Bombay Chartered Accountants' Society

Lecture Meeting

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MVAT Audit – Some Important Issues

- Govind G. Goyal
Chartered Accountant

Audit of Accounts

Section 61 of MVAT Act requires certain dealers/persons to get their accounts audited by an accountant, within the prescribed period from the end of the year. The report of such audit is required to be furnished in a prescribed format. The provisions contained in the Act and Rules in this regard are reproduced below: -

"61(1) every dealer liable to pay tax shall;

(a) If his turnover of sales or, as the case may be, of purchases, exceed or exceeds rupees forty lakh in any year, or

(b) If he is a dealer or person who holds license in: -

(i) Form P.L.L under the Maharashtra Distillation of Spirit and Manufacture of Potable Liquor Rules, 1966, or
(ii) Form B-RL under the Maharashtra Manufacture of Beer and Wine Rules, 1966, or
(iii) Form E under the Special Permits and License Rules, 1952, or
(iv) Forms FL-I, FL-II, FL-III, FL-IV under the Bombay Foreign Liquor Rules, 1953, or
(v) Forms Cl-I, CL-II, CL-III, CL/FL/TOD III under the Maharashtra Country Liquor Rules, 1973,

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 that period the report of such audit, in the prescribed form, duly signed and verified by such accountant and setting forth such particulars and certificates as may be prescribed.

Explanation. —For the purposes of this section, "Accountant" means a Chartered Accountant within the meaning of the Chartered Accountants Act, 1949 or a cost accountant within the meaning of the Cost & Works Accountants Act, 1959.

(2) 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

Commissioner may, after giving the dealer a reasonable Opportunity of being heard, impose on him, in addition to any tax payable, a sum by way of penalty equal to one tenth per cent of the total sales.

Provided that if the dealer fails to furnish a copy of such report within the aforesaid period but files it within one month of the end of the said period and the dealer proves to the satisfaction of the Commissioner that the delay was on account of factors beyond his control, then the Commissioner may condone the delay.

(3) Nothing in sub-sections (1) and (2) shall apply to Departments of the Union Government, any Department of any State Government, local authorities, the Railway Administration as defined under the Indian Railways Act, 1989, the Konkan Railway Corporation Limited and the Maharashtra State Road Transport Corporation constituted under the Road Transport Corporation Act 1950."

"Rule 65. The report of audit under section 61 shall be in Form 704."

"Rule 66. The report of the audit under section 61 shall be submitted within ~~eight~~ ten months of the end of the year to which the report relates."

Persons Covered

In order to ascertain whether any person or dealer is required to get his books of account audited under the MVAT Act, the followings will have to be examined/determined: -

I. For clause (1)(a): -

(1) Whether the person is a dealer within the meanings of section 2(8) of MVAT Act.

(2) If a dealer, then whether he is liable to pay tax under the provisions of MVAT Act. A useful reference may be made to section 3 of MVAT Act in this regard.

(3) If the dealer is covered by the provisions of section 2(8) as well as section 3, then it is immaterial whether the dealer has taken registration or not. Thus even an un-registered dealer may also be liable to get his books of account audited. The only criteria to be checked are whether the turnover either of sales or purchases exceeds the limit of Rs. 40 lacs during a financial year.

If all the three criteria discussed above are fulfilled then such a dealer [other than the dealers covered by sub-section (3)] shall get his books of account audited as per the provisions of section 61 and shall submit the report of audit accordingly.

It may be noted that for the purposes of section 61 the term '**Turnover of Sales**' and '**Turnover of Purchases**' have to be examined carefully. The same are defined u/s 2(33) and 2(32) respectively. A useful reference may also be made to the definition of 'Sale' 'Sale Price' and 'Purchase Price' as given u/s 2(24), 2(25) and 2(20) respectively.

It may also be noted that for the purposes of section 61 'Turnover of Purchases' will include all purchases of goods within the State of Maharashtra whether it is trading goods, raw material, packing material, fuel, consumables, capital assets and/or purchase of goods in any other form say by way of expenses debited to Profit & Loss A/c such as Printing & Stationery, Repairs and Maintenance, etc. Likewise 'Turnover of Sales' shall also include, apart from normal sales, any sale or disposal of capital assets, scraps etc.

II. Clause (1)(b) of section 61 requires every person, whether a dealer or not, holding Liquor License of any of the categories as described in (i) to (v) above, to get his books of account audited. Thus all those persons, who are holding such a prescribed license, irrespective of the amount of turnover of purchase or sales during a year, will be required to get their books of account audited and submit the report of audit accordingly.

Appointment of Vat Auditor

- Who can be appointed as Vat Auditor?
  - A chartered accountant in practice
  - A cost accountant in practice

- Who cannot be appointed as Vat Auditor?
  - Any person other than a chartered accountant or cost accountant in practice
  - Employee of the concern or of the same group
  - CA responsible for writing or maintenance of accounts
  - Internal Auditor

- Appointment of relatives or persons having substantial interest is subject to disclosure. (ICAI guidelines -Code of Ethics)

- Letter of Appointment including terms of audit engagement, scope, fees, etc..

- Acceptance
  - No ceiling for number of assignments
  - Code of Ethics to be followed

- Appointment of Joint Auditors

- Appointment of Branch Auditors

<u>Approach to Vat Audit</u>

- Company Audit/ Tax Audit v/s Vat Audit
- Limitations
- Basic principles of audit

<u>Preparation for Vat Audit</u>

- ➢ Knowledge of the business and industry
- ➢ Obtaining basic details about the auditee
- ➢ List of accounting records maintained
- ➢ Major accounting policies
- ➢ Evaluation of internal controls
- ➢ Knowledge of applicable provisions (VAT Law and allied laws)
- ➢ Designing a suitable audit program keeping in mind the requirement of Form 704
    - Turnover – GAAP v/s. VAT
    - Purchases and set-off
    - Composition schemes
    - Returns filed and consolidation

<u>Audit Procedure</u>

- ➢ <u>Use of professional skill and expertise</u>
- ➢ <u>Follow generally accepted auditing practices</u>
- ➢ <u>Apply Auditing & Assurance Standards</u>
- ➢ <u>Applying test checks</u>
- ➢ <u>Applying concept of materiality</u>
- ➢ <u>Assistance of guidance notes to resolve issues</u>
- ➢ <u>Reliance on expert's opinions</u>

<u>Auditing & Assurance Standards</u>

A must for any auditor - AAS-1 to AAS-34, issued by ICAI

Accounting Standards

- Importance of AS in the preparation of financial statements
- Duty of auditor to disclose deviation, if any, and the impact thereof
- Certain AS very much relevant for Vat Audit
- Accounting for VAT as well as determination of liability under the provisions of MVAT and CST may differ from prescribed AS. The Vat Auditor will have to reconcile and report accordingly.

Submission of Audit Report

- Advisable to prepare separate Audit Reports for place(s) of business for which (separate) returns are filed.
- Joint Auditors can issue separate reports in case of disagreement.
- Branch Auditors to submit audit report to the Management or to the principal Vat Auditor.
- VAT Audit Report to be submitted to the Management only.
- To be filed within 10 months from the end of Financial Year.

Audit Report (Form 704)

Old Form: **Part –1,** **Part –II**

New Form: **Part –I,** **Part –II,** **Part – III (Schedules)**

- Instructions
- Part – I — Audit and Certification
Table 1, 2 and 3
- Part – II — General Information
General information about the Dealer, Various Ratios, Details of Purchases exceeding Rs. 5 lacs from new Local Suppliers
- Part – III — Schedules
Schedules I to VI as may be applicable to the category of Dealer

Number of certificates increased from earlier 9 to 15

Point No. in new form	Particular
a	*I/We have read and understood the instructions for filling up this audit report and the Auditor is required to fill in schedule I / II / III / IV / V/ VI (strike out whichever is not applicable) and the Annexures if required.*I/We have obtained all the information and explanations which, to the best of *my / our knowledge and belief, were necessary for the purposes of our audit.
j	The quantum of tax payable /claim of refund is correct.
l	The dealer is conducting his business from the place/places declared by him as his main place of business/ and the additional places of business.
m	The bank statements have been examined by *me/us and they are fully reflected in the books of accounts. Excepting in so far as transactions recorded in the cash book, the transactions recorded in the books of accounts are fully reflected in bank statements during the period of review.
n	Whether dealer has maintained stock register. (Yes/No)
o	Whether dealer has maintained proper record relating to receipt, dispatch and delivery of goods. (Yes/No)

Some Issues on MVAT Audit

Determination of Total Turnover of Sales & Total Turnover of Purchases

Determination of Taxable Turnover of Sales under MVAT Act

Determination of Taxable Turnover of Sales under CST Act

Determination of Turnover in certain specific cases:

- Works Contracts
- Leasing Transactions
- Residential Hotels
- Sale (inclusive of tax)
- Sale (resale) of goods purchased from PSI units

Tax collected and tax payable on Sales

Consolidation of Returns

Reconciliation between Returns, Registers and Profit & Loss A/c

Input Tax Credit (Setoff): -

- Eligibility
- Admissibility

Tax paid on purchases eligible for ITC

Reductions

Net amount of setoff

Credit b/f, Credit c/f

Claim for Refunds

Impact of amendments to MVAT Act

Impact of (retrospective) amendments to MVAT Rules

Medicine Dealers

Motor Spirit Dealers

Hotels & Restaurants

Holders of Liquor licence

Composition Dealers

Kirana Merchants

Works Contractors – TDS

Textile Processors

Verification of CST Returns/Non availability of Forms

Verification of documents in respect of sales/transfers under CST Act

Exports, Sale in the course of Import, Sale in course of Export

Sale in Transit

Branch/consignment transfers

Purchases from un-registered dealers

Adjustment of refund in prior/subsequent period

Audit of accounts where audit has not yet been conducted under any other Act

VAT Audit of incomplete accounts or part-missing or lost records

Difference of opinion or difference in amount determined as per audited accounts under any other Act and the audit conducted under VAT law.

GGG