution system in the state);

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11. Ensure that no ITC is availed in respect of High and light speed diesel oil being notified for the purposes of Sec 18(1)(e) of the Act vide notification no. F.12(28)/FD/Tax/2007/147 dated 9.3.2007, and
12. The above instruction would also be applicable for scrutiny of the CST returns.

If on scrutiny the returns are found to be complete and correct in all respect, the AA shall e-mail the list of all such registered dealers latest by 7<sup>th</sup> day of the immediately succeeding month to the Analyst-cum-Programmer at the Headquarters for its publication on the Departmental web-site. A note to this effect shall also be made in the relevant column of the above referred Return & Tax Payment Register.

If some discrepancy or error is revealed on scrutiny, it should be ensured by the AA that notice as per section 24 of the Act shall be issued to such dealer at the earliest, and in any case, not later than one year from the last date for filing such return, to rectify such errors and to file a revised return within such period as may be specified therein. Thereafter, further action as provided in section 24(2) shall be taken. Where any demand of tax, penalty or interest is created against the dealer it shall be entered in the demand and collection register enclosed as Annexure-B and a note to this effect shall also be made in the relevant column of Return & Tax payment Register.

**Option for Quarterly Assessment:-**

- A dealer may opt for quarterly assessment by informing his assessing authority or the officer authorized by the Commissioner in writing, his intention to do so, within thirty days of the commencement of the year for which such option is being exercised.
- The dealer who has exercised such option and filed return within the prescribed time, shall, subject to the provisions of section 24, be deemed to have been assessed on the basis of return filed under section 21 for the quarter to which it relates.

**Option for annual assessment**

Where a dealer does not opt for quarterly assessment u/s 23(2) of the Act, he shall be deemed to be assessed annually.

### Assessment in case of avoidance or evasion of tax

- Section 25(1): where the assessing authority or any officer authorized by the Commissioner has reason to believe that the dealer has :
    - Not paid tax in accordance with law
    - or has availed input tax credit wrongly,
    - or avoided tax
    - or evaded tax
- he may after giving the dealer a reasonable opportunity of being heard, determine at any time and for any period. That taxable turnover of such dealer on which tax has been avoided or evaded or has not been paid in accordance with law or wrong input tax credit has been availed and assess the tax to the best of his judgment.
- Section 25(2): The tax assessed under sub-section(1), after adjustment of input tax credit and the amount deposited in advance in this behalf, if any, shall be payable by the dealer *within thirty days* from the date of service of the notice of demand. However the assessing authority or any officer authorized by the commissioner, after recording reasons in writing, may reduce such period.

### Time period for passing assessment order

Section 25(3): The assessment under sub-section (1) shall not be made after the expiry of a period of six months from the date of making out the case. However, the commissioner may, for reasons to be recorded in writing, in any particular case, extend the time limit for a further period not exceeding six months.

Section 25(4): Where notice has been issued under sub-section (1), the authority issuing such notice shall be competent to make the assessment for the relevant tax period; and assessment, if any, already made shall be subject to the assessment made under this section.

### Escaped Assessments (Section 26)

Section 26(1): An assessment –

- (a) of a person who is liable to get registration but has not got himself registered; or

- (b) in which, for any reason, the levy of tax or any fee or sum payable under this Act has been escaped wholly or in part; or
- (c) wherein tax has been wholly or in part unassessed or under-assessed in any way or under any circumstances,

shall be deemed to be an escaped assessment and the assessing authority or the officer authorized by the Commissioner, shall on the basis of the material on record, or after making such enquiry as it may consider necessary, complete such assessment within the time limit provided in sub-section (3).

Section 26(2): Where the Commissioner or the Deputy Commissioner (Administration) has reason to believe that a dealer has escaped assessment to tax in any manner provided in sub-section (1), he may any time, subject to the limit specified in sub-section (3), either direct the assessing authority or the officer authorised by the commissioner, to assess the tax or the fee or other sum or himself proceed to assess the same.

Section 26(3): No notice under sub-section (1) shall be issued after the expiry of 5 years and no assessment under this section shall be made after the expiry of 8 years, from the end of the relevant year.

Section 26(3A): Where any proceeding relating to an assessment is subject to adjudication before the tax board or a competent court or any other authority under this act, assessment in such matters may be passed within 2 years shall be counted from the date of proceedings.

The limitation of 2 years shall be counted from the date of communication of the order of such final adjudication to the assessing authority.

Section 26(4): The assessment, if any already made shall be subject to the assessment made under this section.

### **Assessment in case of a casual trader (Section 28)**

Sub Section 1: A casual trader shall immediately on completion of a transaction of sale or purchase, for which he is liable to pay tax, report to the assessing authority having jurisdiction with reference to the place of such transaction or the in-charge of the nearest check-post or barrier the amount of sale or purchase price and the tax payable thereon and shall deposit the amount of tax with such assessing authority or In-charge of the check-post or barrier within such time and in such manner as such authority or in-charge may direct.

Sub Section 2: Where a casual trader fails to make a report as required above, the assessing authority having jurisdiction or the in-charge of the nearest check-post or barrier may require such casual trader to make a report of the sale or purchase price and the tax due, failing which such assessing authority or in-charge of the check-post or barrier may access to the best of its judgment the amount of tax due and direct the casual trader to pay the amount of tax within such time and in such manner as it may direct.

Sub Section 3: Where a casual trader fails to pay the tax as directed by the assessing authority or the in-charge of the check-post or barrier as above, the goods belonging to such casual traders shall be detained until the tax is paid or adequate security for payment of tax is furnished.

Sub section 4: No order under sub-section (1) shall be passes after the expiry of one year from the date of making the report, and under sub-section (2) after the expiry of two years from the date of completion of the transaction.

Sub section 5: The amount of tax payable by a casual trader under sub-section (1) or (2) shall be deemed to be a deemed payable by a registered dealer and all the provisions of recovery under this Act shall apply accordingly to such demand.

Sub section 6: The assessing authority may authorize in writing any official subordinate to it to perform all or any of its function to be performed under this section.

Sub section 7: The assessing authority may, suo moto or on an application of the casual trader, file within thirty days of the date of deposit or realization of tax, review or revise any order passed or action taken by the subordinate official, authorised under sub-section (6)

### **Assessment in special cases (Section 29)**

*Section 29(1): Minor and incapacitated person–*

- In the case of any guardian, trustee or agent of any minor or other incapacitated person carrying on business on behalf of and for the benefit of such minor or other incapacitated person, the tax shall be levied upon and recoverable from such guardian, trustee or agent, as the case may be, in the like manner to the same extent as it would be leviable upon and recoverable from any other person.

- And all the provisions of this Act and the rules made thereunder shall apply accordingly.

*Section 29(2): Estate under court of Wards or business managed by other agencies:-*

- Where the estate of a dealer, whether complete or part thereof, is under the control of Court of Wards, or where the business of a dealer is managed by the Administrator, the Official Trustee, the Official Liquidator or Receiver or any Manager or Controller, appointed by him or under the orders of a court, the tax shall be levied upon and recoverable from such Court of Wards, Administrator, the Official Trustee, the Official Liquidator or Receiver or Manager or Controller in the like manner and to the same extent as it would be leviable upon and recoverable from the dealer and all the provisions of this Act and the rules made thereunder shall apply accordingly.

### **Assessment of a dissolved firm (Section 30)**

In the case of a dissolved partnership firm, assessment thereof under this Act shall be made in the same manner as if the firm had not been dissolved.

### **Rectification of a mistake (Section 33)**

Sub section 1: With a view to rectifying any mistake apparent from the record, any officer appointed or any authority constituted under this Act may rectify suo-motu or otherwise any order passed by him.

A mistake apparent from the record shall include order which was valid when it was made and subsequently rendered invalid by an amendment the law having retrospective operation or by judgment of the Supreme Court, The Rajasthan High Court or the Rajasthan Tax Board.

Sub section 2: No application for rectification shall be filed under sub-section (1) after the expiry of period of three years terms the date of the order sought to be rectified.

Sub section 3: Where an application under sub-section (1) is presented to the assessing authority appellate authority or Tax Board and receipt thereof is obtained, it shall be disposed of within a period of one year from the date of presentation and where such application is not disposed of within the said period, the same shall be deemed to have been accepted.

Sub section 4: No rectification under this section shall be made after the expiry of four years from the date of the order sought to be rectified.

Sub section 5: An order of rectification which has the effect of increasing the liability of a dealer in any way shall not be made without affording him an opportunity of being heard.

### **Application for rectification of mistake (Rule 71)**

An application for rectification of mistake under sub-section (1) of section 33 shall be submitted in Form VAT-57 electronically through the official website of the department in the manner as provided therein.

### **Reopening of ex-parte assessment (Section 34)**

Sub Section 1: Where an assessment has been made ex-parte under section 22 or clause (b) or sub-section (2) of section 24 or section 25 or section 26 or section 27, the Deputy Commissioner(Administration) may, on the application of the dealer made within thirty days of the date of service of the notice of demand in consequence of such assessment along with such fee as may be prescribed by an order, direct the assessing authority or the officer authorised by the Commissioner as the case may be, to cancel the assessment and proceed to make a fresh assessment in accordance with the provision of law.

Sub section 2: Before issuing direction under sub-section (1), the Deputy Commissioner (Administration) should be satisfied that the applicant dealer did not receive notice or summons issued to him under section 22 or clause (b) of sub-section (2) of section 24 or section 25 or section 26 or section 27 or that he was prevented by sufficient cause from complying with any notice or summons issued to him for assessment.

Sub section 3: Where the order for cancellation of the assessment under sub-section (1) has been passed, the assessing authority or the officer authorised by the Commissioner, as the case may be, shall make fresh assessment within sixty days from the communication of the order passes by the Deputy Commissioner (Administration) under sub-section (1).

### **Application for reopening of ex-parte assessment (Rule 72)**

An application for reopening of ex-parte order under sub-section (1) of section 34 shall be submitted before the Deputy Commissioner (Administration) having jurisdiction, in Form VAT-58 electronically through the official website of the department in the manner provided therein.

Such application shall be disposed off within 45 days from the date of its submission.

**Application for determination of disputed question (Rule 73)<sup>6</sup>-**

An application for determination of disputed question under sub-section (1) of section 36 shall be submitted electronically through the official website of the Department in Form VAT-59. The dealer or person submitting the application under this rule shall deposit a sum of rupees one hundred before submitting the application.

**Determination of Taxable Turnover**

For the purpose of determining the taxable turnover for levying tax under sub-section (1) of section 4 of the ACT, the following amounts shall be deducted from turnover

- (a). On which no tax is leviable under the Act;
- (b). Which has been exempted from tax; and
- (c). The sale price of the goods returned to the dealer by the purchaser within a period of six months from the date of VAT invoice thereof.

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<sup>6</sup> Substituted vide Notification S.O.257 No. F. 12 (23) FD/TAX/2015-193-Dated 9th March, 2015, w.e.f. 01/10/2015



# Chapter 11

## Procedure to File an Appeal

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*This chapter deals with section 82 to 86 of the Rajasthan Value Added Tax Act, 2003 and Rule 30 to 35 and Rule 80 of the Rajasthan Value Added Tax Rules, 2006.*

### **1. Appeal to appellate authority (Section 82)**

An appeal against any order of an Assistant Commissioner, a commercial Taxes office, Assistant commercial Taxes officer or junior commercial Taxes officer or in-charge of a check post or barrier shall lie with the appellate authority i.e. DC (Appeals)

### **2. Time limitation for filing an appeal**

Appeal can be filed within 60 days of date on which the order to be appealed against is communicated, but the appellate authority may admit an appeal even after the said period of 60 days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the said period.

### **3. Satisfactory proof of the payment of tax before filing appeal**

No appeal under this section shall be entertained unless it is accompanied by a satisfactory proof of the payment of tax and other amounts admitted by the appellant to be due from him or of such installment thereof as might have become payable and in case of an appeal from an ex-party assessment order, 5%, and in other cases 10% of the disputed tax amount.

### **4. Procedure for make an appeal (Rule 30)<sup>7</sup>**

The appeal shall be in prescribed form and shall be verified in the prescribed manner.

- (i) The memorandum of appeal under section 82 shall be submitted electronically through official website of the department in Form VAT-27.

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<sup>7</sup> Substituted vide Notification S.O.257 No. F. 12 (23) FD/TAX/2015-193-Dated 9th March, 2015 w.e.f 01/10/2015

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- (ii) Application for condonation of delay, if any, shall be submitted electronically through the official website of the department in form VAT-28.
- (iii) Defect(s), if any, in the memorandum of appeal or otherwise, shall be intimated electronically through the official website of the department to the appellant and the same shall be removed by him, within 30 days of such intimation. The appellant authority, after recording reasons in writing, may extend the time for removal of such defects.
- (iv) The appellant authority shall, forward electronically copy of the memorandum of appeal entertained in accordance with the provision of sub section (3) of section 82, to the assessing authority or the officer concerned shall submit his comments electronically through the official website of the department and also send the relevant record pertaining to the appeal to the appellate authority, within 15 days of receipt of copy of memorandum of appeal.
- (v) The appellant authority shall give notice of the date fixed for hearing to the appellant and to the assessing authority or to the officer concerned electronically through the official website of the department and through SMS on his pre-intimated mobile number.
- (vi) Where the appellant authority remands a case to the assessing authority or officer authorized, he shall specify a date for appearance of the appellate before such authority or officer in the order passed by him.

### **Parties of appeal**

Following are the parties which shall have right to be heard at the hearing of the appeal:

- (a) The Appellant, either in person or by the authorized representative.
- (b) The authority or officer against whom order of the appeal has been preferred in person or by a representative.

### **Enquiry before disposal of appeal/ direction to AO**

According to provision of section 82(7), before disposing of any appeal, the appellate authority may make such further enquiry as it thinks fit or may direct the AO/officer against whose order appeal has been filed to make further enquiry and report the result of the same to the appellate authority.

Disposal of the appeal shall be in form of:

- (a) In case of order of assessment, Interest or penalty
  - Confirm, enhance, reduce or annual the assessment interest or penalty or
  - Set aside the order of the assessment, interest or penalty and direct the assessing authority to pass fresh order after such further enquiry as the case may be.
- (b) In the case of any other order, confirm, cancel, vary or remand such order.

### **Copy of Appeal Order**

The appellate authority shall send a copy of order passed to:

- The appellant
- The Assessing authority Or such authority against whose order of the appeal has been filed
- The Concerned Deputy commissioner (Administrative)
- The Commissioner.

### **Stay For Demand**

- Where a dealer or a person has filed as appeal to the Appellate against an order passed by an assessing authority or any other officer, the said Appellate Authority may , after registering such appeal and after having heard the appellant and the assessing authority or officer or any representing thereof, get stay on the recovery of the disputed amount of tax or demand or any part thereof for a period of one year from the date of such order or till the disposal of the appeal, whichever is earlier.
- Condition for the said stay is that dealer or the person furnishes sufficiently security to the satisfaction of the assessing authority or the officer, as the case may be, in such form, in such manner as may be prescribed.
- Where an application for stay is not disposed of within the period of 30 days from its filing and the delay is not attributable to the applicant, the same shall be deemed to have been accepted subject to the condition that such dealer or person furnishes sufficient security to the

satisfaction of assessing authority or the officer, as the case may be, in such form, in such manner as may be prescribed.

- No security under this section shall be required to be furnished by the department of Central Government or State Government or a public sector undertaking, corporation or the company owned or controlled by the Central Government or State Government.

### **Appeal to the Tax Board (Section 83)**

An appeal shall lie to the Tax Board against-

- (a) An order passed by the commissioner under sub section (2) of section 26, section 36, section 77 or section 85;
- (b) An order passed under the Act by the Deputy Commissioner (Administration)
- (c) An order passed by the Appellant Authority; and
- (d) An order of state level screening committee or the District level screening committee passed under the incentive, Exemption or Deferment schemes notified u/s 8 or u/s 20(3) of the Act.

### **Time limit for filing the appeal**

- Any person aggrieved by any order referred to the above clauses (a), (b) and (c), may file an appeal before the Tax Board *within 90 Days* of the date on which the order sought to be appeal against is communicated to him in writing.
- The Commissioner or Deputy Commissioner (Administration) authorized specially or generally by the commissioner may, if aggrieved by any order referred to the clause (a), (b) and (c) above, direct any officer or in charge of check-post or barrier to file an appeal before the Tax Board under his signatures within 180 days of the date on which the order sought to be appealed against is communicated in writing to the commissioner or the deputy commissioner (Administration)

### **Procedure for filing an appeal**

- An appeal to be submitted before the tax Board shall be in Form VAT-29 in quadruplicate along with certified copy of order of dispute
- And a memorandum of cross objection under sub section (5) of the

### *Procedure to File an Appeal*

said section shall be in form VAT-30 in quadruplicate duly verified and signed,

- It shall be affixed with court stamp fees of ₹ 100/- and be accompanied with VAKALAT NAMA affixed with court stamp fee of ₹ 4/- and stamp of advocate welfare fund.
- And the procedure prescribed in rule 30 shall mutatis mutandis apply to the application for such appeal or a memorandum of cross-objections.

### **Hearing of the appeal by the tax board**

An appeal to the Tax Board shall be heard and disposed of by the chairperson or any member of the tax Board sitting in single Bench or by Bench consisting of 2 or more members. However, an appeal under section 83 in respect of the following matters shall be heard and disposed of by a Bench of the Tax Board consisting of 2 or more members,

1. An order referred to in clause (a) of sub section (1) of section 83;
2. Issue involving classification of goods for the purpose of rate of tax or exemption from tax; and
3. Where the disputed amount of demand exceeds rupees ten lacs.

Transfer of appeal & hearing of case with bench consisting two members at least.

Where the member(s) of the Tax Board sitting in a bench cannot hear an appeal listed, to be heard by such bench, on account of any judicial property, the chairperson shall transfer such appeal to another bench.

The chairperson, on request of any party to the case in writing or on a reference being made by a member sitting in a single bench, or *suo motu* having satisfied that the case involves an important question of law and deserves to be heard by a bench consisting of 2 or more members, shall have the power to order that the case shall be heard and disposed of by bench so constituted.

### **Time limit for filing cross objection**

Cross objection, if any, has to be filed:

- Within 60 days from the receipt of notice by the dealer.

- In case of department, within 120 days from the receipt of the notice by the department.

### **Dismissal of appeal in default**

Where an appellant does not appear on the date fixed for hearing of an appeal, the TB may dismiss the appeal in default.

Form VAT 32 as provided in rule 33 has to be submitted within 30 days from the date of communication of such order.

### **Revision to the High Court (Section 84)**

- Any dealer aggrieved by an order passed by the Tax Board u/s 83(10) u/s 33(1), may, *within 90 days* from the date of service of such order, apply to the High court in the prescribed form accompanied by the prescribed fee, for revision of such order on the ground that it involves a question of law.
- The commissioner may, if he feels aggrieved by any order passed by the Tax Board u/s 83(10), or u/s 33(1), direct any officer or in-charge of a check post or barrier to apply to the High Court for revision of such order on the ground that it involves a question of law; and such officer or in-charge of a check- post or barrier shall make application to the High Court *within 180 days* of the date on which the order sought to be revised is communicated in writing to the commissioner.
- The application for revision as referred above shall state the question of law involved in the order sought to be revised, and the High court may formulate the question of law in any form or allow any other question of law to be raised.
- The High Court, after hearing the parties to be revision, decide the question of law stated to it or formulated by it, and shall thereupon pass such order as is necessary to dispose of the case.

### **Application for revision**

An application for revision to be presented to the High Court u/s 84(1) read with rule 32 shall be submitted in Form VAT-31 along with certified copy of order of dispute duly verified and signed and affixed with court stamp fee of ₹ 150/-.

Further it shall also accompany with VAKALAT NAMA on stamp of advocate welfare fund.

Appearance for hearing is mandatory:-

- Where an appellant or his authorized representative does not appear on the date fixed for hearing of an appeal filed under rule 30 or 31, the appellate authority or the Tax Board, as the case may be, may dismiss the appeal in default.
- Where the appellant makes an application in form VAT-32 within thirty days of the date of communication of such order, and satisfies the authority who dismissed the appeal, that he was prevented by sufficient cause from appearing before him on the date that had been fixed for hearing, such appeal may be restored with such conditions as may be deemed fit.

### **Appeal Effect**

If an order, passed in appeal or revision under section 82, 83, 84 or 85 has the effect of varying the order of an assessing authority or any other authorized officer, the assessing authority or such other authorized officer shall take action *suo moto* to give effect to such order and shall refund the excess or realize the deficit, as the case may be.

### **Revision by the Commissioner (Section 85)**

- The commissioner *suo moto* or otherwise may call for and examine the records of any proceedings under this act, if he considers that any order passed by AC/CTO/ACTO or JCTO or in charge of check post is erroneous or prejudicial to the interest of the state revenue.
- Enquiry can also be conducted if commissioner thinks it fit.
- Reasonable opportunity shall be provided to concerning dealer before passing any order.
- Any order can be revised by the commissioner within 5 years from the date on which the order sought to be revised was passed.

### **No Appeal or Revision in Certain Cases (Section 86)**

No appeal or revision shall lie against:

- A notice or summons issued under this Act for the purpose of

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assessment or for any other purpose including for recording statements; or

- A direction to maintain certain accounts or furnish certain information, statement, statistics or return; or
- An order for impounding, seizure or retention of accounts, registers or documents; or
- An interim order passed in assessment or other proceeding, subject however, it will be open to the party aggrieved to challenge such interim order in any appeal or revision preferred against the final order;
- Any guidelines formulated, instructions issued, directions given or orders passed by the Commissioner under section 91.

**Court fee stamps of the value indicated below shall be affixed on all documents in respect of appeals, revisions and other proceedings (Rule 80)<sup>8</sup>**

Item no.	Name of the Document	Value of court fee stamps
1.	a) Memorandum of appeal u/s 83 b) Application for revision u/s 84	₹ 100 ₹ 150
2.	Vakalatnama by an advocate or authority by a CA or by any tax practitioner enrolled under rule 63 or a friend or relative of the dealer authorized to appear or his representative under rule 61 when filed before: a) The deputy commissioner, the assistant commissioner, The CTO, or the ACTO. b) The Commissioner or the Tax Board	₹ Two ₹ Four
3.	Application for adjournment of any	₹ Two

<sup>8</sup> Deletion of Section 82 and 85 made vide Notification S.O.257 No. F. 12 (23) FD/TAX/2015-193-Dated 9th March, 2015 w.e.f. 01-10-2015



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<b>Item no.</b>	<b>Name of the Document</b>	<b>Value of court fee stamps</b>
	proceedings before any authority under the act	
4.	a) Application for obtaining copies b) Copy of any order passed by any authority under the act or any other document (To be issued within seven days of the receipt of the application).	₹ Two ₹ Four for every page or part thereof.
5.	Application and copying fees for urgent copies (to be issued within 3 days of the receipt of the application)	Double of the fee payable at the item no.4 above.
6.	Application for inspection of files	₹ 10
7.	Application for grant of payment of demand in installments or postponement of payment of any demand or stay u/s 38 (4) or (5).	₹ 5
8.	Any other document not covered in item 1 to 7 above	₹ 2

# Chapter 12

## Procedure to Get Various Certificates

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*This chapter deals with Rule 76A and 79 of the Rajasthan Value Added Tax Rules, 2006*

### **Issue of Certificate of Settlement (Rule 76A)**

1. Where an order has been passed prior to 05.10.2014 by the Tax Settlement Board which was constituted under the Act, but the certificate of settlement has not been issued by the then Tax Settlement Board, in such cases, the applicant shall submit an application for issuance of certificate of settlement to the Commissioner, Commercial Taxes along with,-
  - The proof of deposit of amount as determined by the then Tax Settlement Board in lieu of arrears of Tax, Penalty, and Interest; and;
  - The copy of order of withdrawal of the case, if any.
2. If, the applicant has failed to deposit the amount within such period as ordered by the then Tax Settlement Board, he may submit an application to the Commissioner for,-
  - Extension of time period, for deposit of amount as ordered by the then Tax Settlement Board; or
  - Condonation of delay in deposit of the amount ordered by the then Tax Settlement board, in case said amount has already been deposited.
3. In all above cases the Commissioner, on being satisfied shall issue the certificate of settlement to the applicant, which shall be binding on all the parties to the dispute.

### **Issue of Clearance Certificate [Rule 79(1) & (3)]**

An application for tax clearance certificate by a registered dealer shall be

*Procedure to Get Various Certificate*

made electronically through the official website of the department in the manner provided therein.

On receipt of such application a tax clearance certificate shall be issued [subject to provision of rule 79(2)] to him in Form VAT-67, electronically through the official website of the department within 10 days of receipt of such application which shall be valid up to the date mentioned therein.

Issue of certificate shall be communicated to the applicant through the official website of the department.

**Rejection of Application for Issue of Clearance Certificate:  
[Rule 79(2)]**

The assessing authority or any authorized officer not below the rank of an Assistant Commercial taxes Officer authorized by the Commissioner in this behalf, shall reject the application of tax clearance certificate, where-

- (a) The applicant dealer has failed to comply with an order demanding initial or additional security under section 15 of the Rajasthan Value Added Tax Act, 2003 and/or under sub section (2A) of section 7 and /or under sub section (3A) of section 7 of the Central Sales Tax Act, 1954; or
- (b) The applicant dealer has failed to make payment of any recoverable outstanding demand(s) under the Rajasthan Value Added Tax Act, 2003 and / or under the Central Sales Tax Act, 1956 and / or the Rajasthan Sales Tax Act, 1954; or
- (c) The applicant dealer has failed to pay tax or any other sum due under the provisions of the Rajasthan Value Added Tax Act, 2003 and/or the Central Sales Tax Act, 1956 within the time prescribed therein ; or
- (d) The applicant dealer has failed to furnish any return or returns in accordance with the provisions of the Rajasthan Value Added Tax Act, 2003 and/or the Central Sales Tax Act, 1956 for the immediately preceding two years.

On rejection of the application, the dealer may apply afresh for the same after fulfillment of the above requirement.

# Chapter 13

## Payment of Demand under RVAT

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*This chapter deals with section 38 of the Rajasthan Value Added Tax Act, 2003 and Rule 24 to 26 & 39, 39A & 45A of the Rajasthan Value Added Rules, 2006.*

### Liability for payment of tax or demand (Section 38)

#### Tax & Demand

- The tax or the demand shall be payable by a dealer or a person on the basis of an assessment or an order passed, under this Act.
- The interest, penalty, or any sum payable under this Act shall be deemed to be tax for the purpose of collection, recovery and for all matters ancillary or incidental thereto.
- The demand shall include any amount payable by a person or a dealer under this Act or the rules.

#### Time limit for depositing balance amount

The tax paid by a dealer or a person shall be adjusted against the tax determined as a result of an assessment or the amount held payable in pursuance of an order passed, under this Act and the balance of the amount shall be payable by such dealer or person *within thirty days from the date of service of the notice*, or within a period of less than thirty days, as may be determined by the Assessing Authority or auditor or any other authority authorized by the Commissioner in the special circumstances and for reasons to be recorded in writing.

#### Mode of Recovery

If a dealer or person fails to deposit the tax or demand then such amount of tax or demand shall be recoverable in accordance with the provisions of this Act including the provisions of the Rajasthan Land Revenue Act, 1956 and the Revenue Recovery Act, 1890.

### **Stay on recovery**

If a dealer or a person has filed an appeal (In form VAT 18) with the Appellate Authority against an order passed by an assessing authority or any other officer, the said Appellate Authority may, after registering such appeal and after having heard the appellant and the assessing authority or officer or any representative thereof, stay the recovery of the disputed amount of tax or demand or any part thereof for a *period of one year from the date of such order* or till the disposal of the appeal, whichever is earlier.

### **Furnishing of security is required**

Where an application for stay is not disposed of within a period of thirty days from its filing and the delay is not attributable to the applicant, the same shall be deemed to have been accepted subject to the condition that such dealer or person furnishes sufficient security to the satisfaction of the assessing authority or the officer, as the case may be, in such form and in such manner as may be prescribed:

Provided that no further security under this section shall be required to be furnished by a department of the Central Government or the State Government or a public sector undertaking, corporation or company owned or controlled by the Central Government or the State Government.

- (1) The assessing authority may, subject to such conditions and restrictions as may be prescribed, in respect of any particular dealer or person and for reasons to be recorded in writing, extend the date of such payment and allow such dealer or person to pay any demand in installments on the condition that the said dealer or the person furnishes sufficient security to the satisfaction of assessing authority.
- (2)
  - (a) Where the recovery of tax or demand or any part thereof is stayed under sub-section (4), the amount of such tax or demand ultimately found due shall be recoverable with interest as per provisions of this Act, and such interest shall be payable on such amount from the date the tax or demand first became due.
  - (b) Where the payment of tax or demand is postponed by installments under sub-section (5), the dealer or the person shall be required to pay interest for the amount postponed and the period extended in accordance with the provisions of this Act.

- (3) The Commissioner may-
- (a) On the recommendation of State Government defer the recovery of demand payable by an industrial unit declared as sick by the Board of Industrial and Financial Reconstruction constituted under the Sick Industrial Companies (Special Provisions) Act, 1985 (Central Act No. 1 of 1986) to such extent, for such period and on such conditions with regard to the payment or rate of interest as may be deemed proper;
  - (b) After having conducted such enquiry as he deems necessary and after recording his reasons for doing so, permit deferment of payment of tax arrears for a maximum period of three years and thereafter, order recovery thereof in sixty monthly instalments in case of such sick industrial units and such industrial units facing incipient sickness as may be specified by the committee constituted for the purpose by the State Government.

### **Notice for Payment of Demand (Rule 24)**

As soon as an assessment is completed or any other order is passed, creating any demand under the Act or the rules, the assessing authority or any other officer authorized by the Commissioner or any official authorized under section 28 (6), shall serve a demand notice on the dealer or the person in Form VAT-17 along with a certified copy of such order, requiring him to pay the demand within thirty days of such service.

However, where the assessing authority or any other officer authorized by the Commissioner or any official authorized under sub-section (6) of section 28 is of the opinion that if for the purpose of protecting the interests of the State revenue it is necessary so to do, he may after recording reasons in writing, reduce the period of thirty days, as he may deem proper in the facts and circumstances of the case.

### **Stay for Payment of Demand if Appeal is Filed**

Where a dealer or a person has filed an appeal to the Appellate Authority against an order passed by an assessing authority or any other officer, the said Appellate Authority may, after registering such appeal and after having heard the appellant and the assessing authority or officer or any

representative thereof, stay the recovery of the disputed amount of tax or demand or any part thereof for a period of one year from the date of such order or till the disposal of the appeal, whichever is earlier, on the condition that the said dealer or the person furnishes sufficient security to the satisfaction of the assessing authority or the officer, as the case may be, in such form and in such manner as may be prescribed. [Rule 38(4)]

### **Application for Stay of Recovery of Demand**

An application for stay of recovery of demand shall be made before the Appellate Authority in Form VAT-18.

Where the recovery of tax or demand or any part thereof is stayed under sub-section (4), the amount of such tax or demand ultimately found due shall be recoverable with interest as per provisions of this Act, and such interest shall be payable on such amount from the date the tax or demand first became due.

### **Payment in Installments (Rule 26)**

- (1) An application for grant of installments shall be submitted in Form VAT-19 before the concerned officer as mentioned in sub-rule (2) and (3) granted to such dealer or person for a period not exceeding twelve months from the date of such order:-
  - (a) By the Assistant Commissioner Taxes Officer, in case the demand does not exceed rupees fifty thousand; and
  - (b) By the Assistant Commissioner or Commercial Taxes Officer, as the case may be, in case the demand does not exceed rupees two lacs.
- (2) Where a dealer or person not in a position to make payment of the demand outstanding against him under an order passed under the repealed Act or under this Act or under the Central Sales Tax Act, 1956, instalments under sub-section (5) of section 38, may be.
- (3) Where the amount of the demand exceeds the limits specified in clauses (a) and (b) of sub-rule (2) or the period of twelve months is found insufficient in view of the circumstances of the case, prior permission in writing shall be required:
  - (i) from the Assistant Commissioner or Commercial Taxes Officer

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- having jurisdiction, if the amount of such demand exceeds rupees fifty thousand but does not exceed rupees two lacs;
- (ii) from the Deputy Commissioner (Administration) having jurisdiction, if the amount of such demand exceeds rupees two lacs but does not exceed rupees ten lacs and/or the proposed period of installments does not exceed twenty four months;
  - (iii) from the Commissioner, if the amount of such demand exceeds rupees ten lacs and/or the proposed period of installments does not exceed thirty six months.
- (4) Where the payment of any demand is postponed in installments, in sub-rules (2) and (3) beyond a period of one month, the dealer shall be required to furnish a surety bond, acceptable to the assessing authority or the officer authorized by the Commissioner, in Form VAT-64 executed with two sureties, for the purpose of ensuring such payment.

**General mode of payment of tax, demand or other sum  
(Rule 39)**

- (1) Unless otherwise notified by the State Government, payment of tax, demand or other sum shall be made by a dealer or person through Electronic Government Receipt Accounting System, hereinafter referred to as 'e-GRAS', in the manner as provided therein.
- (2) The class of dealers as may be notified by the State Government shall make payment of tax, demand or other sum electronically through e-GRAS in the manner as provided therein.
- (3) The subsidy, if any, disbursed under the Rajasthan Investment Promotion Scheme-2010 or under any customized package by the State Government, and disbursed by the Commercial Taxes department of the State Government, shall be adjusted against the tax payable through a challan in Form VAT-37B. The date of deposit shall be deemed to be the date on which adjustment has been made by the treasury.
- (4) Where an amount of tax, demand or other sum payable under the Act or the rules or any notification, to the assessing authority or the in-charge of a check post or a Flying Squad or to any other officer



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authorized under sub-section (4) of section 76 of the Act, Such amount may be accepted by such authority or the in-charge or officer or a Junior Commercial Taxes Officer and a receipt in Form VAT-38 shall be issued to the depositor.

- (5) A registered dealer shall deposit the amount of tax to a contractor, in respect of goods specified under clause (8) of section 2 and livestock at a particular check post or for a specified area, where the Commissioner has permitted such contractor to collect tax under section 77, and such registered dealer shall obtain a receipt in Form VAT-39 from such contractor.
- (6) The date of payment of tax, demand or other sum shall be deemed to be the date of deposit as shown in the e-GRAS.

# Chapter 14

## Procedure to Get Refund under RVAT

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*This chapter deals with section 17(2), 53 & 54 of Rajasthan Value Added Tax Act, 2003 and Rule 27 to 29 of Rajasthan Value Added Tax Rules, 2006.*

### **Refund in case Net Tax Payable is Negative [Section 17(2)]**

Where the net tax payable under section 17(1) has a negative value, the same shall be first adjusted against any tax payable or amount outstanding under the Central Sales Tax Act, 1956 (Central Act No. 74 of 1956) or under this Act or the repealed Act and the balance amount if any, shall be carried forward to the next tax period or periods. In case the dealer claims refund of the balance amount, if any, at the end of the year, the same shall be granted only at the end of the immediately succeeding year. However, the Commissioner after recording reasons for doing so may, by a general or specific order, direct to grant such refunds even earlier.

### **Refund in Other Cases (Section 53)**

- (1) Where any amount is refundable to a dealer under the provisions of this Act, after having duly verified the fact of deposit of such amount, the assessing authority or the officer authorized by the Commissioner, shall, in the prescribed manner, refund to such dealer the amount to be refunded either by cash payment or by adjustment against the tax or other sum due in respect of any tax period.
- (2) Where a registered dealer files a return and claims refund on account of sales in the course of export outside the territory of India, the assessing authority or the officer authorized by the Commissioner may require such dealer to furnish such documents as may be prescribed and after having been satisfied shall within thirty days from the date of such claim, grant the dealer a refund in cash.
- (3) Where an amount or tax is collected from any person who is not registered under this Act and such amount or tax is not found payable

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by him, or where an amount in lieu of tax for any works contract is deducted in any manner by an awarder from any bill of payment to a contractor, who is not liable to pay tax under this Act, the amount so collected or deducted shall be refunded in the prescribed manner by the Assistant Commissioner or the Commercial Taxes Officer, as the case may be, in whose territorial jurisdiction such person or contractor ordinarily resides; and where such person or contractor does not reside in the State, then such refund shall be made by such officer as may be directed by the Commissioner.

- (4) The refund amount becomes due to dealer, he shall be entitled to revive, simple interest at such rate as may be notified by the state government with effect from 1<sup>st</sup> April of the year immediately following the year to which it relates upto the date of payment.
- (5) Where the dealer has paid any amount of tax after the closing of the year and such amount is required to be refunded, no interest shall be payable for the period prior to the date of the deposit of such amount.

**Procedure to get refund (Rule 27)<sup>9</sup>**

- (1) An application for refund shall be submitted electronically through the official website of the Department in the manner provided below:

S.No.	Form	By whom	When to Submit	Remarks, if any
1.	VAT 20	A registered dealer or a person to whom the refund is due as a result of an assessment made or in pursuance of an	After an assessment has been made or an order passed by any competent officer, authority or court, to the assessing	

<sup>9</sup> Substituted vide Notification S.O.257 No. F. 12 (23) FD/TAX/2015-193-Dated 9th March, 2015 w.e.f. 01/07/2015. Rule 28 and 29 are also omitted by said notification w.e.f. 01/07/2015.

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<b>S.No.</b>	<b>Form</b>	<b>By whom</b>	<b>When to Submit</b>	<b>Remarks, if any</b>
		order passed by any competent officer, authority or court;	authority or the authorized officer;	
2.	VAT 20A	A registered dealer who is entitled to claim a refund earlier, as directed by the Commissioner under section 17(2)	After submission of return in Form VAT-10, to the assessing authority or the authorized officer, along with Form VAT-26 duly digitally signed by the Accountant;	
3.	VAT 21	A registered dealer whose sales are in the course of export out of the territory of India within the meaning of sub-section (1) and (3) of section 5 of the Central Sales Tax Act, 1956 (Act No. 74 of 1956);	After submission of return in Form VAT-10, to the assessing authority or the authorized officer, along with Form VAT-26 duly digitally signed by the Accountant. The dealer shall also submit the certified copy of air consignment note/bill of lading/railway receipt or goods vehicle or postal receipt or any other documents	

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S.No.	Form	By whom	When to Submit	Remarks, if any
			in proof of export of goods across the customs frontier of India, and Declaration Form VAT-15 or Form H, as the case may be, in case the sale in course of export are under sub-section (3) of section 5 of the Central Sales Tax Act, 1956;	
4.	VAT 22	A person or an unregistered dealer not covered under point 1	Such application shall be submitted to the officer authorized by the Commissioner in this behalf, along with legible scanned copy of the contract, in case of contractor.	Applicable from whom any amount of tax or any amount in lieu of tax has been collected or deducted which is not payable by him, to the Assistant Commissioner or Commercial Taxes Officer in whose jurisdiction such person ordinarily resides, and in case of person not residing in the State,

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- (2) On receipt of such application as mentioned above, the assessing authority or the authorized officer shall verify the fact of deposit of amount and/ or deposit of tax payable by the selling dealer in case of excess credit of input tax in the manner as may be notified by the Commissioner.
- (3) After verifying the deposit of amount and/or input tax credit the assessing authority or the authorized officer, if satisfied that the amount is refundable to the dealer or the person, shall, subject to the provisions of section 17(2), section 53 and section 54, pass an order for refund in Form VAT-23,-
  - Within fifteen days of receipt of completed application in Form VAT-20.
  - Within thirty days of receipt of completed application in Form VAT-20A, VAT-21 or VAT-22.
- (4) If an application under section 54 is pending before the Commissioner, the above time limit shall start after a period of 30 days of filing of such application.
- (5) For the year 2013-14 and onwards, where the refund has accrued as a result of an assessment order, the assessing authority or the authorized officer shall suo motu pass an order for refund in Form VAT-23, within fifteen days of passing of such assessment order.
- (6) The assessing authority or the authorized officer shall submit the digitally signed Form VAT-23 electronically through the official website of the Department to the Deputy Commissioner (Administration) within two working days of passing of such order.
- (7) The Deputy Commissioner (Administration) shall digitally sign and electronically forward the Form VAT-23 within seven working days to an officer authorized by the Commissioner as Central Refund Officer.
- (8) Within seven working days of receipt of the Form VAT-23, the Central Refund Officer, on being satisfied, shall digitally sign and forward the Refund order in Form VAT-24 to the concerned treasury officer through IFMS, directing to remit the amount of refund into the bank account of the dealer or person mentioned in the said Form and shall also furnish a hard copy thereof to the concerned treasury.

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- (9) The concerned treasury officer shall reconcile the amount of refund electronically with the Commercial Taxes Department through TY-34 as provided in the Rajasthan Treasury Rules, 2012.
- (10) Where a dealer desires the adjustment of amount of refund against any amount payable by him, the assessing authority or the authorized officer, as the case may be, shall issue a refund adjustment order electronically in Form VAT-25 and forward the copy of the same to the dealer electronically through the official website of the Department, directing him to deduct the amount so refundable from the amount payable by him.
- (11) Where a demand is outstanding against a dealer or a person who is entitled to a refund, the assessing authority or the authorized officer shall suo motu issue a refund adjustment order electronically in Form VAT-25 for adjusting the refund against such outstanding demand and shall inform the dealer regarding this electronically through the official website of the Department.
- (12) No claim of refund shall be rejected without giving the dealer or the person claiming refund, an opportunity of being heard and without recording reasons in writing.

**Power to Obtain Security or Withhold Refund in Certain Cases**

Where an order giving rise to refund is subject matter of an appeal, revision or other proceeding and such appeal, revision or other proceeding is contemplated or pending and the officer concerned or the assessing authority, for reasons to be recorded in writing, is of the opinion that the grant of the refund is likely to adversely affect the State Revenue, the said officer or the assessing authority may, with previous approval of the Commissioner, either obtain the security equal to the amount to be refunded to the dealer or the person, or withhold the return till such time as the Commissioner may determine.

### **Manner to get early refund<sup>10</sup>**

Such manner to get refund early is as follows:

- Specified dealer shall submit an application in Form VAT 20A electronically through the official website of the department, after submission of quarterly return in Form VAT 10 completed in all respect.
- On receipt of such application, the assessing authority shall verify the facts and deposit of tax u/s 53 of the Act.
- The claim of concessional rate of tax shall be allowed to the extent of the declaration forms furnished by the dealer up to the time of issuance of order by assessing authority for early refund.
- The assessing authority shall verify the claim of input tax credit.
- After having been satisfied with the genuineness of transactions and relevant documents, the assessing authority shall dispose of the application for the claim of early refund within 30 days from the date of submission of the application.
- Where the requested refund is disallowed or partially allowed, the assessing authority shall pass a speaking order after affording an opportunity of being heard to the dealer or his representative authority before passing such order.
- As the case may be, refund order shall be issued in the manner as specified under the Rajasthan Value Added Tax Rules, 2006
- After passing refund order, if it is found that refund was granted in excess of the actual refund due, than such excess refunded amount shall be recovered as if it is tax due from the dealer under this act and the interest on such amount shall be charged u/s 55 of the act, for the period from the date of grant of refund, till the date of payment of excess refunded amount to government treasury.

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<sup>10</sup> To proceed refund early the Hon'ble Chief Minister at para number 252 of budget speech 2015-16 has announced to grant e-refund within 30 days of filing of quarterly return, to the dealers whose turnover of inter-state sales in the previous year was more than 50% of total turnover. To give effect to this notification F16(1110)VAT-TAX-CCT-13-14-Pt-1698 has been issued on 12.05.2015 where manner has been specified to get the early refund.



## Chapter 15

# Records and Registers to be maintained under RVAT

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*This chapter deals with section 71 of Rajasthan Value Added Tax Act, 2003 and Rule 36, 37 & 38 of Rajasthan Value Added Tax Rules, 2006.*

### **Invoices (Rule 38)**

A registered dealer, other than registered dealer who opts for payment of tax under section 3(2) or under section 5 making taxable sale shall issue a VAT invoice marked as original to the purchaser for each sale made by him and shall retain a copy thereof.

Where a dealer registered under the act is also registered under the Central Excise Act 1944 and issues an invoice for removal of goods in the course of inter-state trade or commerce, containing the particulars as prescribed in sub rule (2), it would be treated as VAT invoice and the provisions of sub rule (3) and (4) shall mutates mutandis apply.

The state government may, by notification in official gazette, provide for use of IT enabled systems for preservation of the details of the VAT invoice.

### **Particulars required on VAT invoice (Rule 38)**

The VAT invoice issued under sub-rule (1) shall contain the following particulars on the original as well as on all the copies thereof.

- (a) The word "VAT INVOICE" and in case the option under 4 (7) has been exercised the expression "INVOICE FOR TAX ON MRP" in bold letters at the top or at any prominent place;
- (b) The name, address and registration number of the selling dealer;
- (c) The name and address of the purchaser and where the purchaser is registered under the act the registration number of the purchasing dealer;
- (d) Continuous serial number running throughout the year and the date on which the VAT invoice is issued;

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- (e) Full description of the goods
- (f) The quantity or number, as the case may be, of the goods;
- (g) The value of the goods sold;
- (h) The rate and amount of tax charged thereon indicated separately; and
- (i) Signature of the selling dealer, or his declared business manager or person authorized by the selling dealer.

No input tax credit shall be allowed unless the dealer makes full compliance of sub-rule (1) and (2).

### **Loss of VAT Invoice (Rule 38 (4))**

In case a VAT invoice issued by the registered selling dealer, is lost or destroyed, a duplicate of such VAT invoice shall be issued by the selling dealer, to the purchasing dealer with the following declaration recorded in the red ink and signed by the selling dealer or his declared business manager as the case may be:

#### **DECLARATION**

"I hereby declare that this is the duplicate VAT invoice of VAT invoice no..... issued on dated.....and issued to M/s.....having registration No.....

Signature

Status

The purchasing dealer who has obtained the duplicate copy of the VAT invoice shall inform his assessing authority or the authorized officer within the tax period in which the duplicate invoice was received.

Issue of invoice by dealers who opted for the scheme (Rule 38 (5)(6)(7))

- ✓ A registered dealer, who has opted for payment of tax under sub section (2) of section 3 or u/s 5, sells taxable goods of value exceeding rupees 500 in any one transactions, shall issue an invoice marked as original to the purchaser for each such sale made by him and shall retain a duplicate copy thereof.
- ✓ Where a purchaser demands an invoice irrespective of the purchase value, the registered dealer shall issue invoice.

*Records and registers to be maintained under RVAT*

- ✓ The invoice issued under sub rule (5) shall contain the following particulars on the original as well as on all the copies thereof:
  - (a) The word “invoice” in bold letters at the top at any prominent place;
  - (b) The name, address and registration certificate number of the selling dealer;
  - (c) Continuous serial number running throughout the year and the date on which the invoice is issued.
  - (d) Full description of the goods with its value; and
  - (e) Signature of the selling dealer, or his servant, manager or agent duly authorized by him.

**Accounts to be maintained by dealer (Rule 36)**

- Every dealer liable to pay tax under this act shall keep and maintain a true and correct account of his business activities in an intelligible form including the value and quantity of the goods received, manufactured, sold or otherwise disposed of or held in stock by him. However, the state government may exempt such class of dealers as may be notified from the provision of this sub section.
- The accounts required to be maintained under subsection 1 shall be kept by the dealer at the place(s) of business as recorded in his certificate of registration, and the stock book as referred to in sub section (2) shall be kept at the place where manufacturing activity is carried on; however, final accounts, annual statements, registers and documents shall be kept at the principal place of business.
- Where a dealer has established branches at places in the state other than the principal place of business, the necessary accounts, registers and documents relating to the business activities being carried on at each branch shall, without prejudice to the provisions of sub section (3), be kept by him at such branch.
- The accounts, registers and other documents relating to a year shall be preserved and kept by a dealer for five years excluding the year to which they relate, and this period of 5 years shall be deemed to have been extended by such time until any pending proceedings referring thereto under this act are finally disposed of.

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- Every dealer registered under the act shall maintain his accounts according to the system of accounting prevailing in the trade and industry.
- Every dealer shall maintain a true and correct account of his purchase against VAT invoices in form VAT 07 and of his sales in form VAT-08. The manufacturer shall also maintain a separate account of his purchases of capital goods against VAT invoices, in part II of form VAT 07. Two new forms VAT 07A & VAT-08A are also introduced w.e.f. 09.03.2010 which is summary of VAT -07 and VAT-08.
- Where such dealer is a manufacturer, he shall maintain the stock of raw material(s) used in form VAT-33, and that of manufactured goods in form VAT-34. (Rule 36(3))
- Every dealer shall also maintain separate accounts of transactions in the course of interstate trade or commerce.[Rule 36(4)]
- Every dealer registered under the act shall maintain separate accounts for exempted goods and so also for the goods taxable at different rates. [rule 36(5)]

### **Accounts and documents relating to principal and agent (Rule 37)<sup>11</sup>**

- Where a principal dispatches taxable goods within the state to his commission agent for sale, he shall generate a dispatch note in respect of such goods in Form VAT-35 electronically through the official website of the department in such manner as provided therein and send a copy thereof to his commission agent along with the goods.
- The commission agent shall generate the certificate of sale proceeds of taxable goods sold by him within the state during the quarter on behalf of the principal in Form VAT-36 electronically through the official website of the department in such a manner as provided therein and will forward a copy thereof to his principal.
- Where the principal has paid tax on sale proceeds of taxable goods sold by his agent, he shall generate a certificate in respect of deposit

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<sup>11</sup> Substituted vide Notification S.O.257 No. F. 12 (23) FD/TAX/2015-193-Dated 9th March, 2015 w.e.f. 01/07/2015

### *Records and registers to be maintained under RVAT*

of tax in Form VAT-36A electronically through the official website of the Department in such manner as provided therein and forward a copy thereof to his commission agent.

- Where the agent claims that he is not liable to pay tax on sales of taxable goods sold by him on behalf of the principal under the Act, he shall furnish information relating to Form VAT-35, VAT-36 and VAT-36A to his assessing authority.
- The Form VAT-35, VAT-36 and VAT-36A for the period, prior to commencement of rule 11 of the Rajasthan Value Added Tax (Third Amendment) Rules, 2015, may be obtained and submitted in such manner which was in force in that period.
- Where the assessing authority is satisfied, that the particulars and contents of the certificate in Forms VAT-35, VAT-36 and VAT-36A are correct, he shall accept the claim of the commission agent.

## **Audit of the dealer (Section 27)**

### **Introduction of Audit**

With a view to promote compliance with the provisions of this Act, the Commissioner may arrange for audit of the business of such of the registered dealers who are selected by the Commissioner on the basis of the application of any criterion or on a random selection basis or in respect of whom the Commissioner has reasons to believe that detail scrutiny of their business is necessary.

The audit of the dealer shall be conducted by the auditor in the prescribed manner under rule 47, 48, 49 & 50 by issuing notice in form VAT-14

### **Auditor Means**

As per section 2(4) "auditor" means any officer not below the rank of assistant commercial taxes officer authorized as such by the auditor.

### *Scope & Power of the Auditor*

- The auditor while conducting audit shall exercise the powers provided under section 75 and shall examine the books of accounts, stock in trade and the related documents of the dealer of the audit period.
- If on such audit, the return filed by the dealer are not found to be correct, or any avoidance or evasion of tax is detected the auditor

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shall, issue a show cause notice to the dealer containing details of discrepancies detected.

- On the receipt of the reply to notice issued under sub-section (4), the auditor shall after considering the reply of the dealer assess his tax and other related liabilities and get such order approved from his immediate higher officer before its issuance to the dealer along with the demand notice.
- Where the dealer fails to submit the reply the auditor shall proceed to assess the liability of the dealer under this Act, to the best of his judgment.
- Such assessment shall be deemed to be the assessment, of the dealer for the relevant period and assessment if any, already made shall be subject to the assessment made under this section.

*Conditions where dealer has to be audited*

- Every registered dealer shall, if his turnover exceeds rupees one hundred lacs in any year, get his accounts in respect of such year audited by an accountant within the prescribed period from the end of that year and furnish within the prescribed period the report of such audit in the prescribed form duly signed and verified by such accountant setting forth such particulars and certificates as may be prescribed.
- For the purposes of this section accountant means a Chartered Accountant within the meaning of Chartered Accountants Act 1949
- If any dealer liable to get his accounts audited under sub-section (1) fails to furnish a copy of such report within the time as aforesaid, the assessing authority or the officer not below the rank of an assistant commercial taxes officer authorized by the commissioner may, impose on him, in addition to any tax payable, a sum by way of penalty equal to one tenth percent of the total turnover of that year or rupees one lac which ever is less.
- The audit report required to be furnished by the dealer under sub-section (1) of section 73 shall be furnished within ten months from the end of the relevant financial year, in form as may be specified by the commissioner (Rule 36 (6))

# Chapter 16

## Accounting of VAT

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### Accounting treatment of VAT

ICAI has issued Guidance Note on Accounting for State level VAT on 15-4-2005. The guidance note is based on principles of VAT as contained in White paper released on 17-1-2005. However, there are variations in respect of each State. Hence, accounting policies will have to be adopted to suit provisions of VAT law of the particular State. Following broad principles should be kept in mind.

- As per AS-2, cost of purchase for purpose of inventory valuation should not include tax, if credit of tax paid is available.
- For purpose of income tax, inventory valuation should be inclusive of taxes, even if its credit is available, as per section 145A of income tax.
- Purchase account should be debited with net amount. VAT credit receivable on purchases should go to 'VAT Credit Receivable (Input) Account.
- Accounts of each rate i.e. 0%, 1%, 4%, 12.5% etc. is required to be kept separately.
- In case of capital goods, as per AS-10, cost of fixed assets should include only non-refundable duties or taxes.
- If entire credit of tax on capital goods is not available immediately, the credit that is available immediately should be debited to VAT Credit Receivable (Capital Goods) Account and credit which is not available immediately should be taken to 'VAT Credit Deferred (Capital Goods) Account'.
- In case of sales, the sales account should be credited only with net amount (i.e. exclusive of VAT). Tax payable should be credited to separate account 'VAT Payable Account' [This is 'exclusion method'. Interestingly, in case of excise duty paid on final product, 'inclusive method' is permitted, i.e. sale account is credited inclusive of excise duty on final product].
- If any VAT is payable at the end of period (after adjusting VAT credit available), the balance is to be shown as 'current liability'.

## Chapter 17

# Penalties & Demands under RVAT

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*This chapter deals with section 51A, 52, 56 to 64, 67, 72, 73 75 & 76 of Rajasthan Value Added Tax Act, 2003.*

On violation of certain rules under this Act penalties are attracted. One should take care to abide by rules to avoid penalties. A summary of different default which attract penalties are given below:

### Penalties under Rajasthan VAT Act, 2003

S. No	Section	Default	Penalty	Remarks
1	Section 56	Penalty for not making application for Registration	A sum not exceeding ₹ 1000/-	
2	Section 57	Penalties for not furnishing Security or additional security	A sum not exceeding ₹ 2000/- and in case of continuing default a further penalty of ₹ 25/- for every day of such continuation.	
3	Section 59	Penalty for not maintaining or keeping accounts	A sum not exceeding ₹ 5000/- and in case of continuing default further penalty of ₹ 50/- for every day of such continuance.	
4	Section 60	Penalty for unauthorized collection of Tax	Amount so collected shall be forfeited and the penalty of a sum equal to double of such amount.	Situation in which penalty can be imposed u/s 60: <ul style="list-style-type: none"><li>• When the dealer who is</li></ul>



*Penalties under RVAT*

S. No	Section	Default	Penalty	Remarks
				<p>not liable to collect and pay tax and collect the tax.</p> <ul style="list-style-type: none"> <li>• Collect the excess tax</li> <li>• Assessee has collected tax unauthorized in contravention of the provision of the act.</li> </ul>
5	Section 61	Penalty for avoidance or evasion of tax	Penalty of double the amount evaded.	<p>Penalty under this section when the dealer has:</p> <ul style="list-style-type: none"> <li>• Concealed any particulars from return</li> <li>• Deliberately furnished inaccurate particulars in returns</li> <li>• Concealed transaction of sales or purchase from his accounts</li> <li>• Avoided or evaded tax in any other manner.</li> </ul>

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<b>S. No</b>	<b>Section</b>	<b>Default</b>	<b>Penalty</b>	<b>Remarks</b>
6	Section 61(2)	Wrong availment of input tax credit U/s 61(2)	In addition to reverse of such of input tax a penalty in case such credit is availed on the basis of false or forged Vat invoice a penalty equal to 4 times of the amount of such wrong credit or in other cases, a penalty equal to double the amount of such wrong credit.	
7	Section 62	Penalty for not furnishing statistics or other information as required by any officer or authority.	A sum not exceeding ₹ 1000/-	
8	Section 63	Penalty on awarder's.	I. For each violation upto ₹ 1000/- in case of non-deduction. II. Penalty @2% per month on amount so deducted but not deposited.	Where an awarder of works contract fails to deduct the amount in lieu of tax from the bill of contractor as prescribed, or after having deducted such amount from such bill does not deposit the same in the prescribed manner and time.

*Penalties under RVAT*

<b>S. No</b>	<b>Section</b>	<b>Default</b>	<b>Penalty</b>	<b>Remarks</b>
9	Section 64	Penalty on awarder for not submitting monthly statement of tax deducted of contractor	A sum not exceeding ₹ 2000/- and in case of continuing default a further the penalty of ₹ 25 for every day of such continuance	
10	Section 64	Penalty for violation u/s 64 in case no specific penalty is prescribed elsewhere.	A sum not exceeding ₹ 2000/- and in case of continuing default a further the penalty of ₹ 25 for every day of such continuance	
11	Section 72	Penalty for failure to issue bill or cash memo.	A sum equal to double the amount of tax leviable on the sale in respect of which a bill or cash memo has not issued.	
12	Section 76	Penalty for movement of goods without proper document	Penalty equal to 30% of the value of such goods.	
13	Section 75	Penalty u/s 75(8) for possession of unaccounted goods found during search	A penalty equal to amount of five times of the tax or 30% whichever is less.	

### **Late Fees on Delay in Filing Return (Rule 19A)<sup>12</sup>**

Where a dealer furnishes the return after the prescribed time, he shall pay a late fee per day,-

- i. Rs.20/day subject to a maximum of Rs.1000, in case there is no turnover of the dealer during the period under return; and
- ii. 0.05% of the net tax payable per day, subject to a minimum of ₹ 50 per day and a maximum of ₹ 500 per day.
- iii. The total late fee shall not exceed 10% of net tax payable for the period under return subject to maximum of ₹ 25000 in all other cases.

### **Opportunity before imposition of penalty**

The penalty under this Act shall not be imposed unless a reasonable opportunity of being heard is afforded to the dealer or the person concerned.

### **Time limit for imposition of penalty or levy of interest**

1. No order for imposing penalty shall be passed –
  - (a) After expiry of two years from the end of two year in which the relevant assessment or rectification order is passed; and
  - (b) If the assessment or rectification is subject matter of appeal, revision or other proceeding, after expiry of two years from the end of the year in which the order in appeal, revision or other proceeding is passed.
2. Subject to the provision of clause (b) of sub section (1), no order for levy of interest shall be passed-
  - (a) After expiry of two years from the end of the year in which relevant assessment or rectification order is passed; and
  - (b) If the assessment of rectification order is the subject matter of appeal, revision or other proceeding, after expiry of two year from the end of year in which the order in appeal, revision or other proceeding is passed,

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<sup>12</sup> Substituted vide Notification S.O.257 No. F. 12(23)FD/TAX/2015-193-Dated 9th March, 2015.

No order for levy of interest in the case of recovery of demand shall be passed after expiry of two years from the end of year in which such demand in full is recovered or adjusted or penalty recovered and partly adjusted.

### **Prosecution for offences (Section 67)**

1. Where any person-
  - (a) Though not registered under this Act, yet falsely represents that he is registered dealer at the time of any sale or purchase made by him or at the time of making any statement or declaration before any officer authority appointed or constituted under this Act; or
  - (b) Knowingly prepares or produces false accounts, sales and purchase invoice, Vat invoices, register or document; or knowingly furnishes false return in relation to his business or makes a false disclosure or averment in any statement required to be recorded or in any declaration required to be filed under this act or rules or notification; or
  - (c) Fraudulently avoids or evades tax or deliberately conceals his tax liability in any manner; or
  - (d) Fails to pay amount of any demand notice and a period of not less than six month had elapsed since the receipt of demand notice by him'  
An offence under this clause shall be deemed to be continuing offense unless full payment is made; or
  - (e) Deliberately disregards a notice issued under section 50 and 91; or
  - (f) Prevents or obstruct, in any manner, the competent officer under this act, to enter, inspect and search the business place or any other place where the goods or the accounts, register and other document are believed to be kept, or prevents or obstruct such officer to seize the goods or accounts, register or document; or
  - (g) Fails to stop the vehicles or carrier transporting the goods, of which he is driver or otherwise in-charge, for being inspecting in accordance with the provision of this Act, or prevent, obstruct the inspection, of the goods or the vehicle or carrier transporting the goods the incharge of the check post or the barrier or other officer empowered in this behalf to discharged the duties by the commissioner; or

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- (h) Import into or imports from the state of Rajasthan, any goods showing incorrect or fictitious name or addresses of consignors or consignees or incorrect details of goods or incorrect particulars in vouchers, way bills or goods receipts or other documents accompanying the goods while in movement; or
- I. Fraudulently avails wrong credit of input tax; or
  - II. Aids or abets any person in the commission of any such offence as aforesaid.

On a complaint being made against such person by the assessing authority or any other competent officer after having obtained sanction from the commissioner, he shall, on conviction by a Judicial Magistrate having jurisdiction,

- For the offences described under clauses c or l of offences where amount of demand notice exceeds ₹ 1 crore under clause d be punishable with simple imprisonment for the term which may extend upto 3 years and also be liable to fine but the minimum sentence shall not be less than simple imprisonment of six months and fine of ₹ 5000;
- For other offences not covered above be punishable with simple imprisonment for a term which may extend up to 6 months and also be liable to fine.

2. Where an offence under this section is committed with regard to business, every person who was responsible for the conduct of the business as the time when the offence was committed or who was answerable for a legal lapse in any manner by his action or omission, shall be liable to be proceeded against and punished under this section.

3. Without prejudice to the provisions contained in sub-section (2), where an offence under this section is committed by a firm or a company and it is found that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any partner of the firm or Chairperson-cum-Managing Director, Managing Director, Executive Director or Director of the company, such partner, Chairperson-cum-Managing Director, Managing Director, Executive Director or Director, shall be liable to be proceeded against and punished under this section.

4. Any proceeding under this Act including the proceedings of assessment, rectification or recovery, other than the proceedings for imposition of penalty, shall be carried on without prejudice to any prosecution under this section.

### **Composition of Offences (Section 68 & Rule 74)**

1. If, a person or a dealer is charged under this Act with the offence of avoidance or evasion of tax in any manner and at any time; he may make an application in the Form VAT 60 and manner to the Deputy Commissioner (Administration) having jurisdiction, admitting his offence and making request therein for composition of the offence in lieu of penalty or prosecution.

2. The Deputy Commissioner (Administration) may, whether or not an assessment order under any section of this Act has been passed, accept from the person who made the application under sub-section (1), by way of composition of the offence in lieu of penalty or prosecution a sum equal to the amount of tax avoided or evaded.

3. On an application by a person admitting the offence committed by him under sub-section (8) of section 75 or under sub-section (6) or (9) or (11) of section 76, the officer empowered under sub-section (4) of section 75 or Incharge of a check-post, as the case may be, may accept composition money from such person in lieu of penalty or prosecution, which shall be.-

(a). In case of offence committed under sub-section (8) of section 75 or sub-section (6) of section 76, equal to the amount of four times of the tax livable on the goods involved or twenty five percent of the value of such goods, whichever is less;

(b). In case of offence committed by him under subsection (9) of section 76, equal to fifteen percent of the value of the goods;

(c). In case of offence committed under sub-section (11) of section 76, equal to twenty five percent of the value of such goods.

4. The composition of any offence in lieu of penalty or prosecution under sub-section (2) shall be without prejudice to the liability of the person or dealer, charged with the offence, to pay the tax with interest so avoided or evaded or wrongly credited by him.

5. On the payment of the amount of composition determined under sub-section (2) and (3), no further proceeding under the provisions of this Act for

imposition of penalty or launching of prosecution for the same offence, shall be initiated.

6. No amount of composition accepted and no amount of interest levied under this section shall be waived or reduced by the Commissioner.

7. No appeal shall lie or subsist against an order of composition made under this Act.

### **Power of State Government to Waive Penalty and Interest in Certain Cases (Section 51A)**

The State Government in the public interest, by notification in Official Gazette, may reduce or waive any amount of interest or penalty payable for any period by any class of dealers, subject to such terms and conditions as may be specified in the notification.

### **Power to write off demand (Section 52 & Rule 76):**

- If, a demand against a dealer payable under this Act including the Central Sales Tax Act, 1956 (Central Act No. 74 of 1956) has been outstanding for more than ten years from the date it became due and such demand has been rendered irrecoverable for want of any kind of property for being attached and sold, without prejudice to the provisions of other law or rules providing for writing off of demands, such demand may be written off through an order in writing, after making such enquiry, as he deems appropriate—
- By the Assistant Commercial Taxes Officer, if it does not exceed rupees ten thousand;
- By the Assistant Commissioner or the Commercial Taxes Officer, as the case may be, if it exceeds rupees ten thousand but does not exceed rupees twenty five thousand;
- By the Deputy Commissioner (Administration), if it exceeds rupees twenty five thousand but does not exceed rupees One Lac;
- By the Commissioner, if it exceeds rupees one Lac but does not exceed rupees ten lacs; and

By the State Government, if it exceeds rupees ten Lacs.



**PART 4**  
**Rules & Regulations related to**  
**Rajasthan VAT**



# Chapter 18

## Input Tax Credit

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*This chapter deals with section 17 to 19 of the Rajasthan Value Added Tax Act, 2003 and rule 18 of the Rajasthan Value Added Tax Rules, 2006*

### What is Input Tax?

"Input" normally means goods purchased by a dealer in the course of his business. The purchases would include any goods purchased by a dealer in the course of his business for re-sale or for use in the manufacture or processing or packing or storing of other goods or any other use in business including capital goods under specified circumstances.

### What is Input Tax credit?

Input tax credit is the amount of tax paid by the dealer on purchases for which the dealer is entitled to claim a credit. The input tax credit has to be claimed in the tax period in which a dealer records tax invoice and can be adjusted against tax liability of the dealer on all the sales effected during the said tax period.

In order to understand how the input tax credit works, following illustrations would be useful:

#### ILLUSTRATION-1

(Rupees)

			Amount	Tax
A	Purchases during the month	@12.5%	1,00,000	12,500
B	Local sales during the month	@12.5%	1,20,000	15,000
C	Output tax payable			15,000
D	Less: input tax credit			12500
E	VAT payable			2,500

**ILLUSTRATION-2**

**(Rupees)**

			<b>Amount</b>	<b>Tax</b>
A	Purchases during the month	@12.5%	2,00,000	25,000
B	Local sales during the month	@4%	1,00,000	4,000
C	Inter State sales	@4%	1,00,000	4,000
D	Total output tax liability (B+C)			8,000
E	Input tax credit admissible			25,000
E	Negative balance of input tax credit carried forwarded to next tax period (B-E)			17,000

Input tax credit is allowed for the following purposes:-

Input tax credit shall be allowed to registered dealers in respect of purchases of any taxable goods made within the state from a registered dealer for the purpose of-

- (i) Sale within the state of Rajasthan.
- (ii) Sale in the course of interstate trade and commerce.
- (iii) Sale in the course of export outside the territory of India.
- (iv) Being used as packing material of goods, other than exempted goods for sale.
- (v) Being used as raw material in the manufacture of goods other than exempted goods, for sale within the state or in the course of interstate trade or commerce.
- (vi) Being used as packing material of goods or as raw material in the manufacture of goods for sale in the course of export outside the territory of India.
- (vii) Being used in the state as capital goods in manufacture of goods other than exempted goods.

If goods purchased are used partly for the purposes specified in this sub-section and partly as otherwise, input tax credit shall be allowed proportionate to the extent they are used for the purpose specified in this sub-section.

### **Time In which Input Tax Credit can be Claimed [Section 18(2)]**

The input credit shall be allowed only after verification of the deposit of tax payable by the selling dealer in manner as may be notified by the commissioner.

### **Input Tax Credit is not Exceeding Output Tax [Section 18(3A)]**

Where any goods purchased in the State are subsequently sold at subsidized price, the input tax allowable under this section in respect of such goods shall not exceed the output tax payable on such goods. [Section 18(3A)] w.e.f. 09.03.2011.

### **Condition and Computation of Input Tax Credit [Rule 18]**

The input tax credit shall be allowed on the basis of original VAT invoice and where such invoice has been lost or destroyed than on the basis of duplicate copy thereof issued to him.

However, claim of input tax credit of the additional tax deposited may be allowed on the basis of VAT invoice which has been issued subsequently.

The extent of the input tax credit available to a registered dealer shall be equal to the amount of tax paid on purchase in the state, subject to the following condition:

- that such dealer has maintained a true and correct separate account of his purchase against VAT invoices in Form VAT-07 and submits the summary thereof in Form VAT-07A, along with the return prescribed in rule 19.
- that such dealer has maintained a true and correct separate account of his sales against VAT invoices in Form VAT-08 and submits the summary thereof in Form VAT-08A, along with the return prescribed in rule 19.
- That the amount of input tax credit for the tax period shall not be more than the amount verified.

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Following points have to be kept in mind while computing the input tax credit:-

1. Input tax credit shall not be allowed in respect of the goods used as raw material for manufacture of exempted goods or used as packing material of exempted goods.
2. If the exempted goods or manufactured and/or packing material used therewith, are sold in the course of export outside the territory of India, the amount of input tax paid on such raw material and/or the packing material, shall be refunded to such exporter.
3. Where a registered dealer having goods in stock which had not suffered tax at full rate, intends to exercise option to pay tax under sub-section (2) of section 3, he shall deposit tax on such stock at the rates applicable at the time of exercising the option, and proof of tax so deposited shall be submitted along with his application for exercising such option. [Rule 18(7A)]
4. The input tax credit under this rule shall be available on the basis of books of accounts and records of the dealer. Where, the amount of input tax credit is not determinable from the books of accounts of the dealer, the amount of input tax credit shall be allowed proportionate to the extent for the purposes specified in sub-section (1) of section 18 of the Act. [Rule 18(6)]
5. Where the turnover of a dealer who has opted to pay tax under sub-section (2) of section 3, exceeds the limit of the said sub-section or he opts out of the said sub-section or his liability accrues under clause (a) or (b) of sub-section (1) or under sub-section (5) of section 3, no input tax credit shall be allowed on the goods in stock on the date of occurrence of such event. [Rule 18(7)]
6. A registered dealer who opts to pay tax under sub-section (2) of section 3, the credit of input tax credit availed by him on the goods in stock shall be reversed. [Rule 18(8)]
7. The dealer opting for payment of tax under sub-section (2) of section 3 or section 5, shall not be entitled to claim input tax credit in respect of the goods in stock on the date of exercise of such option. [Rule 18(9)]

### **Set -Off of Input Tax Credit [Section 17]**

Input tax credit calculated above shall be available for set off from the tax payable by a registered dealer. No set off of input tax credit shall be available to a registered dealer who has opted u/s 3(2) or section 5. The net tax payable shall be calculated as follows-

$$T = (O+R+P) - I$$

Where-

T is net tax payable;

O is the amount of output tax;

R is the amount of reverse tax;

P is the amount of tax payable under sub-section (2) of section 4; and

I is the amount of input tax.

Where the net tax payable under sub-section (1) has a negative value, the same shall be first adjusted against any tax payable or amount outstanding under the Central Sales Tax Act, 1956 (Central Act No. 74 of 1956) or under this Act or the repealed Act, shall be carried forward to the next tax period or periods.

In case the dealer claims refund of the balance amount, if any, at the end of the year, the same shall be granted only after the end of the immediately succeeding year. However, the Commissioner after recording reasons for doing so may, by a general or specific order, direct to grant such refunds even earlier.

Where the sales are made on behalf of the principal registered under this Act by an agent also registered under this Act, such sales shall be deemed to be the sales of the principal and the agent shall render the accounts of such sales in the manner as may be prescribed.

### **Conditions When Input Tax Credit is Not Allowed [Rule 18(3)]**

Input tax credit shall be allowed to registered dealers, other than the dealers who have opted for composition scheme u/s 3(2) or u/s 5 of the Rajasthan VAT Act, 2003. Input tax credit shall be available on purchases made within the state against VAT invoice. However, no input tax credit will be available in the following cases where goods are purchased-

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- (i) From a registered dealer who is liable to pay tax u/s 3(2) or who has opted to pay tax u/s 5 of this Act.
- (ii) In the course of import from outside the state.
- (iii) If the goods are taxable at first point in the series of sales, from a registered dealer who pays tax at the first point.  

(For the purpose of this clause, "first point in the series of sales" means the first sale made by a registered dealer in the State.)
- (iv) Absence of the original VAT invoice or duplicate copy thereof is not available with the claimant, or there is evidence that the same has not been issued by the selling registered dealer from whom the goods are purported to have been purchased.
- (v) Where amount of taxes does not show separately.
- (vi) Where the purchasing dealer fails to prove the genuineness of the purchases transaction on being asked to do so by an officer not below the rank of Assistant Commercial Taxes Officer authorized by the Commissioner.
- (vii) A works contractor who opts for exemption fee scheme u/s 8(3) of the Act (Notification S.No. 2130 dated 11.08.2006) will not be allowed to claim input tax credit in respect of the goods used in execution of the works contract for which exemption certificate has been granted vide condition no.6 of the scheme.

**Input Tax Credit for Stock on the Date of Commencement of this Act [Section 19]**

Input tax credit shall be allowed on the goods other than capital goods, which had suffered tax under the repealed Act, and are lying in stock of the dealer on the date of commencement of this Act, provided that such dealer has submitted the details of such stock, as required by the Commissioner under section 93 of the repealed Act or section 91 of this Act, and such goods in stock are used for the purposes specified in clauses (a) to (f) of sub-section (1) of section 18. However, the input tax credit under this section shall be allowed to the extent of the tax paid under the repealed Act or the amount of tax payable on such goods under this Act, whichever is less.



Commissioner, Commercial Taxes, has issued a Notification wherein dealers having stock of tax paid goods as on 31.03.2006 are required to submit statement of stock along with tax already paid on such stock before 31<sup>st</sup> May, 2006.

### **How to Get Input Tax Credit on Stock [Rule 19(11)]**

The input tax credit under section 19 of the Act, for stock on the date of commencement of the Act shall be available only after the quarter ending on 30<sup>th</sup> June, 2006, and the eligible dealer shall be entitled to claim such credit in six equal monthly installments starting from July 1, 2006, provided that such dealer has submitted the information required under sub-section (2) of section 93 of the Rajasthan Sales Tax Act, 1994, within the time specified in the notification. However, in case a dealer has availed such input tax credit even before the above specified period, such input tax credit would be reversed unless the dealer deposits interest for the period of earlier availment of such input tax credit up to March 31, 2008.

### **Input Tax Credit on Capital Goods [Rule 18(2) & Section 18(1)(G)]**

Where any goods are being used in the State as capital goods in manufacture of goods other than exempted goods then ITC will be allowed on such capital goods.

Input tax credit in respect of purchase of capital goods on VAT invoice shall be allowed in the usual manner and shall be carried forward till the first sale of the goods manufactured from such capital goods.

### **What is Capital Goods**

Capital good is defined u/s 2(7) of the VAT Act. As per Section 2(7), Capital Goods mean plant and machinery including parts and accessories thereof, meant for use in manufacture unless otherwise notified by the State Government from time to time in the Official Gazette.

### **Commodity not eligible for input tax credit**

Under Section 18(1)(e), the State Government has the power to notify certain commodities not eligible for input tax credit. So far Government has issued following notifications in this regard-

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1. High and light speed diesel oil- Notification No. 2199 dated 09.03.2007.
2. Crude oil- Notification No. 2373 dated 15.05.2008.

**Input Tax Credit In Case of Stock Transfer**

In case any raw material or other goods is purchased and the same is sent outside the state for sale, input tax credit on tax paid above 4% shall be allowed to the dealer (Notification S.No.2049 dated 31.03.2006).

**Verification of Input Tax Credit In Case Of Early Refund**

Commissioner, Commercial Taxes has issued instruction through Notification S.No.2446 dated 24.09.2008 for speedy processing of refund applications.

# Chapter 19

## Branch Transfer

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### 1. Introduction

1.1. Under section 6A of the Central Sales Tax Act, 1956 when a registered dealer transfers the goods to his branch office situated in another state, then goods are transferred without charging interstate tax against Form 'F'.

1.2. As a simple proposition when movement of goods is not connected with any pre-existing contract of sale i.e. goods are not supplied against any pre-existing order of buyer through branch, it would be a transaction of simple branch transfer where goods may be sent to one's depot/branch. Section 6A of the CST Act provides mode for proof of transfer of goods otherwise than by way of sale.

1.3. Rule 12(5) of the CST (Reg. & turnover) Rules, 1957 provides that declaration referred to in sub-section (1) of section 6A shall be in Form-F and such Form-F may contain transactions which are effected during a period of calendar month.

1.4. Production of Form-F is prima facie evidence regarding nature of transaction and prima facie burden would be discharged by the assessee by production of such declaration form. In case the assessing authority holds otherwise, then burden would rest on him to prove that transactions are not in the nature of branch transfer. Form-F has been made mandatory by Finance Act No.20 of 2002.

1.5. The Assesse should ensure that the branch maintains proper stock, and direct goods should are not be supplied to buyers on behalf of branch.

### 2. Evidence for Branch Transfers

To establish branch transfer the following points should be proved:

1. Establishment of Branches/Depots at mentioned places and maintaining them at its own expenses.
2. Bulk quantity is dispatched by factory on requisition without reference to a particular contract of sale or a buyer.

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3. Goods are dispatched by factory from Rajasthan to various branches/depots outside the state and not to any particular person/buyer.
4. Excise gate passes are prepared in the name of branch/depot agent concerned.
5. When sending goods from assessor's factory, the delivery challans are prepared in the name of branch/depot outside the state.
6. Transportation and Octroi duty from the assessor's factory to branch/depot are paid by the assessee.
7. Transit Insurance of the goods from the assessor's factory to branch/depot is paid by assessee.
8. Delivery of goods was taken by the staff of branch/depot or its clearing agent.
9. That goods were taken in the godowns of the branches/depot and were stored in the godown.
10. The property of goods remained with assessee till they were sold by branch/depot to any particular buyer on appropriation at the discretion of the depot.
11. Delivery of goods subsequently made by the branch/depot to various buyers by their own delivery orders/challan.
12. Delivery order and challans are prepared by the depot after receipt of goods in their Godown.
13. The goods were appropriated to a particular buyer in branch/depot outside the state of Rajasthan when they were sold to a particular buyer.
14. The branch/depot is registered under the respective states for Sales Tax and have been assessed to S.T. in their respective states.
15. Goods were not manufactured according to specification of a particular customer nor particular goods meant for a particular customer so as to exclude the possibility of any diversion.
16. Goods are cleared by the offices/depot of Co. at various branches/depots. Delivery is made by godown after preparing delivery challan or invoices.

17. Depot/Branch manager has discretion to deliver the goods in any quantity or any customer of their choice.
18. The Branch/Depot should not act as conduit pipe as there is no agreement and correspondence with the factory or the factory is aware as to whom goods are likely to be supplied from under various bulk orders sent by various branches/depots from time to time.
19. The depot/branch manager has absolute discretion to supply goods from huge stock lying at godown of sales office situated outside Rajasthan.
20. There was a possibility of diversion of goods after dispatch from Head Office as the goods were not manufactured to a particular specification for a particular customer.
21. None of the contents of "F" forms produced were found incorrect.
22. Assessment was done after due scrutiny.

### **3. Judgements Relating to Branch Transfers**

#### **3.1. English Electric Co. Ltd. v/s Dy. CTO (1976) 38 STC 475 (SC)**

##### **Facts of the case**

Appellant had his registered office in Calcutta and branches at various places including Bombay and factory at Madras which manufactured certain goods at its factory. Bombay branch on an enquiry from Bombay buyer contacted Madras factory and after negotiations Madras factory dispatched goods to Bombay buyers and Railway receipt was in the name of Bombay branch to secure the payment against delivery.

##### **Decision**

Madras high court held that the sale was interstate sale falling u/s 3(9) of CST Act. On appeal to Supreme Court, the High Court order was upheld and it was observed that goods were sent directly from Madras factory to Bombay Buyers.

### **3.2. Sahiney Steel & Press Work Ltd. v/s CTO (1985) 60 STC 301(56)**

#### **Facts of the Case**

The branch received orders from customers for supply of goods conforming to definite specifications and advised principal office at Hyderabad. The company manufactured goods according to specifications and supplied to its branch. Branch entered the goods in stock register and dispatched the goods to customers after inspection. The branch raised the bill and received the sale price. Branch also furnished Form-F to the principal.

#### **Decision**

The CTO Hyderabad held the sale as interstate sale and charged CST. In a suit to Supreme Court, the court held that even if the customer placed an order with branch office and the branch office communicated terms and specifications order to the principal and the branch office was concerned with dispatching, billing and receiving of the sale price only, the order placed by the customer was an order placed with the company and for the purpose of fulfilling the order, the manufactured goods commence their journey from Registered office to branch outside the state for delivery of the goods to the customers. The movement of goods from registered office was occasioned by order placed by the customers and was an incident of contract, and therefore, from the very beginning from Hyderabad all the way until delivery to the customers it was interstate movement.

### **3.3. Gromor Chemicals (P) Ltd. Vs. State of AP(1990)79 STC 42 (AP HC)**

#### **Facts of the Case**

The company having its manufacturing unit at Andhra Pradesh transferred stock to its Calcutta branch which sold it to Dey's Medical at Calcutta which was the major buyer. The company claimed that dispatch from Andhra Pradesh to Calcutta was a "Stock Transfer". It was found that there was no concluded contract between the company and buyer i.e. Dey's Medical of Calcutta, though it was the major buyer.

#### **Decision**

It was held by AP High Court that when goods moved from Patancheru to Calcutta there was no concluded contract. Hence, goods did not move as a result of interstate sale. It was held that movement from Andhra Pradesh to Calcutta Head Office was a stock transfer.

# Chapter 20

## Consignment Sale

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### 1. What is Consignment Sale

1.1. When a registered dealer transfers the goods to any agent for sale on his behalf such type of transfer is called consignment sale. In consignment sale principal and agent are situated in different states and no interstate tax is attracted as dispatch to Consignment Agent is not considered as a sale because property in goods is not transferred and hence no CST is payable. Consignment sale is effected against Form 'F' which the consignment agent issues to the principal.

1.2. When goods are dispatched to consignment agent by Principal, the property in goods remains with the principal. All the sales made by the Agent are performed on behalf of the Principal. Consignment Agent collects the sale proceeds and remits the same to the principal. The Consignment Agent can recover his commission, godown charges, insurance charges etc.

1.3. The Consignment Agent maintains a stock register of his principal and prepares a monthly statement of sale effected by him on behalf of his principal. The stock with agent will be the stock of the principal.

1.4. If it is proved that goods are dispatched against any pre-existing order of a buyer then such a transfer will be treated as interstate sale and benefit of consignment sale will not be available.

1.5. 'F' form of a month's transfer of stock may be issued to the principal. A Consignment agent should be appointed through a consignment agreement and fixed commission should be payable on sale to agent.

### 2. Benefit of Consignment Sale

2.1. Through consignment sale one can avoid interstate sales tax, therefore, section 6A of CST Act provides that a dealer who claims that a sale is a consignment sale has to prove that interstate movement of goods is not a sale. Burden of proof is on the dealer to establish that the interstate dispatch

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of goods is not a sale. Sales tax authorities do not have to prove that the sale is interstate. Unless contrary is proved by the dealer, sales tax authorities can presume the same. It is proposed to amend section 6A by Finance Bill, 2002 thereby making production of declaration form in proof of stock transfer mandatory.



# Chapter 21

## Import of Goods

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*This chapter deals with section 79 of Rajasthan Value Added Tax Act, 2003 and rule 53 of the Rajasthan Value Added Tax Rules, 2006.*

### **1. How to Import the Goods (Section 76)**

1.1. 76 (1) The Commissioner may, with a view to preventing or check avoidance or evasion of tax, by notification in the Official Gazette, direct the setting up of a check-post or the erection of barrier or both, at such places as may be specified in the notification, and every officer or official who exercises his powers and discharges his duties at such check-post or barrier by way of inspection of documents produced and goods being moved shall be its In charge.

1.2. 76 (2) The owner or a person duly authorised by such owner or the driver or the person in-charge of a vehicle or carrier or of goods in movement shall-

- (a) Stop a vehicle or carrier at every check post or barrier, and while entering and leaving the limits of the State, bring and stop the vehicle at the nearest check post or barrier, set-up under sub-section (1);
- (b) Carry with him a goods vehicle record including “challans” and “bilties”, invoices, prescribed declaration forms and bills of sale or dispatch memos;
- (c) Produce all the documents including prescribed declaration forms relating to the goods before the in- charge of the check post or barrier;
- (d) Furnish all the information in his possession relating to the goods; and
- (e) Allow the inspection of the goods by the in-charge of the check-post or barrier or any other person authorized by such in-charge.

## **2. Declaration required to be furnished regarding the Goods for Import within the State (Rule 53)<sup>13</sup>**

### **(a) Through Form VAT-47, i.e. manually**

2.1. A registered dealer except those notified as notified under sub rule 2 of rule 53 by the commissioner,

- (i) who imports from any place outside the State, any taxable goods, as may be notified by the State Government, for sale; or
- (ii) who receives any taxable goods as may be notified by the State Government, consigned to him from outside the State or by way of branch transfer/depot transfer/ stock transfer; or
- (iii) who intends to bring, import or otherwise receives any taxable goods as may be notified by the State Government, from outside the State for use, consumption or disposal otherwise by way of sale;

shall furnish or cause to be furnished a declaration in Form VAT-47, completely filed in all respects in ink and ensure that the value, date and month of use of such Forms shall be punched at the specified place provided for in the Form. The counterfoil of the declaration form shall be retained by such dealer and its portions marked as 'Original' and 'Duplicate' shall be carried with the goods in movement.

2.2. However, where goods covered under single invoice are being carried in more than one vehicle, separate Form VAT-47 shall be accompanied with each of such vehicles along with photo copy of the original invoice and challan of the goods carried in the vehicle.

### **(b) Through Form VAT-47A, i.e. electronically<sup>14</sup>**

2.3 Dealers having annual turnover of more than Rupees twenty five lacs in any succeeding year shall generate Form VAT-47A or the identification number through the official website of the Department in lieu of Form VAT-47 before the goods enter into the territory of the State. This shall have effect from July 01, 2015.

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<sup>13</sup> Substituted vide Notification S.O.257 No. F. 12 (23) FD/TAX/2015-193-Dated 9th March, 2015 w.e.f. 01/07/2015

<sup>14</sup> Notification No F.16(463)PT-1/VAT/Tax/CCT/2013/5695 dated 14.05.2015

2.4 To generate Form VAT-47A, the dealer shall submit the information as required either through the official website of the Department or through a mobile application downloaded through the official website of the Department in such manner as provided therein.

2.5 The dealers notified under sub-rule (2) of rule 53 shall furnish or cause to be furnished a declaration regarding goods mentioned in sub-rule (1) of rule 53, in Form VAT-47A. The Form VAT-47A so generated shall be carried with the goods in movement.

2.6 Where the dealer has submitted the information required under sub-rule (2) rule 53, the identification number shall also be generated by the official website of the Department and communicated through a system generated SMS on a mobile phone number given by the dealer. This SMS, in the mobile number given by the dealer, may also be carried with the goods in movement in lieu of Form VAT-47A. In such case identification number so generated by the official website of the Department, shall also be depicted in ink on the GR/ Bilty and Invoice/ bill of sale/ Dispatch memo being carried with the goods in movement.

2.7 Where goods covered under single invoice are being carried in more than one vehicle, separate VAT-47A or Identification number shall be generated for each vehicle and separate Form VAT-47 or Form VAT-47A or Identification number as mentioned in sub-rule (4) of rule 53 shall be carried with each of such vehicles along with photo copy of the original invoice and challan of the goods being carried in the vehicle.

2.8 The owner or person duly authorized by such owner or the driver or the person in-charge of the vehicle or carrier or of goods in movement, shall carry with him the documents specified in clause (b) of section 76(2), including Form VAT-47 or Form VAT-47A or Identification number as mentioned in sub-rule (4) of rule 53, as the case may be.

2.9 Further, he shall produce the same suo motu before the assessing authority or the officer authorized under section 76(4) at the time of inspection.

2.10 In case of form VAT-47, assessing authority or the officer so authorized shall retain the original portion and return the duplicate portion, after putting his signature and official seal on it, to the person producing it. Such officer shall send the retained original portion of the declaration form to the assessing authority or the authorized officer.

2.11 If the declaration Form referred to in sub-rule (1) of rule 53 in respect of the goods in movement has already been submitted to the assessing authority or the officer authorized under section 76(4), the owner or a person duly authorized by such owner or the driver or the person in-charge of the vehicle or carrier of the goods shall, on inspection by an officer authorized under section 76(4) at any subsequent place, produce the countersigned copy of the aforesaid declaration along with other documents specified in clause (b) of section 76(2).

2.12 For the purpose of this rule, 'taxable goods' means all goods except the goods which are exempted from tax in accordance with the provisions of the Act.

### **3. Import of Goods by through Railways, Airways, Dry port or by any other mode [Rule 53(8)]**

3.1 All documents specified in clause (b) of section 76(2) including Form VAT-47 or Form VAT-47A or Identification number as mentioned in sub-rule (4), as the case may be, shall be accompanied with the goods in movement.

3.2 The Railways, Airways, Dry port authorities while booking goods for any destination in Rajasthan from a place outside the State, shall ensure that the goods in movement shall be accompanied by documents including Form VAT-47 or Form VAT-47A or Identification number as mentioned in sub-rule (4) of rule 53, as the case may be, prescribed under these rules.

3.3 The assessing authority or the officer authorized under section 76(4) shall have the powers to inspect and check the goods in movement and the documents thereof, he may also seize the goods suspected of tax evasion by providing copy of the seizure memo to the concerned Railways, Airways, or Dry port officials and may also remove the goods so seized from the Railway, Airport or Dry port premises or from such other places where such goods are kept.

3.4 Railway/ Airways/ Dry port authorities shall keep record of consignee and the person taking delivery of the goods including the proof of identification and complete address thereof, at the time of delivering the goods. The assessing authority or the officer authorized under section 76(4) shall have power to collect details of consignments/ consignor/ consignee from Railways, Airways or Dry port authorities from their records.

3.5 Railways/ Airways/ Dry ports shall be treated as a transporting agency for the purposes of provisions of inspection of goods while in movement

contained in the Act, and shall be subjected to all the provisions contained in the Act and the Rules including penal action against them.

#### **4. Submission of VAT-48 Form [Rule 53(9) & 53(10)]**

4.1. The registered dealer shall submit a statement of import of goods in Form VAT-48 along with the original portions of Form VAT-47 within 30 days of end of quarter to the assessing authority or authorized officer.

4.2 In case the original portion of the Form VAT-47 has not been retained by any officer mentioned in sub-rule (4) of rule 53, it shall also be furnished along with the duplicate portion of Form VAT-47 to the assessing authority or to the authorized officer within 30 days of end of quarter.

4.3. If, a registered dealer fails to furnish statement as mentioned above the assessing authority or the authorized officer, after affording a reasonable opportunity of being heard, may impose penalty under section 64.

4.4 Quarter means the period of three months ending on 30th June, 30th September, 31st December and 31st March.

#### **5. How to Obtain Form [Rule 53(11)]**

- (a) Blank declaration Forms VAT-47 shall be obtained from the assessing authority or officer/person authorized by the Commissioner on payment in Government Treasury, authorized bank or the office of the assessing authority/authorized officer, a sum of rupees fifty for each book containing twenty five declaration forms.
- (b) For obtaining declaration forms referred to in clause (a), the registered dealer shall apply in Form VAT-16A to the assessing authority or officer/person authorized by the Commissioner stating his requirement of such forms.
- (c) Where the Form VAT-16A is complete in all respect with requisite enclosures, the assessing authority or the authorized officer/person shall issue sufficient number of forms subject to maximum limit fixed by the assessing authority from time to time.
- (d) All declaration forms issued under clause (b) shall be authenticated by the assessing authority or the authorized officer/person with his seal and date of issue.

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- (e) The name of the dealer and registration number (TIN) shall be stamped at the appropriate place while issuing the said form to the dealer.
- (f) Such forms shall remain valid for two years from the date of issue.
- (g) Every registered dealer shall keep the declaration forms received by him in safe custody and shall be personally responsible for the loss of Government Revenue, if any, directly or indirectly from any theft, loss or destruction thereof.
- (h) If any such form is stolen, lost or destroyed, the dealer shall immediately report the fact to his assessing authority and shall issue public notice of theft, loss or destruction, and take such further action as directed by the assessing authority.
- (i) The dealer who reports theft, loss or destruction of any blank or duly completed form shall be required to furnish security by way of an indemnity bond in Form VAT-65 against any possible use of the form, as prescribed in sub-rule (8) of rule 21, of such amount and within such period as may be required by the assessing authority.
- (j) Any unused declaration form or forms remaining in stock with a registered dealer on the permanent discontinuance or closure of his business shall be surrendered by him to his assessing authority within a period of thirty days from the date of such discontinuance or closure.
- (k) The Commissioner may, by notification in the Official Gazette, declare that forms of a particular series, design or color shall be deemed obsolete and/or invalid for use with effect from such date as may be specified in the notification.

**6. Notified Goods on which Form Vat-47 is Mandatory:  
(Applicable W.E.F.08.07.2009)**

On the following goods VAT-47 is required in following cases: (See Notification No.F.12 (84)FD/Tax/2009-21 Dated 08-07-2009) (S.No.2512)

- (a) A registered dealer who imports from any place outside the State, any taxable goods, as may be notified by the State Government, for sale;  
or
- (b) A registered dealer who intends to bring, import or otherwise receives any taxable goods as may be notified by the State Government, from

outside the State for use, consumption or disposal otherwise than by way of sale;

1. All kinds of furniture including moulded furniture.
2. All kinds of lubricants.
3. All kinds of mattresses, cushion, pillows, all types of sheet, and other articles made from foam, rubber or plastic foam or other synthetic foam and rubberized coir mattresses.
4. All kinds of toilet & washing soaps and detergents.
5. All goods made of cement. (Deleted by S.No.2600 dated 09.03.2010)
6. All types of bearings.
7. All types of sanitary goods including sanitary pipes and fittings.
8. All types of electrical goods including UPS and CVTS.
9. Audio and Video cassettes. (Deleted by S.No.2600 dated 09.03.2010)
10. Butter and Deshi Ghee.
11. Computers, its software, floppies and parts.
12. Cooling equipment including air conditioners and refrigerators.
13. Copper in all its forms including wires.
14. Dry fruits including Clove, Cardamom, pepper and betel nut.
15. Raw or refined edible oil and hydrogenated vegetable oil.
16. Electronic items including TV, VCR, VCP.
17. Gur.(Deleted by S.No.2600 dated 09.03.2010)
18. Iron & Steel as defined under Section 14 of the CST Act.
19. Parts of Automobiles & Tractors except when used in manufacturing of automobiles or tractors.
20. Pan Massala, Guthka and Churi.
21. Paints, varnishes, colour and dyes.

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22. Timber, ply woods, Nuwood and Laminated sheets.
23. Safety Matches. (Deleted by S.No.2600 dated 09.03.2010)
24. Tele-communication and sound transmitting equipments including Cellular & Cordless telephone, Fax and Pagers.
25. Tea.
26. All types of yarn whether cotton, woollen or synthetic.
27. Metallic Utensils.
28. All type of crockery.
29. Photographic goods. (Deleted by S.No.2600 dated 09.03.2010)
30. Plastic goods, PVC granules except when used as raw material for production of plastic goods.
31. Rubber goods made of rubber.
32. All kinds of paper and paper products including exercise books.
33. All kinds of tiles.
34. Fireworks. (Deleted by S.No.2600 dated 09.03.2010)
35. Non edible oil. (Deleted by S.No.2600 dated 09.03.2010)
36. Rice.
37. Cotton seed. (Deleted by S.No.2600 dated 09.03.2010)
38. All kinds of foot-wear.

## **7. Requirement of Form VAT-47 in Case of Sale outside the State**

7.1. On the following goods VAT-47 is required in case of registered dealer who receives any taxable goods as may be notified by the State Government, consigned to him from outside the State or by way of branch transfer/ depot transfer/ stock transfer (See Notification No.F.12(84)FD/Tax/2009-21 Dated 08-07-2009) (S.No.2513)

All goods other than the goods mentioned in the List given below, to be notified for the purpose of said clause.

7.2. List

- (i) High and Light Speed Diesel Oil, Petrol and Aviation Turbine Fuel; and



- (ii) Goods, the sale or purchase of which by dealers are exempt from tax under Schedule I.
- (iii) Goods, the sale or purchase of which by dealers is exempt from tax on the sole condition of obtaining a certificate of exemption with or without payment of any fees;
- (iv) Goods, the sale or purchase of which by dealers is exempt from tax on the sole condition of obtaining a certificate of exemption on payment of fees, and such exemption certificate has been obtained by the dealer to whom the goods have been consigned; and
- (v) Goods, the sale or purchase of which by dealers is exempt from tax on the sole condition that the goods are recorded in the registration certificate of the dealers claiming the exemption.

## **8. Consequences of non-production of Documents (Rule 56)**

Where the owner or a person duly authorized by such owner or the driver or the person in charge of the vehicle or carrier of goods, as the case may be, does not possess any document and declaration Form in respect of the goods in movement, or fails to produce or refuses to deliver the documents and the declaration forms, or the documents and the declaration forms produced appear to be false or forged, the in-charge of the check-post or the officer empowered under rule 52, may get such goods unloaded from the vehicle or the carrier and seize the same and shall issue a receipt of the goods so seized in Form VAT-52.

## **9. Procedure after Seizure [Section 76 (5)]**

Where any goods in movement, other than exempted goods, are without documents, or are not supported by documents as referred to in subsection (2), or documents produced appear to be false or forged, the in charge of the check-post or barrier or the officer empowered under subsection (4), may-

- (a) Direct the owner or a person duly authorized by such owner or the driver or the person in charge of the vehicle or carrier of the goods not to part with the goods in any manner including by re-transporting or re-booking, till verification is done or an enquiry is made, which shall not take more than seven days;

- (b) Seize the goods for reasons to be recorded in writing and shall give a receipt for the goods to the person from whose possession or control they are seized;
- (c) Release the goods seized under clause (b) to the owner of the goods or to a person duly authorized by such owner, during the course of the proceedings, if adequate security of the amount equal to the estimated value of the goods is furnished.

### **10. Notice after Seizure [Rule 56(4) & 57(2) & 57(3)]**

1. Where the goods are seized, assessing authority or the officer authorized under sub-section (4) of section 76, shall serve notice on the owner and the person duly authorized by such owner or the driver or the person in charge of the vehicle or carrier or of the goods, as the case may be, requiring him to show-cause within 7 days from the date of service of the notice, as to why the documents and declaration, as referred to in sub-rule (1) were not produced or why the correct particulars were not furnished, at the time of inspection.

If the said assessing authority or the officer authorized under sub-section (4) of the section 76 is satisfied with the reply, or the penalty imposed under sub-section (6) of section 76 has been paid, or a security as demanded in lieu of such amount of penalty has been furnished, he shall release the goods and deliver the same to the owner of the goods or to anybody else duly authorized by such owner, after obtaining an acknowledgment to that effect. [Rule 56(4)]

2. The assessing officer or the officer authorized under sub-section (4) of the section 76 shall, immediately after conducting the enquiry under clause (a) of sub-section (5) of section 76, shall issue a show-cause notice of a period not less than 7 days, to the owner or the driver or the person in charge of the vehicle or carrier or of the goods, as the case may be, where such vehicle or carrier is detained under sub-section (9) of section 76.

3. The assessing authority or the officer authorized under sub-section (4) of section 76, if not satisfied with the reply of the owner or the driver or the person in charge of the vehicle or the carrier as the case may be, shall impose the penalty as provided in sub section (9) of section 76, and shall release the vehicle or the carrier to the owner or the person duly authorized by such owner or the driver or the person in charge of the vehicle or carrier

on payment of the penalty imposed or on furnishing of the security as directed by him. [Rule 57(2)].

4. Where, in response to a notice issued under sub-rule (2), the in-charge of the check-post or the officer referred to in sub-rule (1) is satisfied that no offence has been committed under sub-section (9) of the section 76, he shall release the vehicle or the carrier to the owner or a person duly authorized by such owner, or the driver or the person in charge of the vehicle or carrier at once. [Rule 57(3)].

## **11. Penalty to be Imposed (Section 76)**

11.1. The in-charge of the check post or barrier or the officer empowered under sub-section (4) after having given the owner of the goods or person duly authorized in writing by such owner or person in charge of the goods, a reasonable opportunity of being heard and after having held such enquiry as he may deem fit, shall impose on him for possession or movement of goods, whether seized or not, in violation of the provisions of clause (a) of sub-section (2) or for submission of false or forged documents or declaration, a penalty equal to thirty percent of the value of such goods. [Section 76(6)]

11.2. During the pendency of the proceedings under sub-section (6), if any person appears before the in-charge of the check post or barrier or the officer empowered under sub-section (4) and prays for being impleaded as a party to the case on the ground of involvement of his interest therein, the said in-charge or the officer being satisfied may permit him to be impleaded as a party to the case; and thereafter, all the provisions of this section shall mutatis mutandis apply to him. [Section 76(7)]

11.3. The in-charge of the check post or barrier or the officer empowered under sub-section (4) may release the goods to the owner of the goods or to a person duly authorized by such owner, if seized and not already released under clause (b) of sub-section (5), on payment of the penalty imposed under sub-section (6) or on furnishing such security for the payment thereof, as such in-charge or officer may consider necessary. [Section 76(8)]

## **12. Liability of Transporter (Section 76)**

12.1. Where the owner or a person duly authorized by such owner or the driver or the person in charge of the vehicle or carrier is found guilty of violation of the provisions of sub-section (2), the in-charge of the check-post

or barrier or the officer empowered under sub-section (4) may detain such vehicle or carrier, and after affording an opportunity of being heard to such owner, driver or person, may impose a penalty equal to thirty per cent of the value of such goods. [Section 76(9)]

12.2. Notwithstanding anything contained in this section, where the driver or the person in-charge of the vehicle or the carrier abstains from bringing or stopping the vehicle or carrier at the nearest check-post as provided under clause (a) of sub-section (2), the in-charge of the check-post or the officer empowered under sub-section (4) may detain such vehicle or carrier and, after affording an opportunity of being heard to the owner or a person duly authorized by such owner or the driver or the person in-charge of the vehicle or the carrier, may impose a penalty equal to thirty per cent of the value of such goods. [Section 76(11)]

12.3. If a transporter fails to give information as required from him under clause (d) of sub-section (2) about the consignor, consignee or the goods within such time as may be specified or transports the goods [with false or forged documents], besides imposition of the penalty under sub-section (6), it shall be presumed that the goods so transported have been sold in the State of Rajasthan by him and he shall be deemed to be a dealer for those goods under this Act, and a penalty equal to thirty per cent of the value of such goods may be imposed on him. (Section 76(12))

12.4. The provisions of this Act shall, for the purposes of the levy, collection and assessment of tax, determination of interest, payment and recovery of tax and interest, appeal, review or revision, apply to the transporter deemed to be a dealer under sub-section (12) [Section 76(13)].

### **13. Composition of Offences (Section 68)**

1. Where a person or dealer is charged under this Act with the offence of avoidance or evasion of tax in any manner and at any time, he may make application in the prescribed form and manner to the Deputy Commissioner (Administration) having jurisdiction, admitting his offence and making request therein for composition of the offence in lieu of penalty or prosecution.

2. The Deputy Commissioner (Administration) may, whether or not an assessment order under any section of this Act has been passed, accept from the person who made the application under sub-section (1), by way of

composition of the offence in lieu of penalty or prosecution a sum equal to the amount of tax avoided or evaded.

3. Notwithstanding anything contained in sub-sections (1) and (2), on an application by a person admitting the offence committed by him under sub-section (8) of section 75 or under sub-section (6) and (9) or (11) of section 76, the officer authorized under sub-section (4) of section 75 or the officers authorized under sub-section (4) of section 76 or the in-charge of the check-post, as the case may be, may accept composition money from such person in lieu of penalty or prosecution, which shall be-

- (a) In case of offence committed by him under sub section (8) of section 75 or subsection (6) of section 76, equal to the amount of four times of the tax leviable on the goods involved or 25% of the value of such goods, whichever is less;
- (b) In case of offence committed by him under sub section (9) of section 76, equal to 25% of the value of such goods
- (c) in case of offence committed under sub-section (11) of section 76, equal to twenty five percent of the value of such goods.

4. The composition of any offence in lieu of penalty or prosecution under sub-section (2) shall be without prejudice to the liability of the person or dealer, charged with the offence, to pay the tax with interest so avoided or evaded or wrongly credited by him.

5. On the payment of the amount of composition determined under subsection (2) & (3) no further proceedings will be there under the provisions of this Act for imposition of penalty or launching of prosecution for the same offence, shall be initiated.

6. Notwithstanding anything contained in section 51, no amount of composition will be accepted and no amount of interest levied under this section, shall be waived or reduced by the Commissioner.

Notwithstanding anything contained in section 82, no appeal shall lie or subsist against an order of composition made under this Act.

## Chapter 22

# Export of Goods

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*This chapter deals with rule 54 of Rajasthan Value Added Tax Rules, 2006*

### **1. Export of Goods outside the State (Rule 54)<sup>15</sup>**

1.1. A registered dealer who dispatches any taxable goods to a place outside the state

- (a) For sale outside the state or by way of branch transfers/depot transfers/ stock transfers, except the goods as may be notified by the State Government; or
- (b) In the course of inter-state trade or commerce, as may be notified by the State Government; or
- (c) In the course of export as defined in sub-section (3) of section 5 of the Central Sales Tax Act, 1956, as may be notified by the State Government; (No goods notified)

Shall furnish or cause to be furnished *declaration Form VAT-49* completely filled in all respects in ink and ensure that the value, date and month of use of such Form shall be punched at the specified place provided for in the Form.

1.2. Such dealer shall retain the counterfoil of the Form VAT-49 with him and the portions marked 'Original' and 'Duplicate' shall be carried with the goods. However, where the goods covered under single invoice which are being carried in more than one vehicle, separate Form VAT-49 shall be accompanied with each of such vehicles along with photo copy of the original invoice and challan of the goods carried in the vehicle.

1.3. A registered dealer may also furnish a declaration in Form VAT-49A, electronically through the official website of the Commercial Taxes Department of the State.

1.4 Dealers having annual turnover of more than Rupees twenty five lacs in any succeeding year shall generate Form VAT-49A or the identification

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<sup>15</sup> Substituted vide Notification S.O.257 No. F. 12 (23) FD/TAX/2015-193-Dated 9th March, 2015 w.e.f 01/07/2015

number through the official website of the Department in lieu of Form VAT-49, before the goods are dispatched to a place outside the State. This shall have effect from July 01, 2015.<sup>16</sup>

1.5 To generate Form VAT-49A, the dealer shall submit the information as required either through the official website of the Department or through a mobile application downloaded through the official website of the Department in such manner as provided therein.

1.6 The dealers as notified by the Commissioner under rule 54(2) shall furnish or cause to be furnished a declaration regarding goods mentioned in rule 54(1), in Form VAT-49A. The Form VAT-49A so generated shall be carried with the goods in movement.

1.7 When the dealer has submitted the information required under rule 54(2), the Identification number shall also be generated by the official website of the Department and communicated through a system generated SMS on a mobile phone number given by dealer. This SMS in the mobile number given by the dealer may also be carried with the goods in movement in lieu of Form VAT-49A. In such case Identification number so generated by the official website of the Department, shall also be depicted in ink on the GR/ Bilty and invoice/ bill of sale/ Dispatch memo being carried with the goods in movement.

1.8 Where goods covered under single invoice are being carried in more than one vehicles, separate Form VAT-49/ VAT-49A / Identification number shall be generated for each vehicle, and separate form VAT-49 or Form VAT-49A or Identification number as mentioned in rule 54(4) shall be carried with each of such vehicles along with photo copy of the original invoice and challan of the goods being carried in the vehicle.

1.9 The owner or a person duly authorized by such owner or the driver or the person in-charge of the vehicle or carrier or of goods in movement, shall carry with him the documents specified in clause (b) of sub-section (2) of section 76, including Form VAT-49 or Form VAT-49A or Identification number as mentioned in sub-rule (4), as the case may be.

1.10 He shall produce the same suo motu before the assessing authority or the officer authorized under sub-section (4) of section 76 at the time of inspection. In case of Form VAT-49, assessing authority or the officer so authorized shall retain the original portion and return the duplicate portion

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<sup>16</sup> Notification No F.16(463)PT-1/VAT/Tax/CCT/2013/5695 dated 14.05.2015

after putting his signature and official seal on it, to the person producing it. Such officer shall send the retained original portion of the declaration form to the assessing authority or the authorized officer.

1.11 If the declaration Form referred to in sub-rule (1) of rule 54, in respect of the goods in movement has already been submitted to the assessing authority or the officer authorized under section 76(4), the owner or a person duly authorized by such owner or the driver or the person in-charge of the vehicle or carrier or of the goods shall, on inspection by the officer authorized under section 76(4), at any subsequent place, produce the countersigned copy of the aforesaid declaration Form along with other documents specified in clause (b) of section 76(2).

1.12. For the purpose of this rule, "taxable goods" means all goods except the goods which are exempted from tax in accordance with the provisions of the Act.

## **2. Dispatch of Goods through Railways [Rule 54(8)]**

If the goods are dispatched to any place outside the State through Railways, Airways, Dry ports or by any other mode, -

- All documents specified in clause (b) of section 76(2) including Form VAT-49 or Form VAT-49A or Identification number as mentioned in sub-rule (4) of rule 54, as the case may be, shall be accompanied with the goods in movement.
- While booking goods from any place in the State to a place outside the State, Railways, Airways, Dry port authorities shall ensure that the goods in movement shall be accompanied by documents including Form VAT-49 or Form VAT-49A or Identification number as mentioned in sub-rule (4) of rule 54, as the case may be, prescribed under the rules.
- The assessing authority or the officer authorized under section 76(4) shall have the powers to inspect and check the goods in movement and the documents thereof, he may also seize the goods suspected of tax evasion by providing copy of the seizure memo to the concerned Railways, Airways or Dry port officials and may also remove the goods so seized from the Railway, Airport or Dry port premises or from such other places where such goods are kept.



- Railways/Airways/Dry port authorities shall keep record of consignor and of the person booking the goods including their proof of identification and complete address, at the time of booking. The assessing authority or the officer authorized under section 76(4) shall have power to collect details of consignments/ consignor/consignee from Railways, Airways or Dry port authorities.
- Railways/Airways/Dry ports shall be treated as a transporting agency for the purposes of provisions of inspection of goods while in movement contained in the Act, and shall be subjected to all the provisions contained in the Act and the Rules including penal action against them.

### **3. Submission of Details in VAT-50 [Rule 54(9)]**

3.1. The dealer shall submit a statement of the used Form VAT-49 in Form VAT-50 along with the duplicate portion of Form VAT-49 to his assessing authority or to the authorized officer within thirty days of end of quarter.

3.2. However, in case such duplicate portion of Form VAT-49 is not received back by the dealer, an account of use of such forms duly supported by an affidavit of the consignor shall be submitted to his assessing authority or to the authorized officer.

3.3. Where a dealer fails to furnish the statement as mentioned in sub-rule (9) above, the assessing authority or the authorized officer after affording a reasonable opportunity of being heard may impose penalty under section 64.

3.4. Quarter means the period of three months ending on 30th June, 30th September, 31st December and 31st March.

### **4. How to Obtain Form VAT-49 [Rule 54(11)]**

The provisions of sub-rule (11) of rule 53 shall, in so far as may be, mutatis mutandis apply to the declaration Form VAT-49.

### **5. Notified Goods on Which Form VAT-49 is Mandatory (Applicable W.E.F 08.07.2009)**

5.1. A registered dealer who dispatches any taxable goods to a place outside the State for sale outside the State or by way of branch transfers/ depot transfers/ stock transfers, except the goods as may be notified by the

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State Government, shall use Form VAT-49. State Government has notified following goods for this purpose (Notification S.No.2514)

- (a) Cement.
- (b) Chemical Fertilizers.
- (c) Auto mobiles.
- (d) Tyres and Tubes of Automobiles.

5.2. A registered dealer who dispatched any taxable goods to a place outside the State in the course of interstate trade or commerce as may be notified by the State Government shall use Form VAT-49. State Government has notified following goods for this purpose (Notification S.No.2515)

- (a) Jeera.
- (b) Iron and Steel excluding Stainless Steel.
- (c) Soya bean.
- (d) Gram (Chana) and its Dal.
- (e) Dhania.
- (f) Tendu Patta.
- (g) Raw or Refined Edible Oil.
- (h) Oil Seeds.

**Part 5**  
**Appendix**



## Appendix 1

# List of Rajasthan VAT Forms

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Form Name	Description
Form VAT-01	Application For Registration
Form VAT-01B	Affidavit for obtaining e-Registration
Form VAT-02	Declaration of Business Manager
Form VAT-03	Registration Certificate
Form VAT-04	Application for issue of duplicate registration Certificate
Form VAT-05	Application for amendment in the registration certificate
Form VAT-06	Application for insurance of branch certificate
Form VAT-06A	Application for closure of Business
Form VAT-06B	Application for opting for payment of tax u/s 3 (2)
Form VAT-06C	Application for opting out from payment of tax u/s 3 (2)
Form VAT-06D	Application for option to pay tax at full rate on the MRP
Form VAT-07	Purchase Register/Statement of Purchases against VAT invoices
Form VAT-07A	Summary Statement of Purchase against VAT invoices
Form VAT-08	Sales Register
Form VAT-08A	Summary Statement of Sales against VAT invoices
Form VAT-10	Quarterly Return
Form VAT-10	Quarterly Return <b>[Substituted w.e.f. 01 April 2011]</b>
Form VAT-10	Quarterly Return <b>[Substituted w.e.f. 01 April 2012]</b>
Form VAT-10	Quarterly Return <b>[Substituted w.e.f. 14 July 2014]</b>
Form VAT-10A	Annual Return for Quarterly Dealers
Form VAT-10A	Annual Return for Quarterly Dealers <b>[Substituted w.e.f. 01 April 2012]</b>
Form VAT-10A	Annual Return for Quarterly Dealers <b>[Substituted w.e.f. 14 July 2014]</b>
Form VAT-11	Annual Return for Yearly Dealers

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<b>Form Name</b>	<b>Description</b>
Form VAT-11	Annual Return for Yearly Dealers [ <b>Substituted w.e.f. 01 April 2011</b> ]
Form VAT-11	Annual Return for Yearly Dealers [ <b>Substituted w.e.f. 01 April 2012</b> ]
Form VAT-14	Notice
Form VAT-15	Declaration of purchases within the State for Export
Form VAT -16A	Application for Obtaining Declaration Forms VAT 47 and VAT 49
Form VAT-17	Notice for payment of Demand
Form VAT-18	Application for Stay of Recovery of Demand
Form VAT-19	Application for Grant of Installments
Form VAT-20	Application for refund
Form VAT-20A	Application for Early refund
Form VAT-21	Application for refund by Exporters
Form VAT-22	Application for refund by a Person or Unregistered Dealer
Form VAT-23	Refund Order
Form VAT-24	Advice of refund of VAT
Form VAT-25	Refund Adjustment Order
Form VAT-26	Certificate of Chartered Accountant
Form VAT-27	Memorandum for Appeal to Appellate Authority
Form VAT-28	Application for Condonation of delay
Form VAT-30	Memorandum of cross objections to the Tax Board
Form VAT-31	Application for Revision to the High Court U/s 84 of the VAT Act,2003
Form VAT-32	Application for Restoration of Appeal
Form VAT-33	Stock Register of Raw Materials for Manufacturers
Form VAT-34	Stock Register of Finished Goods
Form VAT-35	Dispatch Note from Principal to Agent
Form VAT-36	Certificate of the sale proceeds by the Commission Agent to the Principal
Form VAT -36A	Certificate to be issued by the principal as a proof of deposit of tax to his agent

*List of Rajasthan VAT Forms*

Form Name	Description
Form VAT-37B	Challan for Adjustment through Treasury
Form VAT-38	Receipt for deposit of Tax/Demand/Other Sum
Form VAT-39	Receipt for cash deposit of Tax
Form VAT-40	Particulars of Work Contract to be furnished by the Awarder
Form VAT-40A	Awarder Identification Certificate
Form VAT-40B	Application for cancellation /issue of duplicate certificate/ amendment of Awarder Identification Certificate
Form VAT-40C	Application for issuance of No Tax Deduction Certificate
Form VAT-40D	No Tax Deduction Certificate
Form VAT-40E	Statement of works contracts and tax deducted to be furnished by the awarder
Form VAT-41	Certificate of deduction at source by awarder
Form VAT-42	Details of tax deduction & deposits
Form VAT-43	Application By a person who carries business temporarily for a period not exceeding 120 days in a year
Form VAT-44	Statement of collection and deposits
Form VAT-45	Statement of verification of periodical collection
Form VAT-45A	Statement of verification of periodical collection <b>[Substituted w.e.f. 01 April 2011]</b>
Form VAT-46	Seizure Memo
Form VAT-47	Declaration for Imports by Registered Dealers
Form VAT-47A	Declaration for Imports by Registered Dealers(Electronically Generated)
Form VAT-48	Statement of used Form VAT-47
Form VAT-49	Declaration for carrying goods outside the State by Registered dealers
Form VAT-49A	Declaration for carrying goods outside the State by Registered dealers(Electronically Generated)
Form VAT-50	Statement of used form VAT-49
Form VAT-51	Application-cum-transit pass

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<b>Form Name</b>	<b>Description</b>
Form VAT-52	Receipt of the goods seized while in movement
Form VAT-53	Application for enrolment as tax practitioner
Form VAT-54	Register of persons enrolled as tax practitioners
Form VAT-55	Enrolment Certificate for Tax Practitioner
Form VAT-56	Application for settlement
Form VAT-57	Application for rectification of mistake
Form VAT-58	Application for re-opening of ex-parte assessment
Form VAT-59	Application for determination of disputed question
Form VAT-60	Application for composition of offence under sub section (1) of section 68
Form VAT-61	Application for Registration Certificate by clearing or forwarding agent <b>[Deleted w.e.f. 01 April 2011]</b>
Form VAT-62	Registration Certificate for clearing or forwarding agent <b>[Deleted w.e.f. 01 April 2011]</b>
Form VAT-63	Monthly statement submitted by clearing or forwarding agent
Form VAT-63	Monthly statement submitted by clearing or forwarding agent <b>[Substituted w.e.f. 01 April 2011]</b>
Form VAT-64	Surety Bond
Form VAT-65	Indemnity Bond
Form VAT-66	Application for disclosure of information relating to a dealer
Form VAT-67	Tax Clearance Certificate
Form VAT-69	Application for permission to pay tax in lump sum
Form VAT-70	Certificate for payment of tax in lump sum
Form VAT-71	Application for opt out from the option for payment of tax in lump sum
Form of Closing Stock	Government of Rajasthan commercial taxes department



## Appendix 2

# Role of Chartered Accountants

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Chartered Accountants have a key role to play in proper implementation and success of VAT.

### **1. Helping hand for Compliances**

There are so many compliances required in VAT for which a chartered accountant will work as a helping hand to dealer/person to comply the same in time and save them from interest and penalties laid down for late filing and submission of returns.

### **2. Record & Register- Keeping**

VAT requires proper record keeping and accounting. Systematic records of input credit and its proper utilisation is the key to success of VAT. Chartered Accountants have expertise in these areas. They can play a very significant role in ensuring proper implementation of VAT.

### **3. Facing audit by departmental officers**

There is an audit wing in department and certain percentage of dealers will be taken up for audit every year. The audit wing is an independent wing of tax collection wing, so as to remove bias. There will be cross- verification with Central Excise and Income Tax also [para 2.13 of White Paper on State-Level VAT, 2005). The Chartered Accountant can ensure proper record-keeping to ensure satisfaction of departmental Auditors. He can systematically reply to the audit queries and sort out audit objections, with his professional expertise.

### **4. External Audit of VAT records**

There will be no regular assessment of all VAT returns. Only some returns will be scrutinised. In other cases, return filed by dealer will be accepted. Though trust has been reposed in tax payers, check on compliance is necessary. Professionals can play a very vital role in ensuring tax compliance, by audit of VAT accounts. VAT laws of some States provide for

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audit by Chartered Accountants. In case of Rajasthan audit is mandatory when turnover exceeds ₹ one crore except in the cases where taxes are being paid under composition scheme or filing e return with all required documents.