A GUIDE TO MVAT AUDIT

(SECOND EDITION NOVEMBER 2009)

This publication is brought by Study Group constituted
by Western India Regional Council of
The Institute of Chartered Accountants of India

Composition of Study Group

CA. Ashok Chandak, Past President, ICAI, Convener
CA. Govind Goyal, Past Chairman, WIRC, Member
CA. C. B. Thakar, Member
CA. Deepak Thakkar, Member
CA. Janak Vaghani, Member
CA. Parind Mehta, Member
CA. Rajat Talati, Member
CA. Sujata Rangnekar, Member
CA. Kiran Garkar, Member
CA. Bharat Gosar, Member

WESTERN INDIA REGIONAL COUNCIL OF
THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
ICAI BHAWAN, 27, CUFFE PARADE, COLABA, MUMBAI 400 005
PHONE : 39893989 • FAX : 39802954/39802953 • E-MAIL : wirc@icai.org

Disclosures

Price : Rs. 250/-

Second Edition November, 2009
First Edition March, 2006

Published by CA. B. C. Jain, Chairman, WIRC on behalf of
Western India Regional Council of The Institute of Chartered Accountants of India
ICAI Bhavan, 27, Cuffe Parade, Colaba, Mumbai 400 005.
Tel. 3980 2902 • Fax: 39802954 • Email : wirc@icai.org
Website : http://www.wirc.icai.org
Decentralised Office, Mumbai, Tel.: 3989 3989, Email : wro@icai.org
New Delhi : icaiho@icai.org

Printed by : Finesse Graphics & Prints Pvt. Ltd.
• Tel.: 2496 1685 • Fax: 2496 2297

Foreword

Value Added Tax system for commodity taxation, was introduced by the State of Maharastra w.e.f. 01.04.05. The MVAT Act, 2005 relies heavily on correct and complete returns filed by dealers. Maharashtra Govt. had also entrusted the task of verifying and certifying the correctness and completeness of the returns to Chartered Accountants. VAT Audit being technical in nature, there was a need for training the members and updating their knowledge concerning audit under the MVAT Law.

The Western India Regional Council (WIRC) of The Institute of Chartered Accountants of India had, in March 2006, came out with a Publication on **"A Guide to MVAT Audit"** with a view to update the knowledge of our members and to sharpen their skills to cope with the MVAT Audit which was a new and challenging areas for the profession.

Pursuant to the said Publication, series of seminars were held by WIRC throughout the State of Maharashtra on MVAT Audit which threw up several issues on which members sought clarifications. The issues were debated at length and WIRC came out with another Publication on **"Issues on MVAT Audit"** in December 2006, addressing specific issues that may crop up in the course of complying with the provisions of VAT Audit.

Both the Publications were well received by members and other users and had fulfilled the objective of competence building in the area.

Pursuant to Revised Form 704 and other related developments, it has become necessary to revisit the same and guide the members on the latest developments in this regard.

With this objective, WIRC had constituted a Study Group under the Chairmanship of our Past President CA. Ashok Chandak, to revise the Publication. The Study Group has since come out with the Publication.

In particular, I must express my gratitude to CA. Ashok Chandak, Past President, ICAI, CA. Govind Goyal, CA. C. B. Thakar, CA. Deepak Thakkar, CA. Janak Vaghani, CA. Parind Mehta, CA. Rajat Talati, CA. Bharat Gosar, CA. Kiran Garkar and CA. Sujata Rangnekar, members of the Study Group for the efforts put in by them in the finalization of the Guide.

I would also like to thank Shri Sanjay Bhatia, Commissioner of Sales Tax for his invaluable suggestions and guidance in bringing out this Publication.

I am sure that this Publication will provide necessary guidance to the members in discharging their professional obligations.

Mumbai
November, 10, 2009

CA. B. C. Jain
Chairman WIRC

Preface

Value Added Tax System (VAT) has come to occupy the centre-stage of Indian Indirect Tax System. Its reach and impact has been wide and profound. The overall objective of the system is to maximize the collection of VAT Revenue by maximizing the level of voluntary compliance and by deterring evasion. The principle compliance element in the system involves checking accuracy of submitted returns with books of accounts and thereafter initiating follow-up action. This checking of submitted returns by going through books of accounts and analyzing and interpreting the accounting system and policies adopted, with the provisions of law and thereupon reporting any under-assessment or excess payment of tax is a job of an expert in the field of accounting and thus should be done by an independent auditor. The Maharashtra Government entrusted this task of verifying and certifying the correctness of tax liability *inter alia* to the Profession of Chartered Accountants. I am told that the experience of last 3 years has been satisfactory.

Although it is inevitable that audit will not result in additional VAT revenue, the report could be used as a performance measure for appropriateness of the mix of targeted and random audits. Therefore, in order to seek more credible information, the audit report format has been revised.

The introduction of the revised Form 704 has widened the scope of VAT Audit. The role of Chartered Accountant in this process has been widened extensively. Consequentially Western India Regional Council of the Institute of Chartered Accountants of India (WIRC), in order to educate the members of the profession about the requirements of the new Form, has constituted a study group under the Convenorship of the undersigned to prepare this **"Guide to MVAT Audit"** under MVAT Act. The Study Group had several meetings, not only amongst themselves but with the Departmental Officers also, to discuss various issues and after great deliberation has come out with this Publication.

The newly designed Form 704 comprises

(a) Instructions to fill up the form

(b) Part 1 – Audit and Certification

(c) Part 2 – General Information of Dealer and Business

(d) Part 3 – Schedules and Annexures. This publication also follows such design of the Form. Subjects for discussion have been dealt with in

various Chapters. However, reference to the subject/topics relating to the particulars to be filled into Annexures and Schedules have been dealt with at the appropriate places in the Chapters relating to Annexures and Schedules. Repetition is avoided wherever possible. Reader is therefore, advised to read the Discussion on Schedules and Annexures along with the Discussion on Particulars filled in Part 1 and Part 2 of the Audit Report.

It is hoped that this Publication will enable the members to update their knowledge and sharpen their skills to cope up with the new requirements. The VAT Audit report will be good value for money not only to the Dealer but also to tax administration. Although Revenue Accounting Systems are not designed to record performance of the audit, I am sure, members armed with this technical purification and with their professional approach in conducting the audit, will serve the tax administration, to get more accurate and credible information.

This Publication was possible only with the active co-operation of all the members of the Study Group. In particular, I must express my gratitude to Shri Govind G. Goyal, Past Chairman, WIRC, S/Shri C. B. Thakar, Deepak Thakkar, Rajat Talati, Janak Vaghani, Kiran Garkar, Parind Mehta, Bharat Gosar and Smt. Sujata Rangnekar, members of the study group, for the efforts put in by each one of them but for which the Publication of this Guide would not have been possible. I am also thankful to Shri B. C. Jain, Chairman of WIRC, Shri Bhailal K. Patel, Chairman, Indirect Tax Committee of WIRC, Shri Mangesh Kinare, Chairman, Research and Publication Committee of WIRC and Shri Sanjeev Lalan, Member of WIRC who co-ordinated the entire process of Publication, for their co-operation.

I would also like to thank Shri Sanjay Bhatia, the Commissioner of Sales Tax and other Officers of the Sales Tax Department for their invaluable suggestions and guidance.

Nagpur,
November 10, 2009

CA. Ashok Chandak
(Convener Study Group and Past President of ICAI)

Contents

Abbreviations

Sr. No.	Abbreviation	Terms, Abbreviations used in this Guide
1.	AS	Accounting Standards issued by the Institute
2.	Audit Report	A report submitted u/s 61 of the MVAT Act, i.e. Form 704
3.	Auditor	Auditor appointed for conducting audit where audit is not compulsory under statute governing the dealer/person
4.	BST Act	The Bombay Sales Tax Act, 1959
5.	COE	Code of Ethics formulated by the Institute
6.	Commissioner	The Commissioner of Sales Tax
7.	CST Act	The Central Sales Tax Act, 1956
8.	CTC	Certified True Copy
9.	Council	The Council of the Institute of Chartered Accountants of India
10.	Dealer	Dealer / Person / Tax Payer / Assessee under VAT Law
11.	e-704/e-Template	Form 704 available on the website of the Sales Tax Department
12.	Form	Form under MVAT Rules
13.	GAAP	Generally Accepted Accounting Principles
14.	ICAI	The Institute of Chartered Accountants of India

Sr. No.	Abbreviation	Terms, Abbreviations used in this Guide
15.	ICAI Guidelines	Council General Guidelines 2008 dated 08.08.2008
16.	MRP	Maximum Retail Price printed on package
17.	MVAT Act	The Maharashtra Value Added Tax Act, 2002
18.	MVAT Law	Act, Rules, Orders, Notifications, etc. for implementation of VAT in Maharashtra
19.	MVAT Rules	The Maharashtra Value Added Tax Rules, 2005
20.	SA	Standards on Quality Control and Engagement Standard issued by the Institute as part of auditing pronouncement.
21.	Statutory Auditor	Auditor appointed under the Act governing the dealer / person / entity
22.	Tax	Tax under MVAT Act / CST Act
23.	Tax Auditor	Auditor appointed under section 44AB of the Income-tax Act
24.	Tax Invoice	An invoice/bill/cash memo complying with the requirement of Section 86(1) of MVAT Act on the basis of which set-off can be claimed
25.	TDS	Tax Deducted at source under MVAT Law
26.	VAT	Value Added Tax System or State Level Value Added Tax System
27.	Vat Audit	Audit conducted under State VAT Law
28.	Vat Auditor	A Chartered Accountant appointed to carry out the audit under section 61
29.	VAT Laws	Act, Rules, Orders, Notifications etc. for implementation of VAT in the State

WESTERN INDIA
REGIONAL COUNCIL
2009-2010

Chairman
CA. B. C. Jain

Vice Chairman
CA. B. K. Rathi

Secretary
CA. Raju Shah

Treasurer
CA. Ashok Pagariya

Members
CA. Ashwin Nagar
CA. Atulkumar Parikh
CA. B. M. Agarwal
CA. Bhailal Patel
CA. Chandrakant Pawar
CA. Dhiraj Khandelwal
CA. Durgesh Kabra
CA. Makarand Joshi
CA. Mangesh Kinare
CA. N. C. Hegde
CA. Prafulla Chhajed
CA. Rakesh Lahoti
CA. Sanjeev Lalan
CA. Shardul Shah
CA. Shriniwas Joshi
CA. Sunil Kumar Patodia

Ex-Officio Members
CA. Uttam Prakash Agarwal, President ICAI
CA. Atul Bheda
CA. Bhavna Doshi
CA. Jayant Gokhale
CA. Jaydeep Shah
CA. Mahesh Sarda
CA. Pankaj Jain
CA. Preeti Mahatme
CA. Rajkumar Adukia
CA. Sanjeev Maheshwari
CA. Sunil Talati

INTRODUCTION

CHAPTER I

1.1 The concept

'Value Added Tax' (VAT) as the term suggests, is a tax on the value added to the commodity at each stage in production and distribution chain. This may be due to passing of the product through various hands in the channel of distribution or the value added in its price due to some activity of production or manufacture or process undertaken on the commodity. It is a tax on the value at the final or retail point of sale, which is collected at each stage of sale. Putting it in different words, the total amount of tax, which is to be collected at the consumer, or the final, or retail point of sale, is collected in instalments. VAT eliminates the cascading effect of taxes, it promotes competitiveness of exports, it has a simple and transparent culture and it improves compliance. VAT is based on the value addition to the goods. To calculate value addition, by and large, Invoice Method is being used. Thus, VAT liability of the dealer is calculated by deducting input tax credit from tax payable on sales during the return period. This input tax credit will be given to both; manufacturers and traders on purchase of inputs/supplies meant for sales irrespective of when these will be utilized/sold. If the input tax credit exceeds the tax payable on sales during the return period, the excess credit will be carried over up to the end of the financial year. If there is any excess unadjusted input tax credit at the end of the year, then the same will be eligible for refund. This entire design of VAT with input tax credit is crucially based on documentation of tax invoices and books of account.

2. Books of Account

2.1 The Maharashtra Value Added Tax Act, 2002 (MVAT Act) has fixed Rs. 5,00,000/- as threshold for registration. There is also a provision for voluntary registration. The objective of fixing the higher threshold for registration was

(1) To reduce the number of dealers that need be administered by the Sales Tax Department and

(2) To cover those, who are able to maintain reasonably good books of account.

Book keeping is an integral part of any business, if neglected, presents risks to the business' health. Few entrepreneurs consider that they should only be engaged in their general operations of business' and not in the business of book keeping. If businessmen think that books are either beneath them or too complex for them to understand, they will necessarily face problems. Business success depends on a variety of factors: a good product or service delivered by competent people is only one part of the picture; well kept books are as important.

2.2 Many people see book keeping as an exercise that they go through for the purpose of tax returns only. It is therefore understandable that some dealers do not want to bother with accounts until the end of the year, when it is often too late. However, it is vital for businesses to keep their books in order for several other reasons such as pricing the products accurately, to know if the business is making or losing money, check the cash flow in the short and long run, work with bankers, pay the due taxes etc.

2.3 In good olden days, businessmen used to keep strict watch on book keeping. Currently also strict book keeping is required by the legislation in place in most cases, but compliance is not adequately enforced. Enforcing book keeping requires a change of attitude that should first be encouraged by tax administrators by keeping reliance on the books of account maintained by the tax payers. The tax administrators are expected to be conversant with book keeping and they should "educate" tax payers.

2.4 Vat auditors should also be required to check the books at periodical intervals and educate dealers. Tax administrators must enforce compliance with the tax legislation and change bad accounting practices, if any, and penalise those who do not comply with the requirements. In India except presumptive taxation, all tax systems are account based and require the regular maintenance of books of account. VAT being invoice based system, all concerned tax administration (Central or State) have developed strict regulations regarding VAT invoices and the necessity to respect bookkeeping requirements. The authorities of all states, irrespective of their current tax system, must enforce compliance with invoicing and book keeping regulations in order to increase revenue. The issue is not one of developing regulations but one of enforcement.

3. Business, Administrative, Organisation Processes

3.1 Experiences show that companies that are not able to present immediately a written description of the way business processes which are relevant for purposes of VAT are handled within the company, are predestined for failure.

3.2 VAT is all about planning, organising people and processes, verifying, controlling and looking ahead. Nature and impact of VAT are often underestimated. It takes much more than a few instructions to ensure that a company fully complies with domestic VAT and for companies involved in cross-border transactions, with foreign VAT. It is a full process which involves the whole range from presale activities (drafting of contracts or sales conditions, planning of sales structures) to actual sales activities (e.g. invoicing, logistics) and back-office activities (the handling of VAT in the book keeping and the VAT returns), adjustment of invoices (e.g. credit-notes or returning goods), the internal controlling system (the recording of documents), etc.

3.3 VAT is also about verification of business processes. Two examples of not "best practice" experienced:

1) In order to instruct its staff responsible for the issuance of invoices, a multi national company prepared manuals in which every relevant step of the sales and logistical process had been described. However, the manuals did not provide for the controlling mechanism necessary for assuring that the prescribed procedures were actually applied. Furthermore, the manuals described procedures incorrectly or only partially.

2) A small company that produces high-tech goods that are mostly exported, ordered a staff member to take training courses in handling of customs procedures. Years after the staff member had ended the courses successfully, the staff member (still) used the course documentation and examples as a manual for dealing with customs issues, despite the fact that the regulatory framework had changed several times afterwards. Additionally, the staff member did not recognize the significant differences between the examples and the real situations. The company did not establish a procedure for internal or external knowledge support for the staff members.

Both companies faced problems that caused substantial additional costs. Thus there is a need of constant updation of the business, administration and organisation processes.

4. Necessity of Audit

4.1 The reason for prescribing a VAT audit is that under the VAT, a major thrust is to be laid on 'self assessment' meaning thereby that the tax liability calculated and paid by the dealer through periodical returns based upon books of account will be accepted and the dealers will not be called to substantiate the tax liability shown in the returns by producing books of account and other relevant material. Assessments with books of Account will be an exception. Therefore, there is a strong need to see that books of account are maintained regularly and the generally accepted accounting systems and standards are followed. So that a dealer discharges the tax liability properly while filing the returns. In order to ensure that the particulars furnished, by the dealer are correct and on which the authorities can rely, same needs to be verified by an independent auditor in detail by going not only through the books of account but also by analysing and interpreting the accounting systems adopted, accounting policies, the provisions of the VAT Laws and reporting whether any under assessment was made by the dealer requiring additional payment or whether there was any excess payment of tax warranting refund to the dealer. In most of the countries, tax evasion is rampant under the existing tax systems. In India too, evasion of Excise and Sales Tax is estimated to be very high. If no audit is prescribed under VAT law, the chances of evasion of tax will increase causing revenue leakage for the Government. It is, therefore, essential that the audit under VAT is performed on a regular basis. The experience of Income Tax Department as well as of Sales Tax Department of the States, where there is system of audit under VAT Law, supports the view that Independent Audit not only reduces the evasion but also gives confidence to assessee as well as to Department about correct tax liability. However, it is not desirable that all VAT dealers be subjected to Audit. Therefore, the criteria for audit can be the amount of turnover or the class of dealers dealing in specified commodities.

4.2 Like majority of the developing economies, our country is also facing the problem of lack of education and awareness about tax laws, more particularly amongst the trading community. Since the trading

community is not educated enough and fully equipped to understand the implications of VAT, so also on the accounting system, there is every possibility that they may not be in a position to arrange their business affairs to fall in line with the requirements of the VAT and calculate and discharge their exact tax liability. On the other hand, the tax administrators i.e., the authorities in the taxation department also find themselves devoid of sufficient resources to educate the tax payers and inform them about the procedural and accounting changes that are necessitated by the implementation of VAT. Therefore, it is desirable to prescribe an audit by independent professionals in the State VAT Laws.

4.3 The concept of VAT audit is popular even in Foreign Countries where VAT is in practice since long in the field of indirect taxation. In countries like France and Korea, VAT audit by independent professionals has proved to be an effective tool to check the evasion of tax, which was mostly done by producing fake invoices etc.

5. Audit Provision in Maharashtra Value Added Tax Law

5.1 Maharashtra is the leading industrial State of our country. The State machinery has an experience of more than seven years, from 1995 to 1999 and from 2005 till date, in administering VAT. The State VAT Act and the Rules contain comprehensive provisions regarding audit report and the particulars to be furnished. Section 61(1) of the MVAT Act prescribes compulsory audit for the dealers having sales or purchases exceeding Rs. 40 Lakhs by a chartered accountant/cost accountant. Certain other dealers or persons holding licenses under some other laws like Maharashtra Distillation of Spirit and Manufacture of Potable Liquor Rules, 1966 or Maharashtra Manufacture of Beer and Wine Rules, 1966 etc. are also required to get their accounts audited irrespective of the quantum of their turnover. However, the Departments of Union Government and/or State Government and some other deemed dealers are exempted from VAT Audit.

5.2 The related rules are given in Rule 65 and Rule 66 of MVAT Rules. Under these rules, following modalities with respect to audit are noteworthy:-

(i) The audit report has to be given in Form No. 704.

(ii) The audit report has to be submitted within 10 months from the end of the year i.e., on or before 31st January of the following year.

(iii) After 01.10.2009, the audit report has to be submitted by uploading the same electronically in Form 704 provided on the website of the Sales Tax Department (www.mahavat.gov.in).

5.3 Non-submission of audit report, without reasonable cause, within the prescribed time will attract penalty under section 61(2) of the MVAT Act, which is one tenth percent of the sales. However, if the dealer fails to furnish a copy of such report within the specified period but files it within one month of the end of the said period and proves to the satisfaction of the Commissioner that the delay was on account of factors beyond his control, no penalty under this section shall be imposed on him.

5.4 Since beginning, the VAT auditor is required to submit his MVAT Audit Report in Form No. 704 prescribed under the MVAT Rules. This form contains comprehensive particulars to be furnished by the dealers and verified by Chartered Accountants/Cost Accountants. This form is now revised and the new Form 704 is made applicable for all accounting periods commencing w.e.f. 01.04.2008. This Form of VAT Audit Report is much more stringent and requires much more certifications and systematic furnishing of facts, figures and observations so as to ensure the satisfactory level of compliance with law. It also requires to disclose significant variation from the legal requirements, major violation of law, excess and short payment of tax/ claim of refund, liability for interest payment and a lot more useful information such as financial ratios etc. to assist VAT authorities. The report has three parts containing comprehensive particulars. The dealer is expected to furnish such particulars which are to be audited by the Vat auditor. The following are some of the significant observations:-

(i) The statutory requirement under the MVAT law relating to audit report and furnishing of particulars will greatly assist the VAT authorities to ensure realisation of proper revenue and finalise assessment, if need be.

(ii) Give an assurance to the Assessing Officer after visiting principal place of business that the dealer is conducting his business from the same place of business, address of which is

declared and available on the record of the department and also certify major commodities in which the dealer deals .

(iii) The information required and prescribed under Form No. 704 has covered all the aspects of MVAT and CST; viz., tax calculations, turnover disclosed in the returns filed, set-off, calculation of interest for late payment/non payment of tax, liability on account of declarations not received, purchases from new dealers, branch transfers without F form, calculation of composition sum, detailed bifurcation of turnover of the dealer, etc. which would help wherever necessary, to initiate proceedings under the MVAT law.

(iv) It helps to check the correctness of rates of tax, tax payable and variation from the correct and actual tax liability. Further, in case of short or excess payment of tax the report itself has column to suggest the tax payer to adjust the tax variation either by claiming the refund or by paying the differential tax.

5.5 The audit report prescribed under the MVAT law is extremely comprehensive and will really serve the purpose with detailed contents and well-structured annexures covering each and every aspect of MVAT Act. However, in many cases it would be difficult even for the Vat auditor, after best of the efforts and substantive checking to find out certain facts and give necessary certificates contained in para 2B of Part 1 of Form 704. In such a situation it is expected of VAT auditor to make necessary qualifications and give reasons in para 3 of Part 1.

6. Objective of the Guide

The objective of the Guide is to enable the members to update their knowledge and sharpen their skills to cope with MVAT audit. The new form has brought out substantial changes in relation to certifications and reporting. In order to make members aware about these changes and challenges, this guide is published.

❑❑❑

A CHARTERED ACCOUNTANT— AUDIT PROFESSIONAL

CHAPTER II

1. Chartered accountants, as professionals are involved in ensuring financial discipline and transparency in financial transactions. They are widely perceived as experts in all matters relating to accounts, audit and finance.

   Auditing function is the core area where the members of the Institute of Chartered Accountants of India (ICAI) have been playing a key role since long. Considering their in-depth training and special aptitude for accounts and audit, the responsibility for audit under the VAT Law can easily be shouldered by the members of the Institute. The members of the profession have been contributing a lot to the economic world by rendering value added services. The various tax laws framed by the State legislatures to implement State-Level VAT system have reposed confidence in chartered accountants by making suitable provisions for VAT audits.

2. The State Legislatures by providing for VAT audit by chartered accountants have reaffirmed the faith and confidence reposed by the society in chartered accountants. Even the Hon'ble Supreme Court in *T. D. Venkatarao vs. Union of India (1999) 237 ITR 315 (SC)* has recognised the supremacy and competence of the chartered accountants in the matter of audit under tax laws in the following words.

   "Chartered Accountants, by reason of their training have special aptitute in the matter of audit. It is reasonable that they, who form a class by themselves, should be required to audit the accounts of business, whose income exceeds....."

3. The education and training program of the ICAI is designed to ensure that chartered accountants possess in-depth knowledge in accounting, audit procedures, taxation, corporate laws and a very good knowledge of information technology. They have a variety of skills ranging from financial accounting to costing, legal skills, etc.

4. The ICAI has a stringent code of conduct to be followed by all the members of the profession. No other profession has such strict norms for monitoring and regulating the conduct of its members while

discharging their professional duties. They are required to continuously upgrade their knowledge by acquiring constant training by attending various seminars, conferences, workshops and lecture meetings. To achieve the objective of constant professional education of the members, the ICAI has made it mandatory for its members to achieve a minimum prescribed hours of CPE credit by attending the eligible programmes of the Institute on current topics of professional interest. All these taken together gives an upper hand to the members of the accounting profession over other professionals to conduct the audit. For these obvious reasons audit under the VAT laws should have been assigned only to the chartered accountants in all States.

5. The provision of Section 61 of the MVAT Act which authorised Chartered Accountants only to conduct VAT Audit was challenged before the Bombay High Court by the Sales Tax Practitioners Association of Maharashtra as well as by the Bar Council of Maharashtra and Goa by way of Writ Petition No. 3203 of 2006 and 627 of 2007. Before the High Court on behalf of the State Government a reply affidavit was filed, stating that

"the Government of Maharashtra decided to introduce VAT system with effect from 1st April, 2005. At that time the Government decided to amend VAT Act, 2002 in terms of the national consensus arrived at by the empowered committee of State Finance Ministers. Accordingly a draft bill was prepared for submission to the Government and it was made open for comments of the public. The amendment bill inter-alia included a proposal on the request of Advocates, Tax Practitioners and Cost Accountants to include them under Section 61 for tax audit along with the Chartered Accountants having standing in profession for a period of 7 years or more. But there was no assurance directly or impliedly that such proposal will be accepted by the Government or enacted by the Legislature. Various aspects were considered including that under the Companies Act, Section 211(C) requires, that all companies in India must prepare their annual accounts in accordance with the Accounting Standards and get those accounts audited in accordance with the Auditing standards laid down by the Institute of Chartered Accountants of India. The Government decided to continue the old provision of audit under MVAT Act i.e. audit under Section 61 only by Chartered Accountants. Under the Companies Act, the Central Government has also constituted a National Advisory Committee on Accounting Standards (NACAS) which is required to recommend the

Accounting and Auditing standards. However, the Central Government did not issue any notification based on the recommendations of NACAS. The Accounting and Auditing standards issued by the Institute of Chartered Accountants of India are binding. Thus, no corporate entity can prepare its accounts by any method other than that provided by ICAI. Similarly, no audit can be conducted without following Auditing and Assurance Standards (AAS) issued by ICAI. The Accounting and Auditing Standards issued by the International Federation of Accountants (IFAC), Accounting Standards Board of IFAC in the year 2002-03 stands converted into independent Accounting Standards Board (ISAB). The Board to start with, adopted Accounting Standards (AAS) issued by IFAC and now is in the process of revision of some of these standards. The AS are very complex and there are major variances in respect of turnover of sales and purchases accounted as per AAS in the profit and Loss Account of the enterprise and turn over of sales and purchases which is required to be considered for the purpose of levy of tax under the Maharashtra Value Added Tax Act, 2002. Clear cut comments on the major changes made by any firm in a given period in respect of accounting system, method of valuation of stocks and business model etc. are required from the Auditor. These are complex accounting and audit issues which Advocates, Sales Tax Practitioners' and Company Secretaries are not professionally qualified to handle.

Section 29 of the Advocates Act, 1961 provides that advocates would be the only class of persons to "practice the profession of law". Section 33 of the Advocates Act bars any other professional to practice in any court or before any authority etc. Section 49 of the Advocates Act gives general powers to the Bar Council of India to make such rules. Under this power the Bar Council of India has framed the rules which prohibits an advocate from engaging in any other profession other than practising the profession of law. The requirement of section 61 of MVAT Act is of auditing of the books of account and giving a certificate of his conclusion after verification. This cannot be called as "practice the profession of law". The area under Section 61 is practising in the field of accountancy and auditing, which an advocate is not competent to undertake under the Rules framed by the Bar Council of India under Section 49 of the Advocates Act, 1961. Parliament of the country has framed the Chartered Accountants Act, 1949. Under Section 2(2) the area in which a member of the Institute of Chartered Accounts of India (ICAI) can practice is defined. The practice of accountancy and

auditing can be carried out by the Chartered Accountants who are members of ICAI and are holding a certificate of practice. If the advocates embark on practice in the area of accountancy and auditing work then it would amount to practice in accounting and auditing and thus will violate the provisions of Advocates Act, 1961 and the rules framed thereunder by the Bar Council of India. Therefore, the Advocates cannot be allowed to carry out the function of an accountant or of an auditor.

As regards Sales Tax Practitioners, they are not governed by any professional Act. Any graduate having acquired a Diploma in Taxation or having passed specified accountancy examination and acquired such qualifications as are prescribed by the Central Board of Revenue or having retired as an officer from the Sales Tax Department can enroll with the Sales Tax Department as a Sales Tax Practitioner. He is not required to be a qualified auditor nor is he governed by the strict discipline and acceptability required under the Chartered Accountants Act, 1949 for any acts of omission and commission in the conduct of audit. Hence, a Sales Tax Practitioner cannot be expected to provide the level of assurance and creditability of the audit of the accounts of a VAT payer expected by the Revenue. Hence, while a Sales Tax Practitioner is qualified to appear in proceedings, he cannot conduct audit under Section 61".

6. Some observations of the Bombay High Court in the above matter are reproduced herein under for the benefit of readers:-

"19 From these conclusions and considering the contentions advanced, the challenge based on Article 14 is to be rejected on the following grounds:

(i) Chartered Accountants by reason of their training have special aptitude in the matter of audit. An Income Tax Practitioner does not have the same expertise as the Chartered Accountants in the matter of accounts. The argument therefore, that the effect of such a provision will be to exclude all other categories of authorized representatives except the Chartered Accountants from carrying on their profession is liable to be rejected, as they constitute two distinct class having a nexus with the object of the provisions, which is evasion of tax dues.

(ii) The contention that such a provision brings in an oppressive restriction is also liable to be rejected as Auditing accounts is a specialized job. It may be true that some Income Tax Practitioners may also acquire that skill by sheer practice without passing the necessary examination. But that does not preclude Parliament from prescribing special qualifications with reference to the auditing of accounts.

(iii) Legal Practitioners and Chartered Accountants are equal for the purpose of representation of assesses before Assessing Authority but they are not equals for the purpose of compulsory audit. The preferential treatment given to the Chartered Accountants for the purpose of compulsory audit does not militate against the rule of equality under Article 14 of the Constitution. The terms "audit", "auditing" and the "functions of auditor" clearly bring about the difference between the Chartered Accountants and others. The object and purpose in providing compulsory audit is to facilitate the prevention of evasion of taxes, administrative convenience in quick and proper completion of assessments etc. In the light of this object, Chartered Accountants and others cannot be said to be similarly situate. The qualifications and eligibility to be enrolled as Income Tax Practitioners are entirely different from that of Chartered Accountants from the point of view of auditing.

(iv) Merely because apart from dealers whose turnover is more than 40 lakhs. Dealers dealing in liquor trade have also to get their accounts audited does not make the provision arbitrary. Such dealers are a class by themselves as they are carrying on a trade which is res extra commercium. They constitute a class by themselves and if the Legislature in its wisdom has provided that their accounts should be audited, it is neither unreasonable nor treating them as a class arbitrary.

On behalf of the Petitioners, a distinction was sought to be made in certification under Income Tax Act and under the V.A.T. Act. In our opinion, the legality of the provisions or its non-arbitrariness is not dependent on the manner in which the form has to be filled, the contents thereof and the procedure. What is relevant is to consider the object of the Act and in selecting the class of professionals whether the legislature has acted unreasonably or has imposed unreasonable restrictions on the right of the assessee and or income-tax practitioners to carry on

their occupation or profession. It must be noted that the chartered accountant can not certify the correctness and completeness of the sales tax returns unless they audit the accounts of the dealer as maintained in the first part of Section 61. After audit Chartered Accountant has to certify the various items in Part I of Form No. 704. These items are subject to audited chartered Accountant's observations and comments about the non-compliance, short-comings, deficiencies, in the return filed by the dealer. There are various other requirements. Suffice it to say that it is a specialized job which can only be undertaken by the person professionally competent and trained to audit. Advocates are not qualified as observed by the Supreme Court in T. D. Venkatarao vs. Union of India, *237 ITR 315. The other sales tax Practitioner and retired employees definitely not."*

"21. The Maharashtra Value Added Tax was enacted pursuant to a decision to introduce VAT system in the country. An empowered committee of Finance Ministers was appointed. As noted by the Supreme Court there can be no denial of the fact that Chartered Accountants have the expertise in the matter of accounts. What Section 61 requires is that the dealer must get the accounts audited and produce the report of such audit alongwith the certifications that may be prescribed. This certificate has nothing to do with the provisions of Section 22 of the Act. Section 22 is a special power conferred on the Commissioner for selection of dealers for audit. The entire object of the Act is maintenance of proper accounts by the dealers and certification of the accounts so that the books are in order and there is no fraud considering what is required by Form 704."

❑❑❑

STATUTORY PROVISIONS

CHAPTER III

Statutory Provisions for VAT audit can be found in section 61 of MVAT Act and rules 65 and 66 of MVAT Rules and form 704. Penalty provisions are in section 61 and offences provisions relating to VAT audit are in section 74 of the MVAT Act. For ready reference, the provisions are given here in below:-

Section 61. Accounts to be audited in certain cases:-

(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 lakhs in any year, or

(b) a dealer or person who holds licence 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 Licence 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 and 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 the dealer fails to furnish a copy of such report within the period prescribed under sub-section (1) 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 no penalty under this sub-section shall be imposed on him.

(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.

Section 74. Offences and Penalty

(1) .....

(2) .....

(3) Whoever,—

(a) to (l)

(m) fails, without sufficient cause, to get his accounts audited or furnish the report of the audit, as required under section 61, or

.....

Shall, on conviction, be punished with simple imprisonment for a term which may extent to six months and with fine.

(4) Whoever aids, or induces any person in commission of any act and whoever, aids, abets or induces any person in commission of any act specified in sub-section (3) shall on conviction, be punished with simple imprisonment which may extend to one month and with fine.

(5) Whoever commits any of the acts specified in sub-section (1) to (4) and the offence is a continuing one under any of the provisions of these sub-sections, shall, on conviction, be punished with daily fine not less than rupees one hundred during the period of the

continuance of the offence, in addition to the punishments provided under this section.

(6) Where a dealer is accused of an offence specified in the sub-section (1) or (2) or (3) the person deemed to be the manager of the business of such dealer under section 19 shall also be deemed to be guilty of such offence, unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission thereof.

(7) In any prosecution for an offence under this section which requires a culpable mental state on the part of the accused, the court shall presume the existence of such mental state, but it shall be a defence for the accused to prove the fact that he had no such mental state with respect to the act charged as an offence in that prosecution.

Explanation - Culpable mental state includes intention, motive or knowledge of a fact or belief in or reason to believe, a fact and a fact is said to be proved only when the Court believes it to exist beyond reasonable doubt and not merely when its existence is established by a preponderance of probability.

Rules

65. The report of Audit under section 61.– The report of audit under section 61 shall be in Form 704.

66. Submission of audit report – The report of the audit under section 61 shall be submitted within ten months of the end of the year to which the report relates.

17A. Electronic filing — (1) The Commissioner may by notification published in the Official Gazette, provide that in respect of the periods starting on or after the date specified in the said notification the class or classes of the dealers specified in the said notifications shall, in addition to a hard copy is so specified in the notification, submit application, declaration, annexure, appeal and memorandum, report of audit and any other document which may be specified in the notification in an electronic form with or without digital signature, as may be specified, in the manner laid down in the notification. Such notification may be issued from time to time.

(2) If the Commissioner has issued any notification under sub-rule (1) or, as the case may be, under sub-rule of 17, then with a

view to promoting effective compliance of the notification and ensuing compatibility with automated system, the Commissioner may by publication in the Official Gazette, provide for amendments to be made to the forms or may introduce new forms of returns, application declarations, Annexures, memorandum of appeal, report of audit and any other document which is required to be submitted electronically.

Notification issued by the Commissioner of Sales Tax, Maharashtra State u/r 17A

1. **Dtd. 21st August, 2009**

   No. VAT/AMD-1009/IB/Adm.-6/. In exercise of the powers conferred by sub-rule (1) of Rule 17A of the Maharashtra Value Added Tax Rules, 2005, the Commissioner of Sales Tax, Maharashtra State, hereby provides that the registered dealer who are liable to get the accounts audited as per the provisions of Section 61 of the Maharashtra Value Added Tax Act, 2002, in respect of the periods starting on or after 1st April 2008, shall on or after 1st October, 2009, electronically upload the Audit Report in Form 704, provided on the Web-site of the Sales Tax Department.

2. **Dtd. 26th August, 2009**

   No. VAT/AMD-1009/IB/Adm.-6/. In exercise of the powers conferred by sub-rule (2) of Rule 17A of the Maharashtra Value Added Tax Rules, 2005 (hereinafter referred to as "Principal Rules") the Commissioner of Sales Tax, Maharashtra State, hereby notifies that, for the Form 704 appended to the principal rules, the following Form shall be substituted, namely Form 704.

   (Note – Since text of Form 704 is given in **Appendix-1**, same is not reproduced here).

The analysis of the statutory provisions, scope of the audit, reporting requirements and verification of particulars mentioned in audit report in Form 704 (**Appendix-1**) are discussed separately in relevant chapters.

❑❑❑

VAT AUDITOR

CHAPTER IV

1. The VAT Audit has to be carried out by an "Accountant ". The term "Accountant" has been defined in the explanation to Section 61(1) as under:-

   Explanation :

   For the purpose of this section, "Accountant" means a Chartered Accountant within the meaning of the Chartered Accountants Act, 1949 (38 of 1949) or a Cost Accountant within the meaning of the Cost and Works Accountant Act, 1959.

2. Section 2(1)(b) of the Chartered Accountants Act, 1949 defines the words "Chartered Accountant" as under:-

   Sect. 2(1)(b) "Chartered Accountant" means a person who is a member of the Institute.

3. Thus a person who is enrolled as the member of the Institute of Chartered Accountants of India (the Institute) in accordance with the provisions of the Chartered Accountants Act, 1949 can only be called as Chartered Accountant. The other important provision of the Chartered Accountants Act, 1949 in relation to a Chartered Accountant to be eligible as Vat auditor are as under :

3.1 **Section 2(2) – Chartered Accountant in practice**

2(2) A member of the Institute shall be deemed "to be in practice" when individually or in partnership with Chartered Accountant in practice, he, in consideration of remuneration received or to be received:-

(i) engages himself in the practice of accountancy; or

(ii) Offers to perform or performs services involving the auditing or verification of financial transactions, books, accounts or records, or the preparation, verification or certification of financial accounting and related statements or holds himself out to the public as an accountant; or

(iii) renders professional services or assistance in or about matters of principle or detail relating to accounting procedure or the recording, presentation or certification of financial facts or data ; or

(iv) renders such other services as, in the opinion of the Council, are or may be rendered by a Chartered Accountant (in practice);

and the words "to be in practice" with their grammatical variations and cognate expressions shall be construed accordingly.

3.2 **Section 3(1) – Incorporation of the Institute**

(1) All persons whose names are entered in the Register at the commencement of this Act and all persons who may hereafter have their names entered in the Register under the provisions of this Act, so long as they continue to have their names borne on the said Register, are hereby constituted a body corporate by the name of the Institute of Chartered Accountants of India, and all such persons shall be known as members of the Institute.

3.3 **Section 5 – Fellows & Associates**

(1) All members of the Institute shall be divided into two clauses designated respectively as Associates or Fellows.

(2) Any person shall, on his name being entered in the Register, be deemed to have become an associate member of the Institute and be entitled to use the letters A.C.A. after his name to indicate that he is an associate member of the Institute of Chartered Accountant.

(3) A member, being an associate who has been in continuous practice in India for at least five years, whether before or after the commencement of this Act, or whether partly before and partly after the commencement of this Act, and a member who has been an associate for a continuous period of not less than five years and who possesses such qualifications as the Council may prescribe with a view to ensuring that he has experience equivalent to the experience normally acquired as a result of continuous practice for a period of five years, as a chartered accountant shall, on payment of such fee, as may be determined, by notification, by the Council, which shall not exceed rupees five thousand, and on application made and granted in the prescribed manner, be entered in the Register as

a fellow of the Institute and shall be entitled to use the letters F.C.A. after his name to indicate that he is a fellow of the Institute of Chartered Accountants.

Provided that the Council may with the prior approval of the Central Government determine the fees exceeding rupees five thousands, which shall not in any case exceed rupees ten thousand.

3.4 **Section 6 – Certificate of Practice**

Sec. 6: (i) No member of the Institute shall be entitled to practice whether in India or elsewhere, unless he has obtained from the Council a certificate of practice.

3.5 **Section 7 – Members to be known as Chartered Accountants**

Every member of the Institute in practice shall, and any other member may, use the designation of a chartered accountant and no member using such designation shall use any other description, whether in addition thereto or in substitution therefor;.

Provided that nothing contained in this section shall be deemed to prohibit any such person from adding any other description or letters to his name, if entitled thereto, to indicate membership of such other Institute of accountancy, whether in India or elsewhere, as may be recognized in this behalf by the Council, or any other qualification that he may possess, or to prohibit a firm, all the partners of which are members of the Institute and in practice, from being known by its firm name as Chartered Accountants.

3.6 **Section 24 — Penalty for falsely claiming to be a member, etc.**

Section 24: Any person who –

(i) .....

(ii) being a member of the Institute, but not having a Certificate of Practice, represents that he is in practice or practices as a chartered accountant, shall be punishable or first conviction with fine which may extend to One Thousand Rupees, and on any subsequent conviction with imprisonment which may extend to six months or with fine which may extend to Five Thousand Rupees or both.

4. Though section 61 of MVAT act provides that the accounts are to be audited by an accountant which also means a chartered accountant as defined above as per the provisions of the Chartered Accountants Act, 1949, no member can practice without holding a certificate of practice. Therefore, accounts can be audited only by a Chartered Accountant holding Certificate of Practice. Similarly, section 2(2) of the Chartered Accountants Act, 1949 provides that a member of the Institute is also deemed to be in practice when he provides services in partnership with chartered accountant(s). Similarly, section 7 of the Chartered Accountants Act, 1949, permits a firm, of all the Partners of which are members and are holding Certificate of Practice from being known by its firm name as Chartered Accountants. In view of the provision the audit can also be done by a firm of chartered accountants. In such a case it would be necessary to state the name of the partner who has signed an audit report on behalf of the firm. A member of the Institute can practice either in his individual name or in the trade name e.g. 'XYZ & Co.' or 'XYZ & Associates. The member signing the report as a partner of the firm or in his individual capacity or in trade name should also give his membership number below his name.

5. The Council has issued "Council General Guidelines 2008" (hereinafter referred as ICAI Guide Lines) on 8th August 2008 under the provisions of the Chartered Accountants Act, 1949. No.I.CA(7)/07/2008 (See **Appendix-2**). There are several restrictions on the members, most of them are also applicable to the vat auditor to be appointed under section 61 of MVAT Act.

6. Section 61 stipulates that Chartered Accountants can perform the VAT Audit. The section does not stipulate that the statutory auditor appointed under the Companies Act, 1956 or other similar statutes should only perform the VAT audit. As such, the VAT audit can be conducted either by the statutory auditor or by any other auditor who is in full time practice or by a firm of chartered accountants.

7. The Council at its 242nd Meeting has passed a Resolution, effective from 1st April 2005, that any member in part time practice (namely holding certificate of practice and also engaged himself in other business or occupation) is not entitled to perform attest function. The VAT audit being an attest function, the Resolution of the council is applicable for VAT audit also. Therefore, any member in part time practice cannot perform VAT audit. A member in part time practice

can be a partner of a firm of Chartered Accountants, but if the VAT audit is to be conducted by the firm, then the audit has to be conducted by the member who is in full time practice only. In other words, a partner holding a part time certificate cannot sign the VAT audit report. The Council's Resolution on part time practice taken at its 242nd meeting held in April 2004 at New Delhi as published in the Chartered Accountant Journal for the month of June, 2004 (Page 1392) is annexed as **Appendix-3**. The decision clarifies that certain circumstances like engagement in part time lectureship, editorship of magazine etc. are not considered as part time practice, subject to the condition mentioned in the Resolution.

8. It is possible for the dealer to appoint two or more Chartered Accountants as joint vat auditors in which case the audit report will have to be signed by all the Chartered Accountants. In case of disagreement, they can give their report separately. In this regard, attention is invited to New SA 299 (old AAS 12) Responsibility of the Joint Auditors. The responsibility of Joint vat auditors will be the same as in the case of other audit e.g. audit under the Companies Act or the Income-tax Act.

9. It is also possible for a dealer to appoint separate vat auditor for conducting the VAT audit in respect of any branch/division/additional place of business etc. and there could be separate vat auditor(s) for a principal place of business. In such a case, the branch auditor(s) will have to submit report(s) to the management or if directed to vat auditor(s) appointed for conducting the vat audit for the principal place of business and such report needs to be considered and dealt with appropriately by such vat auditor(s) while making the report for the entire business.

10. The MVAT Act does not prohibit a relative or an employee of the assessee being appointed as vat auditor under section 61. It may, however, be noted that as per the decision of the Council (reported in the Code of Ethics under clause (4) of Part I of Second Schedule), a chartered accountant who is in the employment of a concern or in any other concern under the same management cannot be appointed as vat auditor of that concern. Further, as per the decision of the Council, a member who is not in full time practice cannot carry out attest function on and after 1st April, 2005. Therefore, an employee of the dealer or an employee of a concern under the same management or a member not in full time practice cannot audit the accounts of the

dealer under section 61. It may also be noted that under the Second Schedule to the Chartered Accountants Act as well as under Chapter IV of the ICAI Guidelines, if a member gives an audit report in the case of a concern in which he and/or his relatives have substantial interest, he shall be deemed to be guilty of the professional miscount. This change is made by Chartered Accountants (Amendment) Act, 2006 w.e.f. 17.11.2006. (Earlier such report could have been given by disclosing the interest in the audit report.) This is equally applicable to audit u/s. 61. In this regard attention is invited to para 3.4.11 of the Guidance Note on Independence of Auditors (Revised) which reads as under:—

"3.4.11 Many new areas of professional work have been added, e.g., Special Audit under the Statutes, Tax Audit, Concurrent Audit of Banks, Concurrent Audit of Borrowers of Financial institutions, Audit of non-corporate borrowers of banks and financial institutions, audit of stock exchange, brokers, etc. The Council wishes to emphasis that the requirement of Clause (4) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 is equally applicable while performing all types of attest functions by the members."

11. A chartered accountant who is responsible for writing or the maintenance of the books of account of the assessee should not audit such accounts. This principle also applies to the partner of such a member as well as to the firm in which he is a partner. In view of this, a chartered accountant who is responsible for writing or the maintenance of the books of account or his partner or the firm in which he is a partner should not accept VAT audit assignment under section 61 in the case of such dealer.

12. A chartered accountant/firm of chartered accountants, who is appointed as tax consultant of the dealer, can conduct VAT audit u/s. 61.

13. A controversy regarding whether the Internal Auditor of an assessee, being an individual Chartered Accountant or firm of Chartered Accountant can be appointed as his Tax Auditor u/s 44AB of the Income-tax Act, 1961 is now solved by the Council in its 281st meeting held from 3rd October, 2008 to 5th October, 2008. An announcement in this regard is published on the page No. 1236 of the January, 2009 issue of the CA Journal. The Council decided that an Internal Auditor of an assessee, whether working with the

organization or independently practising Chartered Accountant or a firm of Chartered Accountant, cannot be appointed as his Tax Auditor. The MVAT Audit, also being Tax Audit under Statute, same principle shall apply.

14. Chapter X of ICAI Guidelines provides that a chartered accountant should not accept the VAT audit of a person to whom he is indebted for more than rupees ten thousand.

15. Chapter IX of ICAI Guidelines also provide that a member of the Institute in practice shall not accept the appointment as statutory auditor of Public Sector Undertaking(s)/Government Company(ies)/ Listed Company(ies) and other Public Company(ies) having turnover of Rs. 50 crores or more in a year where he accepts any other work(s) or assignment(s) or service(s) in regard to the same undertaking(s)/ company(ies) on a remuneration which in total exceeds the fee payable for carrying out the statutory audit of the same undertaking/ company. It is further, provided that if appointing authority has prescribed more stringent(s)/restriction(s), then the same shall apply.

It may further be noted that the above restrictions shall apply in respect of fees for other work or service or assignment payable to the statutory auditors and their associate concerns put together.

As per the said notification Guideline the term "other work(s)" or "service(s)" or "assignment(s)" shall include Management Consultancy and all other professional services permitted by the Council pursuant to section 2(2)(iv) of the Chartered Accountants Act, 1949 but shall not include:—

(i) audit under any other statute;

(ii) certification work required to be done by the statutory auditors; and

(iii) any representation before an authority;

Since the obligation for VAT audit has been specified in section 61 of the MVAT Act, it will be considered as an audit under any other statute for the purpose of this notification and thus the above restriction shall not apply in respect of VAT audit fees. The Comptroller and Auditor General of India have also started permitting statutory auditors to undertake the VAT audit.

16. A Chartered Accountant practising outside Maharashtra can also attest MVAT Audit Report. It is not necessary that a Chartered Accountant should be practising in Maharashtra.

17. The vat auditor, in normal course, should not accept the audit of accounts written in a language which he does not understand, unless he is in a position to verify authenticity of transactions either by himself or with the help and assistance of his partner or any other Chartered Accountant or his audit staff conversant with the language. In such a case, special care has to be taken by the vat auditor to ensure authenticity of the prescribed particulars being reported upon by him.

18. The vat auditor is not required to give any information/intimation to Sales Tax Department about his appointment.

19. The Assessing Officer or any other authority who is authorised to issue summons and to call for evidence or documents can call upon the vat auditor who has audited the accounts to give any evidence or produce documents. For this purpose, a notice/summons can be issued by the competent authority. The auditor has to take care to protect the confidentiality of the documents of the client as prescribed by the Code of Ethics.

❑❑❑

AUDIT ENGAGEMENT

CHAPTER V

1. Appointment

1.1 A dealer liable to get his accounts audited is required to appoint a Chartered Accountant or a firm of Chartered Accountants as a vat auditor.

1.2. No procedure is laid down for appointment of vat auditor under MVAT Act. The vat auditor should obtain from the dealer a letter of appointment for conducting the VAT audit. It is recommended that such an appointment letter should be signed by the competent person. The vat auditor must ensure that his appointment is being made by the dealer following appropriate and applicable procedures such as board resolution in case of company or co-operative society. It would also be useful if the appointment letter affirms that no other auditor (except in case of joint vat auditor or branch vat auditors) was appointed to conduct the VAT audit for the year for which the appointment is being made. In case of appointment as joint auditors the name and address of joint auditor may also be given in the letter. In case appointment is as a branch vat auditor a letter may give name and address of Principal auditors and instruction as to whom branch vat audit report be sent. The letter may also give the name and address of the vat auditor for the previous year, wherever relevant. This would give the necessary information to the incoming vat auditor to enable him to communicate with the previous auditor. The letter of appointment should also specify the remuneration of the Vat auditor SA 210. (Old AAS 26) — Terms of Audit Engagement issued by the ICAI requires that the auditor and the client should agree on the terms of the engagement. The agreed terms would need to be recorded in an audit engagement letter or other suitable form of contract. In the interest of both client and auditor, the auditor should send an engagement letter, preferably before the commencement of the engagement, to help avoid any misunderstandings with respect to the engagement. The engagement letter documents and confirms the auditor's acceptance of the appointment, the objective and scope of the audit and the extent of the auditor's responsibilities to the client. However, it may be noted that wherever an audit is to be conducted under a Statute, acknowledgement of the letter of the auditor by the client is considered to be sufficient compliance of SA 210. These principles also apply for appointment of vat auditor. The vat auditor

should get the statement of particulars, as required in the Annexure to the audit report, authenticated by the assessee before he proceeds to verify the same.

1.3. The appointment of the vat auditor for VAT audit in the case of a company need not be made at the general meeting of the members. It can be made by the Board of Directors or by any officer, if so authorised by the Board in this behalf. The appointment in case of co-operative societies/trust etc. is generally made by the governing board. The appointment in case of a firm or a proprietary concern can be made by a partner or the proprietor or a person authorised by the dealer. Therefore, vat auditor should verify as to whether his appointment is under proper authority.

1.4. Joint Auditor — It is possible for the dealer to appoint two or more chartered accountants as joint auditors for carrying out the vat audit, in which case, the audit report will have to be signed by all the chartered accountants. In case of disagreement, they can give their report separately. In this regard, attention is invited to paragraph 12 of the Standards of Auditing No. 299 of the Responsibility of Joint Auditors reproduced below:

"Normally, the joint auditors are able to arrive at an agreed report. However, where joint auditors are in disagreement with regard to any matters to be covered by the report, each one of them shall express his own opinion through a separate report. A Joint Auditor is not bound by the views of the majority of the joint auditors regarding matters to be covered the report and should express his own opinion in a separate report in case of disagreement."

The responsibility of joint vat auditors will be the same as in the case of other audits e.g. audit under the Companies Act. For details relating to such responsibility, in the case of joint VAT audit, reference may be made to SA 299 (old AAS 12) — Responsibility of Joint Auditors.

1.5. **Statutory audit is not conducted by Chartered Accountant or no Chartered Accountant is appointed as statutory auditor**

At times, in case of certain dealers like Co-operative Societies, where the statutory auditor may not be a Chartered Accountant or in case of Public Sector Company or any other company, the statutory auditor may not have been appointed by the concerned authority. Similarly in

some cases Tax Auditor u/s 44AB of the Income-tax Act, 1961 might not have been appointed or the audit may not have been conducted. The question may arise can a vat auditor be appointed under section 61 and if so, can he complete his audit without waiting for statutory audit report on the financial statement by the statutory auditors or tax audit report u/s 44AB of the Income-tax Act, 1961? The answer to all these cases is in affirmative i.e. any chartered accountant can be appointed as vat auditor without there being appointment as statutory auditor/tax auditor. It will be possible for the vat auditor to give his report in Form 704 and certify the relevant particulars. It may be noted that under the statutory provisions, the vat auditor is not required to certify whether or not accounts give a true and fair view of the dealer's accounts which are being audited by him under section 61. What is expected from the vat auditor in Part-I of the Form 704 is to state the fact as to whether Tax Audit under section 44AB of the Income-tax Act, 1961 is conducted or not and if so then attach such Audit Report along with the financial statements. However, if Tax Audit under section 44AB of the Income-tax Act, 1961 is not conducted, then VAT auditor should ascertain the fact as to whether the financial statements of the dealer are audited under any other law. In that case also he is expected to state the fact and attach such statements. If the books of account are not audited under any of the statute then the vat auditor can take financial statements duly certified by the dealer and give his report. In such cases the vat auditor is expected to take due care while certifying the particulars as correct.

1.6. The position of a vat auditor for conducting audit under section 61 will be considered as holding an office of profit. Therefore, the provisions of section 314 of the Companies Act, 1956 will be attracted when a relative of a director is appointed as a vat auditor of the company, if the remuneration thereof exceeds the limits prescribed in the aforesaid section. The necessary formalities as required under section 314 will have to be complied with.

2. Acceptance of the VAT Audit – Communication with the previous VAT auditor

2.1 Before accepting a VAT audit assignment, a chartered accountant is expected to take into consideration as to whether he is eligible to act as a vat auditor. It may be mentioned that the Institute has not

prescribed any ceiling on the number of vat audit assignment unlike the ceiling prescribed under ICAI Guidelines dated 08-08-2008 for audit under sec. 44AB of the Income-tax Act.

2.2 Vat audit under section 61 being a recurring audit assignment, for expressing professional opinion/certification on the Sales Tax related records, computation of tax liability and the other particulars, the member accepting the assignment should communicate with the member who had done VAT audit in the earlier year as provided in the Chartered Accountants Act. When making the enquiry from the retiring auditor, the member accepting the assignment should find out whether there is any professional or other reasons why he should not accept the appointment? The professional reasons for not accepting the appointment include:

- Non-payment of undisputed audit fees by auditees other than in case of sick units for carrying out the statutory audit under the Companies Act, 1956 or various other statutes;
- Issuance of qualified report.

In the case of a person whose accounts of the business or profession have been audited under any other law (i.e., a company, a co-operative society, etc. which is required to get the accounts audited under a statute) it is not necessary for VAT auditor to communicate with the statutory auditor if he had not done vat audit in the earlier year. Communication is also not necessary if the previous vat auditor was not a Chartered Accountant. Attention of the members is invited to the detailed discussion on the issue in the publication of ICAI, "Code of Ethics" – ***Appendix-4.*** Further, attention of members is invited to the Chapter VII of the ICAI Guidelines which prohibits acceptance of appointment if undisputed fees of previous auditor are not paid.

2.3 The vat auditor after satisfying that he is validly appointed as vat auditor and after communicating with previous vat auditor and taking into account the professional objection of previous vat auditor can accept the VAT audit assignment. In such a case he should send acceptance letter to the dealer. Vat auditor is not required to inform any vat authorities about his appointment and/or acceptance.

3 VAT Audit Fees

3.1 No separate guidelines have been prescribed by the Institute for Audit fees under section 61. The Institute has recommended fees for professional services rendered on the basis of time devoted by a chartered accountant and his qualified assistants. The fees for vat audit assignment can be charged by a chartered accountant on the basis of work involved in the assignment. It may be appreciated that no uniform fees can be recommended on the basis of turnover, tax liability or refund, because a dealer having more turnover, more tax liability or more refund, may have less transactions as compared to the dealers having lesser turnover or lesser tax liability or refund. The scale of fees effective from 12-05-2006 recommended by the Institute for professional services is given in ***Appendix-5***. The Council has also clarified that the scale does not include fees chargeable in respect of non-qualified assistants and that the chartered accountants are free to negotiate the terms with the clients. The chartered accountants should charge reasonable fees taking into account the responsibility and the work involved in VAT audit assignment. It is necessary that members of the profession should also maintain reasonable standards of the professional fees.

3.2 Attention is invited to Clause 10 of Part I of the First Schedule to the Chartered Accountants Act which prohibits charging of professional fees based on a percentage of profit or which are contingent upon the finding or the results of the professional employment.

3.3 Attention is also invited to Clause 12 of Part I of the First Schedule to the Chartered Accountants Act which prohibits acceptance of an audit assignment in such condition as to constitute undercutting.

3.4 Attention is also invited to Chapter XII of the ICAI Guidelines which prescribes minimum fees to be charged by certain specified categories of firms. The notification does not apply to certification or audit under MVAT Act by the statutory auditor.

4. Removal of the vat auditor

A question may arise whether a dealer can remove a vat auditor appointed under section 61. The answer depends upon the facts and circumstances of the case. There is no specific procedure for removal of a vat auditor appointed under section 61. It is, however, possible

for the management to remove a vat auditor where there are valid grounds for such removal. This may arise where the vat auditor has delayed the submission of audit report for an unreasonable period and if it is found that there is no possibility of getting the audit report before the specified date. In such cases, the management may be justified in removing the vat auditor. However, the vat auditor cannot be removed on the ground that he has given an adverse audit report or the dealer has an apprehension that the vat auditor is likely to give an adverse audit report.

Under MVAT Act there are no powers with the Commissioner in relation to removal of VAT auditor appointed by the dealer.

5. Unjustified removal of vat auditor

Under MVAT Act there are no powers with the Commissioner in relation to unjustified removal of VAT auditors. However, if there is any unjustified removal of any member of the ICAI, as a vat auditor, the Ethical Standards Board constituted by the Council can intervene in such cases. The Board can give directions that incoming vat auditor should not accept the audit assignment. If such directions are given, no chartered accountant should accept the audit assignment. Please refer Chapter XI of the ICAI Guidelines. It may be noted that writ of the Institute will not operate if incoming VAT auditor is not a member of the Institute.

6. Submission of Vat Audit Report

The audit engagement comes to an end after the vat auditor has submitted his report to the client viz. the dealer. No responsibility is cast upon the vat auditor to submit copy of his report to the Assessing Officer of the dealer or to any other officer of the Sales Tax Department. Submitting a copy of the report to any other officer other than the dealer, except in the circumstances required under any law, is amount to professional misconduct under the Clause 1 of the Second Schedule to the Chartered Accountant Act. The MVAT Act requires that the dealer should submit the copy of the report to the department within 10 months from the end of the year. Thus, it is responsibility of a vat auditor, having accepted the assignment, to complete the audit and submit his report in such a manner so as to give reasonable time to the dealer for onward submission of the same to the Sales Tax Department. The Commissioner of Sales Tax,

Maharashtra State, by notification dtd. 21st August, 2009 has notified that all VAT audit reports for the period starting after 01-04-2008 must be submitted on or after 1st October, 2009 electronically. Therefore, it would be better if soft copy of the report in Form 704 provided on the website of the department is given. The responsibility of uploading the audit report is of the dealer. The vat auditor, in his own interest, is advised to give a hard copy of the report to the client duly signed on each page.

❑❑❑

APPROACH TO VAT AUDIT

CHAPTER VI

1. **Introduction**

1.1 The approach of the vat auditor will be more or less similar to the approach which is adopted by the auditor while conducting the tax audit under the provisions of section 44AB of the Income-tax Act, 1961 or any other Statutory Audit. However, the reporting requirements vary to a considerable extent. Therefore, the standards relating to general principles governing the audit and the responsibility of the Auditor play a very vital roll. The attention is invited to Standards on Auditing (200-299).

1.2 Form 704 contains various instructions. The VAT auditor is required to read these instructions very carefully before drawing his report. The auditor is also required to give a certificate that he has read and understood these instructions. The discussion on the instructions is made in following chapters of this Guide. These instructions are required to be kept in mind while conducting the VAT audit.

1.3 In the case of VAT audit, the vat auditor is not required to express his opinion as to whether the financial statement give a true and fair view of the state of affairs of the dealer. Form 704 simply requires that the copies of audited accounts are enclosed and the auditor is expected to rely on the Profit & Loss Account and Balance Sheet for the year under audit. The responsibility of providing of necessary basic particulars to be given in Part 2 and Part 3 of the audit report is on the dealer and the vat auditor is required to give his opinion/ certificate as to whether the particulars are correct and complete. Therefore in giving his report, vat auditor will have to use his professional skill and expertise and apply such audit tests as the circumstances of the case may require considering the contents of the audit report. He will have to conduct an audit by applying the generally accepted audit procedure which are applicable for any other audit. He can apply the technique of test audit depending on the type of internal control procedure followed by the dealer. The vat auditor will also have to keep in mind the concept of the materiality depending on the circumstances of each case. He would be well advised to refer to the Standards of Auditing (SA), the statement on "Auditing Practices", "Guidance Notes on Audit Report and Certificates for special purposes" and various other Guidance Notes

on Auditing. The auditor is now required to give certificate that he has carried out audit work in accordance with the Generally Accepted Accounting Principles and with due professional skill. If the statutory auditor of a dealer is also appointed to undertake the VAT audit, it is advisable to carry out both the audits concurrently.

2. Certificate Vs. Report

Para 2.2 of Guidance Note on Audit Report and Certificates for Special Purpose issued by the Institute notes difference between the term "certificate" and "report" as under.

"A Certificate is a written confirmation of the accuracy of facts stated therein and does not involve any estimate or the opinion".

"A Report, on the other hand, is a formal statement usually made after an enquiry, examination or review of specified matters under report and includes the reporting auditors opinion thereon".

Thus when auditor issues a certificate, he is responsible for factual accuracy of what is stated therein and when report is given he is responsible for ensuring that the report is based on factual data, that his opinion is in due accordance with facts and that it is arrived at by the application of due care and skill. At the end of the report in Form 704 Part I, the vat auditor is required to give recommendations to the dealer. These recommendations are nothing but his opinion. Therefore, even though Form 704 is described as Audit Report, in fact it is a combination of Certificate and Report. Vat auditor must note the above distinction while completing the report in Form 704.

3. Powers of VAT auditor

Unlike section 227 of the Companies Act, there are no powers to the vat auditor to call for the books of account, information, documents, explanations and to have access to all the books and records under MVAT Act. However, the vat auditor is required to give his opinion about the books of account and other Sales Tax related records maintained by the dealer and its sufficiency as well as whether such sales tax related records reflects true and fair view of volume and size of the business. In view of this requirement and since the appointment of the vat auditor is made by the dealer, it will be in the interest of the dealer to furnish all the information and explanation and to produce books and records required by the vat auditor. If,

however, the dealer refuses or is unable to produce for whatever reasons, any particular records or give any specific information or explanation which in the opinion of the vat auditor is necessary for forming his opinion, in relation to the reporting requirements (discussed in the latter part of the Guide), the vat auditor will be required to report the same and qualify his report.

4. Company audit, tax audit under Income-tax Act and audit under VAT law

4.1 Though the basic principles of audit remain the same for all types of audit, the audit relating to VAT differs depending on the reporting requirements. The purpose of audit under the Companies Act, 1956 is different from the purpose of audit under the Income-tax Act, 1961. The above two audits may also differ from the audit under VAT law as all the three audits are undertaken with different objectives. While the audit under the Companies Act, 1956 is undertaken with a view to report on the true and fair view of the financial statements of a company placed before the auditor and the auditor gives his opinion whether the balance sheet of the company portrays a true and fair view of the assets and liabilities and the profit and loss account gives a true and fair picture of the profit or loss made, in an audit report under section 44AB of the Income-tax Act, 1961 the auditor has to give the information about certain expenses, payments, loans and deposits and in case accounts are not audited under any statute he also gives his opinion whether the Balance Sheet of the entity portrays a true and fair view of the assets and liabilities and the Profit and Loss a/c gives a true and fair picture of the profit or loss made. However, he does not comment upon the admissibility or non-admissibility of various expenses and therefore, does not calculate and certify the tax liability under the Income-tax Act. The audit under the VAT law differs from the earlier two audits to a great degree in the sense that so far as the books of account etc. are concerned the VAT auditor gives his opinion only about its sufficiency for the purpose of calculation of tax liability and determination of allowability of the various claims and Sales Tax related records reflects a true and fair view of the volume and size of the business. At the same time he also certifies the turnover of sales and purchases, calculations of output tax, the various exemptions and deductions claimed, the input tax credit, etc.

4.2 It may be noted that turnover declared in Profit and Loss Account is not a turnover for determination of VAT liability.

Illustrations of the Turnover of Purchases and Turnover of Sales recorded in financial books and reflected in audited profit and loss account u/s 44AB and for MVAT Act.

A. **Sales Bill**

Sales Value	Rs.	1,00,000/-
Excise Duty @8.24%	Rs.	8,240/-
	Rs.	1,08,240/-
Sales Tax (VAT) 12.5%	Rs.	13,580/-
Total consideration receivable from customer	Rs.	1,21,820/-

Accounting Entry

The accounting entries for this in the books of account will be as under:—

	Dr.	Cr.
Sundry Debtors Account	1,21,820/-	
Excise Duty Collection Account		8,240/-
Sales Tax/VAT Collection Account		13,580/-
Sales of goods Account		1,00,000/-

Therefore, in the Profit & Loss Account the amount of sales would reflect as Rs. 1,00,000/- and same would be audited as sales of Rs. 1,00,000/- under Companies Act and/or u/s 44AB of the Income-tax Act. However, under the MVAT Act, the gross turnover of sales would be Rs. 1,21,820/-. Thus, to a sales of Rs. 1,00,000/- as appearing in P & L A/c an amount of Rs. 21,820/- has to be added for determination of turnover under the MVAT Act. This amount of addition is required to be determined from various accounts which

may or may not be part of Profit and Loss Account. In some sales invoices, excise may not have been charged separately. In some invoices, freight is charged separately and accounted for separately. The inclusion depends upon the nature of transaction. In some cases excise duty, might have been paid by purchasers and not at all reflected in books of account (e.g. liquor dealers cases). In such cases even though duty is paid by purchaser it becomes part of sale price for levy of tax. Thus to determine gross turnover of sales for MVAT Act, verification of invoices and various transactions will have to be done from different angle to find out the accounting treatment given for excise duty, sales tax and freight, etc. Thus, VAT auditor needs to verify sales invoices and its posting in books of account and thereafter draw a reconciliation of sales appearing in Profit and Loss Account and determine the turnover of sales. New Form 704 now specifically requires Vat audit or VAT auditor to submit reconciliation of turnover with books of account.

B. **Goods Purchased**

Value of the raw material	Rs.	1,00,000/-
Excise Duty paid on the same	Rs.	8,240/-
VAT paid @4% on the raw material	Rs.	4,330/-
TOTAL	Rs.	1,12,570/-
Less: Quantity discount allowed by supplier @ 2% of value of Raw Material	Rs.	2,000/-
Total purchase price payable to supplier	**Rs.**	**1,10,570/-**

Accounting Entry

The accounting entry for this in the books of account will be as under:—

	Dr.	Cr.
Raw Material Account	1,00,000/-	
CENVAT Credit Receivable (since Excise Duty paid can be set-off from Duty Payable on Finished Goods)	8,240/-	
VAT Receivable (since VAT paid on Raw Material can be Set-off from VAT payable on sales of goods)	4,330/-	
Sundry Creditors Account		1,10,570/-
Discount Account		2,000/-

At the end of the year, the discount is credited to purchase/ consumption account and therefore, in P&L A/c, the total purchases would be reflected at Rs. 98,000/-. Whereas for the purpose of determination of gross turnover of purchases to be reported for MVAT Act, the figure would be Rs. 1,12,570/- i.e. Purchase Value Rs. 1,00,000/-, Excise Duty Rs. 8,240/- and VAT Rs. 4,330/- (In this case, amount of discount will not be reduced from gross turnover of purchases since tax credit is not given).

Therefore, in spite of the Company Audit as well as Tax Audit u/s 44AB, for the purpose of determination of gross turnover of purchases and sales, one will have to verify vouchers, i.e. sales/purchase invoices, debit notes/ credit notes issued/received, journal vouchers etc. and various accounts such as Excise Duty, CENVAT Credit, VAT Credit, sales discount, Trade discounts, quantity discounts, purchase discount, freight accounts, etc. Besides, for purposes of allowance of set-off one need to classify purchases between, fuel or office equipment or plant and machinery or parts of plant and machinery, etc. So also it will have to be verified as to whether set-off is claimed only in relation to tax paid under MVAT Act as appearing from Tax Invoices and not of CST paid. Here again, technique of verification is required to be used.

5. Audit Programme

While the auditor has to apply the basic principles of audit, he has to keep in mind that the requirements of VAT audit are different and accordingly he should design his audit programme. While designing the audit programme, the vat auditor has to take guidance from the instructions contained in Form 704 and ensure that programme includes the performance of such audit checks as would generate the information which would enable him to ascertain the facts and to draw his audit report. While audit programme depends upon the nature of business, evaluation of risk, internal control etc., in each case some of the areas to be taken into account are given below (This is not an exhaustive list):

(i) The turnover of sales /purchases of goods has to be properly determined keeping in view not only the generally accepted accounting policies but also the definition of turnover of sales under the MVAT law. The sales turnover arrived at by applying the generally accepted accounting policies may not be the same as required under the MVAT law. To take few examples, in addition to given in para 4 above the sale proceeds of a fixed asset will not form a part of turnover of sales as per the generally accepted accounting policies (GAAP) but will form part of turnover of sales for the purpose of MVAT law. Similarly, the price of goods returned is deducted from the turnover of sales even if the returns are from the sales effected in the previous years, while under MVAT law, the goods returned are to be deducted only if they are made within the prescribed time, i.e. six months from the date of sale. The turnover of sales on behalf of principal will not form a part of turnover of sales as per GAAP but under MVAT law it forms part of turnover of sales. Thus, the results of the audit procedure adopted by the auditor should be such as will give him a reasonable assurance regarding the figures. Not only that, he should also be able to get the exact quantum of the turnover under-reported or over-reported in the returns, duly classified for different tax rates and its impact on overall tax liability. The sales as per the financial statements may include the turnover effected by all the branches of the dealer but for the purposes of MVAT law the turnover of only the branches within Maharashtra will be included. The turnover of sales is

required to be classified as per tax rates and also on the basis of various declarations. The liability of tax for wanting declarations on the day of completion of audit is also required to be computed.

(ii) The turnover of purchases should be tested by applying audit checks so as to get the purchases eligible for grant of input tax credit segregated from other purchases. Further, the purchases on which the input tax credit is available in full and the purchases on which it is available partially should also be ascertained correctly. Thereafter, the auditor should get the exact amount of input tax credit available, compare the same with the credit claimed in the returns and report on the excess/ short claim of the credit in the returns filed.

(iii) The vat auditor is also required to calculate interest on the delay in payment of tax due as per the returns under the MVAT law. For this purpose, the auditor is expected to list out the due dates of filing of returns and payment of tax and find out delay if any, in filing the returns and payment of tax. The interest is required to be calculated on the correct amount of tax payable for the return period.

(iv) The vat auditor has to give his report on the tax deducted at source (TDS). Therefore, such tests are to be applied as will enable him to report on the accuracy of the amount deducted and paid.

(v) The vat auditor is also expected to check the consolidation of the returns filed for all the periods covered in the year under audit, both under the MVAT Act and the CST Act. These returns are to be compared with the books of account and the documentary evidence available. Consolidation of returns has to be made in accordance with type of return the dealer is required to file as per MVAT Act. The vat auditor is expected to apply such substantive tests as would enable him to judge whether all the transactions relating to sales and purchases entered in the books of account have been taken into consideration while filing the returns and same are properly classified.

(vi) The vat auditor is required to visit the POB so as to gather the necessary information.

The above are some of the major areas which are to be examined by the vat auditor while conducting the VAT audit. The vat auditor has to make a judgment of his own regarding the adequacy and appropriateness of the audit checks to be applied and the areas where the tests are to be applied, so as to give him all the information needed to form a view not only on the authenticity of the books of account, but also of the quantification of tax liability.

6. Importance of Working Papers

The vat audit report in Form 704 is to assist the VAT authorities (Sales Tax Department) to assess the correct tax liability of the dealer. In order that the vat auditor may be in a position to explain any question which may arise later on, it is necessary that he should keep detailed notes about the evidence on which he has relied upon while conducting the audit and should maintain all his papers for a minimum period of 10 years. While there is no requirement of maintaining the working paper for the period of 10 years under the MVAT Law, the Chartered Accountants Regulations requires that the Chartered Accountant should maintain his working papers at least for a period of 10 years, so as to defend any allegations on him in relation to any professional misconduct.

7. Preparation for Vat Audit

A VAT auditor has to make certain preliminary preparation before actual execution of VAT audit. The major steps required to be undertaken for the preparation are as under:—

8. Knowledge of Business

After accepting the audit assignment the vat auditor should familiarize himself with the business of the dealer. In this regard the vat auditor should refer to the Engagement Standard 310 (old AAS-20). 'Knowledge of the business' issued by the Council of the Institute of Chartered Accountants of India. Before starting the audit, the vat auditor should have a preliminary knowledge of the industry/ business and of the nature of ownership, management, etc. The more detailed information should be obtained and should be assessed and

updated during the course of audit. For this purpose the various sources of information may be tapped. The knowledge of business is important not only to the vat auditor but also to his staff engaged in the audit. The vat auditor has to ensure that the audit staff assigned to vat audit engagement obtains sufficient knowledge of the business to carry out the audit work delegated to them and further they should make effective use of the knowledge about the business and should consider how it affects the tax liability to be computed. The facts and figures in the returns should be consistent with the vat auditor's knowledge of the business. The vat auditor should also make himself familiar with the process of production and the distribution chain. The vat auditor should also obtain information about whether the dealer is a manufacturer/importer/ retailer, the details of major customers to whom the sales are effected and the details of sales which are outside the scope of MVAT law. Similarly the sources of purchases and the items purchased should be listed out. Further it should be ascertained whether the dealer has opted for any of the composition scheme or not.

9. Obtaining copies of Audit Report

One of starting points for MVAT Audit is audit report u/s 44AB of the Income-tax Act, 1961. The vat auditor must ascertain as to whether the audit under section 44AB of the Income-tax Act is carried out or not. If so, copies of the said report along with all its enclosures will have to be obtained. In case where the Tax Audit u/s 44AB is not applicable but Statutory Audit under the statute governing the entity is applicable, copy of such report along with all its enclosures is required to be obtained. The VAT audit or auditor should obtain necessary copies so as to enable him to attach a copy with his VAT Audit Report. In case the books of account of the entity are not audited under any other Act then he must obtain the certified copies of financial statements prepared by the entity.

10. Obtaining a list of all the Accounting Records maintained by the dealer

The vat auditor should obtain a complete list of all accounting records and other sales tax records in respect of sale/purchase of goods, stocks, various registers, ledgers, etc., in which the transactions are recorded and the various source documents based on which the entries are recorded in the books of account and the process of their generation.

11. Ascertaining the major accounting policies adopted by the dealer

The vat auditor should know the major accounting policies based on which books of account have been maintained. The accounting policies regarding recording of sales, purchases and valuation of inventory must be made known. AS-1 mandates that the financial statements should disclose major accounting policies at one place. The provisions of AS-1 are discussed in brief in Chapter VIII. Therefore, by and large, if the accounts of the entity are audited under section 44AB or under any other statute, the financial statements will disclose the accounting policies. The vat auditor can rely on these policies as the same are already certified by the tax auditor or statutory auditor. However, the vat auditor should find out whether there has been any change in those policies during the year covered by audit. If there is any significant change in the accounting policy giving rise to material effect on the tax liability, the same should be invariably reported. If the accounts are not audited under any other law, then the vat audit or auditor will have to find out the same.

12. Evaluation of Internal Controls, etc.

Before determining the extent of audit checks to be applied i.e. whether to go in-depth or to do only test check, the vat auditor should ascertain whether there is an internal check system in operation in the entity. He should particularly find out how the purchases and sales gets initiated and processed. E.g. in case of purchase, receipt of indent by the purchase department, determining the need of purchases, initiation of purchase order, receipt of material, preparation of Material Received Note, receipt of purchase invoice/tax invoice, passing the bill for payment, entries made in the books of account, etc. should be verified. For sales, receipt of enquiry, acceptance of sales order, execution of sales and delivery, preparation of sale invoice and realization of transaction should be verified. In case of stock transfers, process of receipt of stock transfer indent be verified in detail from the point of view of examining as to whether it is pre-determined sale. If the internal controls are reliable, the extent of audit test may be reduced and should be focused only on those areas where the vat auditor feels that greater degree of audit risk is involved.

13. Knowledge about the VAT Law and Allied Laws

The vat auditor and his staff should obtain a thorough knowledge of the MVAT Law under which the audit is to be conducted. The vat auditor should study the MVAT law starting from the definition of various terms, the procedure to be adopted, the provisions regarding issue of invoices, claiming of input tax credit, composition scheme, rate schedules under the MVAT law, the manner in which the output tax is to be calculated, the provisions of audit, the contents of the audit report, the periodicity and due date of the return to be filed, the format of the forms of returns and the various notifications issued. Further, the vat auditor should know the Central Sales Tax Law as he has to comment on the liability under that law also. The auditor should also have working knowledge about the judicial pronouncements made by the Tribunals and the Courts on various facets of these laws.

The indicative check list of preparation for vat audit under section 61 is given in ***Appendix 6***. The vat auditors may make use of the same depending upon facts of the case and seek necessary documents and workings from the dealer for his working paper records.

14. Audit Evidence and Documentation

While test checks may suffice in the conduct of a statutory audit for the expression of auditor's opinion as to whether the accounts depict a true and fair view, under MVAT Act, he may be required to apply reasonable checks on the detailed information prepared by the dealer. E.g. verification of the sales tax declarations in Form C, E-I, E-II, H, I, etc. While the dealer may have to prepare the details for the entire year, the vat auditor may have to ensure that no items have been omitted in the information furnished and a reasonable test check would reveal whether or not the information furnished by the dealer is correct. The extent of check undertaken would have to be indicated by the vat auditor in his working paper. The vat auditor is well advised to so design his VAT audit programme as would reveal the extent of checking and to ensure the adequate documentation in support of the information being certified. This necessarily means documentation of audit evidence in accordance with engagement standards (500-599).

15. Risk assessment and response to assessed risk

15.1 Primarily, while planning an audit of financial statements it is necessary to carry out risk assessment and response to assessed risk. Therefore, it would be necessary for the vat auditor to ensure that while expressing his opinion, he has adequately satisfied himself as to the authenticity of the information contained in the relevant form and that, his working papers and documents are adequate to enable him to certify the particulars. Reference be made to the Engagement Standards on risk assessment and response to assessed risk (300-499).

15.2 In many cases, the VAT department might have decided a particular issue against the dealer and the appeals may be pending before the appropriate authorities. Similarly, a particular issue is decided in favour of the dealer but department has not accepted a decision and taken further steps to contest the same. The vat auditor should document these facts and it is recommended that he may state the facts in his audit report.

16. Vat Audit in case of missing/incomplete records

16.1 In some cases, it is possible that the original books of account and records may not be made available to the vat auditor but copies are made available. In some cases, the accounts may have been destroyed in natural calamities such as earthquake, flood, fire, etc., the question arises as to how to approach for Vat Audit.

16.2 Having noted the difference between Report and Certificate, normally, the extent of risk that a member would be ready to accept while issuing a certificate on factual accuracy of the data would be far lower than that when he issues a report expressing an opinion on that data. Consequently, the materiality considerations in case of certification would be completely different (being on a far lower threshold) from those in case of an audit, resulting in a far detailed audit, extensive examination and checking than that undertaken under normal circumstances..

16.3 Accordingly, where the client is able to reconstruct the accounts, whether for the full financial year and/or a part of the financial year and is able to provide the corroborative evidence supporting the accounts so reconstructed, the vat auditor may issue his certificate to

the extent such data is supported by corroborating evidence after evaluating:

(i) the reliability, sufficiency and appropriateness of such evidence;

(ii) the possibility and impact of misstatement in such part of the financial statements, item to be certified, in respect of which the client has not been able to reconstruct the accounts or provide corroborating evidence;

(iii) the possibility and impact of misstatements in such financial statement item which the client has not been able to reconstruct either fully or partially, and which have a bearing on the financial statement item being certified; and

(iv) the possibility and impact of misstatements in such financial statement item which have a bearing on the financial statement item being certified but in respect of which the client has not been able to provide corroborative evidence.

In case the vat auditor is not satisfied with the results of the above evaluations, he should appropriately bring out the reasons for his inability to certify the entire/a part, as the case may be, of the concerned financial statement item. Further, where the reconstruction of accounts is not possible and/or the client fails to provide any corroborating evidence, the vat auditor should issue a disclaimer bringing out the fact of the inability of the client to reconstruct the accounts and/or provide corroborating evidence.

16.4 Depending upon the degree of reconstruction of account the vat auditor should make necessary qualification/disclaimer under para 3 of the Part I of Form 704. Few illustrations are as under:—

16.4.1 **Case—I: Where the accounts are reconstructed and corroborating evidence is fully available**

The dealer has informed us that the books of account for the period …… *(date)* to …….. *(date)* were destroyed due to flooding of the office premises. The dealer has reconstructed the accounts for the period ……..*(date)* to ……..*(date)* based on the corroborating documents available with him as well as those obtained from the concerned third parties. Our certificates in para 2B are to be read subject to above.

16.4.2 **Case—II: Where the accounts are reconstructed and corroborating evidence is available for some part of the period.**

The dealer has informed us that the books of account for the period …… *(date)* to …….. *(date)* were destroyed due to flooding of the office premises. The dealer has reconstructed the accounts for the period ……..*(date)* to ……..*(date)* based on the corroborating documents available with him as well as those obtained from the concerned third parties. However, the dealer is unable to reconstruct the accounts for the balance period from …….*(date)* to ……. *(date) and/or* is unable to provide the documents/ evidence corroborating the figures for the period. We have, therefore, been unable to carry out the procedures necessary for certifying the items listed below for the (balance) period from ……. *(date)* to ……. *(date). Our certificates in para 2B are to be read subject to this.*

16.4.3 **Case—III: Where the dealer has not been able to reconstruct the accounts or is also not able to provide corroborating evidence for entire/ significant part of the period.**

The dealer has informed that the books of account for the period …… (date) to …….. (date) were destroyed due to flooding of the office premises. The dealer has not been able to reconstruct the accounts and/or has not been able to provide corroborating documents for the accounts reconstructed by him/ them. In view of the above, I/we are not in position to certify the certificates in Para 2B.

❑❑❑

STANDARDS ON AUDITING (AUDITING AND ASSURANCE STANDARDS)

CHAPTER VII

1. Auditing Standards

In the simplest terms, auditing standards represent a codification of the best practices in the field of auditing. Auditing standards are, therefore, the performance benchmarks for the auditors. Auditing standards contain guidance for the professionals on how they should carry out their professional engagements, enshrined as the basic principles and essential procedures to apply those basic principles that relates to judgment or behaviour. Auditing standards are framed to ensure probity, integrity and quality in the professionals' work, essential for ensuring the confidence of the society in the financial information being reported by the business enterprises. The objective of auditing standards is to a large extent serving the public interest.

2. Need for Auditing Standards

Formulation of auditing standards worldwide, including India, entails consideration of important factors such as existing and accepted auditing practices in auditing, existing laws and regulations, usage and customs of trade and commerce, fundamental financial reporting principles, expectations of the society from the auditors. Auditing standards therefore play critical role in:

- Ensuring application of accepted financial reporting standards thereby lending credibility and wider acceptability to the financial statements
- Providing benchmarks against which the performance of the members can be measured and evaluated at global level also
- Ensuring compliance with the applicable legislative and regulatory framework
- Ensuring right approach of the professionals in complex/ emerging areas of audit
- Ensuring consistency and quality in the work performed by the professionals.

The auditing standards therefore are an important instrument for bridging the expectation gap between the society and the auditors. Moreover, the basic objective behind auditing standards, as discussed in the paragraph above, make it imperative that the auditing

standards apply whenever an independent audit of any entity, whether profit oriented or not, and irrespective of its size, legal form, is undertaken.

3. Auditing Standard—Setting in India

The auditing standards in India (known as the Auditing and Assurance Standards) are formulated by the Auditing and Assurance Standards Board (AASB) of the Institute of Chartered Accountants of India (ICAI). The AASs formulated by the AASB are issued under the authority of the Council of the Institute and are mandatory in nature. This implies that while carrying out their attest functions, it will be the duty of the members of the Institute to comply with these Standards. If for any reason a member has not been able to perform an audit in accordance with the AASs, his report should draw attention to the material departures therefrom.

4. The Revised Preface

The desire to be the best among equals in the world necessitates that one is ready to undergo the painstaking processes of learning, unlearning and re-learning all through. For the auditing profession in India too, which is looking forward to be reckoned among the best in the world and be accepted globally, this necessity comes as a necessary unavoidable. The Auditing and Assurance Standards Board (AASB), as a top priority, has taken on the ambitious project of convergence with the International Standards issued by the International Auditing and Assurance Standards Board (IAASB). As a first step towards convergence, it had, after going through its rigorous due process, in July 2007 published the Revised *Preface to Standards on Quality Control, Auditing, Review, Other Assurance and Related Services,* corresponding to its namesake issued by the IAASB in 2006. The Revised Preface, applicable from April 1, 2008, is set to change the face of the auditing literature from what it is now, introducing some more fundamental concepts to the existing ones. The following paragraphs give a gist of the significant provisions of the Revised Preface.

5. Engagement Standards

Whereas hitherto all the auditing standards issued by the AASB were known as the Auditing and Assurance Standards, the Revised Preface

categorises and christens the Standards based on the nature of service being provided by a member. It, therefore, introduces an umbrella concept of Engagement Standards. The term "Engagement Standards" comprises the following Standards:

a) *Standards on Auditing (SAs)*, to be applied in the audit of historical financial information.

b) *Standards on Review Engagements (SREs)*, to be applied in the review of historical financial information.

c) *Standards on Assurance Engagements (SAEs)*, to be applied in assurance engagements, dealing with subject matters other than historical financial information.

d) *Standards on Related Services (SRSs)*, to be applied to engagements involving application of agreed upon procedures to information, compilation engagements, and other related services engagements, as may be specified by the ICAI.

The Revised Preface therefore, does away with the nomenclature "Auditing and Assurance Standards". It also contains provisions for standards, to be known as the Standards on Quality Control (SQCs), which would be fundamental to all the services covered by the Engagement Standards.

6. Standards on Auditing

The Standards on Auditing (SAS) referred to in paragraph 5 above are formulated in the context of an audit of financial statements by an independent auditor. They are to be adapted as necessary in the circumstances when applied to audits of other historical financial information.

7. New Format of Presenting the Standards on Auditing

In line with the format adopted by the IAASB under its Clarity Project, the Revised Preface provides that instead of a running text, the Standards on Auditing would now contain two distinct sections, one, the Requirements section and, two, the Application Guidance section.

8. Requirements Section

The fundamental principles of the Standard are contained in the Requirements section and represented by use of "shall". Hitherto, the word, "should" was used in the Standards, for this purpose. Further, this format also does away with the need to present the principles laid down by the Standard in bold text.

9. Application Material

9.1 The application and other explanatory material contained in an SA are an integral part of the SA as they provide further explanation of, and guidance for carrying out, the requirements of an SA, along with the background information on the matters addressed in the SA. These may include examples of procedures, some of which the auditor may judge to be appropriate in the circumstances. Such guidance is, however, not intended to impose a requirement.

9.2 The Revised Preface also contains the principles as to when a Standard on Auditing would be inapplicable as also the reporting responsibilities of the members in case of non-compliance with any of the Standards.

10. Authority Attached

The Revised Preface also contains the authority attached to various documents issued by the Council or the AASB under the authority of the Council of the Institute, *viz.,* Standards, Statements, Guidance Notes, General Clarifications, Studies, etc.

11. Renumbering of Standards

The provisions of the Revised Preface, coupled with the difficulties otherwise being faced by the Board in writing Standards on the conventions followed by the IAASB, necessitated the need to adopt a new numbering pattern for the auditing standards. Whereas hitherto the auditing standards were being allotted sequential numbers as and when they were issued, under the Revised Preface, these standards have been categorized on the basis of the specific aspect of audit that

they deal with and accordingly allotted the number from that category. These categories are as follows:

Category	Number Series
Standards on Quality Control	01 – 99
Introductory Matters	100 – 199
General Principles and Responsibilities	200 – 299
Risk Assessment and Responses to Assessed Risks	300 – 499
Audit Evidence	500 – 599
Using Work of Others	600 – 699
Audit Conclusions and Reporting	700 – 799
Specialised Areas	800 – 899
Standards on Review Engagements	2000 – 2699
Standards on Assurance Engagements	3000 – 3399
Subject Specific Standards	3400 – 3699
Standards on Related Services	4000 – 4699

12. Auditing Standard issued so far (till 1-11-2009)

Earlier to taking a project of conversion with the International Standard, issued by the IAASB, the Institute had issued 35 Auditing and Assurance Standards, in addition to the preface to statement on standard on Standard Auditing Practice. After taking the project of conversion all these standards are re-classified and certain new standards were also issued by the Institute. Given below is a complete list of the re-classified and re-categorised engagement and qualify contract Standards as on 1st November, 2009.

Engagement and Quality Control Standards

The following is the list of Engagement and Quality Control Standards applicable to an audit of financial statements as on 01-11-2009, issued by the ICAI along with their effective dates:

Quality Control

New Standard Number (SQC) (1-899)	Standards on Quality Control (SQCs)	Corresponding Auditing and Assurance Standard (AAS) Number	Date from which effective
1	Quality Control for Firms that Perform Audits and Reviews of Historical Financial Information, and Other Assurance and Related Services Engagements[1]	—	Effective for all engagements relating to accounting periods beginning on or after April 1, 2009.
	Audits and Reviews of Historical Financial Information		
New Standard Number (SA) (100-999)	Standards on Auditing (SAs)	Corresponding AAS Number	Date from which effective
100-199	***Introductory Matters***		

1 Published in October, 2007 issue of the Journal.

New Standard Number (SQC) (1-899)	Standards on Quality Control (SQCs)	Corresponding Auditing and Assurance Standard (AAS) Number	Date from which effective
200-299	***General Principles and Responsibilities***		
200	Basic Principles Governing an Audit[2]	1	Effective for all audits related to accounting periods beginning on or after April 1, 1985
200A	Objective and Scope of the Audit of Financial Statements[3]	2	Effective for all audits related to accounting periods beginning on or after April 1, 1985
210	Terms of Audit Engagement	26	Effective for all audits related to accounting periods beginning on or after April 1, 2003
210 (Revised)	Agreeing the Terms of Audit Engagements[4]	SA 210	Effective for audits of financial statements for periods beginning on or after 1st April, 2010.

2 The Board has issued an Exposure Draft of Revised Standard on Auditing (SA) corresponding to ISA 200, "Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance with International Standards on Auditing" and consequently will withdraw the SA 200 and SA 200A on the issuance of the final Revised SA 200. The last date for sending the comments is October 30, 2009.

3 *ibid*

4 Published in September, 2009 issue of the Journal.

New Standard Number (SQC) (1-899)	Standards on Quality Control (SQCs)	Corresponding Auditing and Assurance Standard (AAS) Number	Date from which effective
220	Quality Control for Audit Work	17	Effective for all audits related to accounting periods beginning on or after April 1, 1999
230	Documentation	3	Effective for all audits related to accounting periods beginning on or after July 1, 1985
230 (Revised)	Audit Documentation[5]	SA 230	Effective for audits of financial statements for periods beginning on or after 1st April, 2009
240	The Auditor's Responsibility to Consider Fraud and Error in an Audit of Financial Statements[6]	4	Effective for all audits related to accounting periods beginning on or after April 1, 2003

5 Published in January, 2009 issue of the Journal.

6 SA 240, "The Auditor's Responsibility to Consider Fraud and Error in an Audit of Financial Statements" becomes operative for all audits related to accounting periods beginning on or after 1st April, 2003. The original AAS 4, 'Fraud and Error', issued in June, 1987, remains operative for all audits relating to accounting periods beginning on or before 31st March, 2003.

New Standard Number (SQC) (1-899)	Standards on Quality Control (SQCs)	Corresponding Auditing and Assurance Standard (AAS) Number	Date from which effective
240 (Revised)	The Auditor's Responsibilities Relating to Fraud in an Audit of Financial Statements[7]	SA 240	Effective for audits of financial statements for periods beginning on or after 1st April, 2009
250	Consideration of Laws and Regulations in an Audit of Financial Statements	21	Effective for all audits commencing on or after July 1, 2001
250 (Revised)	The Auditor's Responsibilities Relating to Laws and Regulations in an Audit of Financial Statements[8]	SA 250	Effective for audits of financial statements for periods beginning on or after 1st April, 2009
260	Communications of Audit Matters With Those Charged With Governance	27	Effective for all audits related to accounting periods beginning on or after April 1, 2003
260 (Revised)	Communication with Those Charged with Governance[9]	SA 260	Effective for audits of financial statements for periods beginning on or after 1st April, 2009

7 Published in December, 2007 issue of the Journal.
8 Published in December, 2008 issue of the Journal.
9 Published in December, 2008 issue of the Journal.

New Standard Number (SQC) (1-899)	Standards on Quality Control (SQCs)	Corresponding Auditing and Assurance Standard (AAS) Number	Date from which effective
265	Communicating Deficiencies in Internal Control to Those Charged with Governance and Management[10]	—-	Effective for audits of financial statements for Periods beginning on or after 1st April, 2010
299	Responsibility of Joint Auditors	12	Effective for all audits related to accounting periods beginning on or after April 1, 1996
300-499	**Risk Assessment and Response to Assessed Risks**		
300	Audit Planning	8	Effective for all audits related to accounting periods beginning on or after April 1, 1989
300 (Revised)	Planning an Audit of Financial Statements[11]	SA 300	Effective for audits of financial statements for periods beginning on or after 1st April, 2008
315	Identifying and Assessing the Risks of Material Misstatement through Understanding the Entity and Its Environment[12]	—	Effective for audits of financial statements for periods beginning on or after April 1, 2008

10 Published in September, 2009 issue of the Journal.
11 Published in December, 2007 issue of the Journal.
12 Published in February, 2008 issue of the Journal.

New Standard Number (SQC) (1-899)	Standards on Quality Control (SQCs)	Corresponding Auditing and Assurance Standard (AAS) Number	Date from which effective
320	Audit Materiality	13	Effective for all audits related to accounting periods beginning on or after April 1, 1996
320 (Revised)	Materiality in Planning and Performing an Audit[13]	SA 320	Effective for audits of financial statements for periods beginning on or after April 1, 2010
330	*The Auditor's Responses to Assessed Risks*[14]	—	Effective for audits of financial statements for periods beginning on or after April 1, 2008
402	Audit Considerations Relating to Entities Using Service Organisations	24	Effective for all audits related to accounting periods beginning on or after April 1, 2003
402 (Revised)	Audit Considerations Relating to an Entity Using a Service Organisation[15]	SA 402	Effective for audits of financial statements for periods beginning on or after April 1, 2010

13 Published in August, 2009 issue of the Journal.
14 Published in February, 2008 issue of the Journal.
15 Published in August, 2009 issue of the Journal.

New Standard Number (SQC) (1-899)	Standards on Quality Control (SQCs)	Corresponding Auditing and Assurance Standard (AAS) Number	Date from which effective
450	Evaluation of Misstatements Identified during the Audit[16]	—-	Effective for audits of financial statements for periods beginning on or after April 1, 2010
500–599	**Audit Evidence**		
500	Audit Evidence	5	Effective for all audits related to accounting periods beginning on or after January 1, 1989
500 (Revised)	Audit Evidence[17]	SA 500	Effective for audits of financial statements for periods beginning on or after April 1, 2009
501	Audit Evidence – Additional Considerations for Specific Items	34	Applicable to all audits related to accounting period beginning on or after April 1, 2005
505	External Confirmations	30	Effective for all audits related to accounting periods beginning on or after April 1, 2003

16 Published in August, 2009 issue of the Journal.
17 Published in April, 2009 issue of the Journal.

New Standard Number (SQC) (1-899)	Standards on Quality Control (SQCs)	Corresponding Auditing and Assurance Standard (AAS) Number	Date from which effective
510	Initial Engagements – Opening Balances	22	Effective for all audits commencing on or after July 1, 2001
510 (Revised)	Initial Audit Engagements— Opening Balances[18]	SA 510	Effective for audits of financial statements for periods beginning on or after April 1, 2010
520	Analytical Procedures	14	Effective for all audits related to accounting periods beginning on or after April 1, 1997
530	Audit Sampling	15	Effective for all audits related to accounting periods beginning on or after April 1, 1998
530 (Revised)	Audit Sampling[19]	SA 530	Effective for audits of financial statements for periods beginning on or after April 1, 2009
540	Auditing of Accounting Estimates	18	Effective for all audits commencing on or after April 1, 2000

18 Published in March, 2009 issue of the Journal.
19 Published in February, 2009 issue of the Journal.

New Standard Number (SQC) (1-899)	Standards on Quality Control (SQCs)	Corresponding Auditing and Assurance Standard (AAS) Number	Date from which effective
540 (Revised)	Auditing Accounting Estimates, Including Fair Value Accounting Estimates, and Related Disclosures[20]	SA 540	Effective for audits of financial statements for periods beginning on or after April 1, 2009
550	Related Parties	23	Effective for all audits related to accounting periods beginning on or after April 1, 2001
550 (Revised)	Related Parties[21]	SA 550	Effective for audits of financial statements for periods beginning on or after April 1, 2010
560	Subsequent Events	19	Effective for all audits commencing on or after April 1, 2000
560 (Revised)	Subsequent Events[22]	SA 560	Effective for audits of financial statements for periods beginning on or after April 1, 2009
570	Going Concern	16	Effective for all audits related to accounting periods beginning on or after April 1, 1999

20 Published in February, 2009 issue of the Journal.
21 Published in March, 2009 issue of the Journal.
22 Published in January, 2009 issue of the Journal.

New Standard Number (SQC) (1-899)	Standards on Quality Control (SQCs)	Corresponding Auditing and Assurance Standard (AAS) Number	Date from which effective
570 (Revised)	Going Concern[23]	SA 570	Effective for audits of financial statements for periods beginning on or after April 1, 2009
580	Representations by Management	11	Effective for all audits related to accounting periods beginning on or after April 1, 1995
580 (Revised)	Written Representations[24]	SA 580	Effective for audits of financial statements for periods beginning on or after April 1, 2009
600-699	**Using Work of Others**		
600 (Revised)	Using the Work of Another Auditor	10	Effective for all audits related to accounting periods beginning on or after April 1, 2002
610	Relying Upon the Work of an Internal Auditor	7	Effective for all audits related to accounting periods beginning on or after April 1, 1989
610 (Revised)	Using the Work of Internal Auditors[25]	SA 610	Effective for audits of financial statements for periods beginning on or after April 1, 2010

23 Published in December, 2008 issue of the Journal.
24 Published in October, 2008 issue of the Journal.
25 Published in August, 2009 issue of the Journal.

New Standard Number (SQC) (1-899)	Standards on Quality Control (SQCs)	Corresponding Auditing and Assurance Standard (AAS) Number	Date from which effective
620	Using the Work of an Expert	9	Effective for all audits related to accounting periods beginning on or after April 1, 1991
700-799	**Audit Conclusions and Reporting**		
700	The Auditor's Report on Financial Statements[26]	28	Effective for all audits related to accounting periods beginning on or after April 1, 2003
710	Comparatives	25	Effective for all audits related to accounting periods beginning on or after April 1, 2003
720	The Auditor's Responsibility in Relation to Other Information in Documents Containing Audited Financial Statements[27]	—-	Effective for audits of financial statements for periods beginning on or after April 1, 2010
800-899	**Specialized Areas**		

26 The Exposure Drafts of Revised SA 700, SA 705 and SA 706 have been published in the June 2009 issue of the Journal. The last date for sending comments on these Exposure Drafts is July 31, 2009.

27 Published in April, 2009 issue of the Journal.

New Standard Number (SRE) (2000-2699)	Standards on Review Engagements (SREs)	Corresponding Existing AAS Number	Date from which effective
2400	Engagements to Review Financial Statements[28]	33	Applicable to all review engagements relating to accounting periods beginning on or after April 1, 2005

Assurance Engagements Other Than Audits or Reviews of Historical Financial Information

New Standard Number (SAE) (3000-3699)	Standards on Assurance Engagements (SAEs)	Corresponding Existing AAS Number	Date from which effective
3000-3399	**Applicable to all Assurance Engagements**		
3400-3699	**Subject Specific Standards**		
3400	The Examination of Prospective Financial Information	35	Effective in relation to reports on projections/forecasts, issued on or after April 1, 2007
Related Services			

28 With the issuance of SRE 2400, the Guidance Note on Engagement to Review Financial Statements issued by the Institute of Chartered Accountants of India in May 2000 stands withdrawn. The Exposure Draft of Revised SRE 2400 has been published in the June 2009 issue of the Journal. The last date for sending comments is July 31, 2009.

New Standard Number (SRS) (4000-4699)	Standards on Related Services (SRSs)	Corresponding Existing AAS Number	Date from which effective
4400	Engagements to Perform Agreed-upon Procedures Regarding Financial Information[29]	32	Applicable to all agreed upon procedures engagements beginning on or after April 1, 2004
4410	Engagements to Compile Financial Information[30]	31	Applicable to all compilation engagements beginning on or after April 1, 2004

13. Application of Auditing Standard for Audit Report in Form 704

Para 1 of Part I of Form 704 requires VAT auditor to report as to whether he has conducted audit in accordance with the Standard Auditing Principals generally accepted in India. Thus while conducting the VAT Audit SAs are also applicable. Besides SAs the VAT auditor is also expected to take into account various other Auditing Pronouncements such as Guidance Notes issued by the ICAI.

29 With the issuance of this SRS, the Guidance Note on Engagements to Perform Agreed-upon Procedures regarding Financial Information, issued by the Institute of Chartered Accountants of India in July 2001, shall stand withdrawn.

30 With the issuance of this SRS, the Guidance Note on Members' Duties regarding Engagements to Compile Financial Information, issued by the Institute of Chartered Accountants of India in February 2002, shall stand withdrawn.

ACCOUNTING STANDARDS

CHAPTER VIII

1. Recognizing the need to harmonise the diverse accounting policies and practices in use in India and keeping in view the International developments in the field of accounting, the Institute has issued Accounting Standards (AS).

2. 'AS' are formulated by the Accounting Standards Board and issued by the Council of the Institute. Such Standards are issued for use in the presentation of general purpose financial statements which are issued to the public by such commercial, industrial or business enterprises as may be specified by the Institute from time to time and subject to the attest function of its members. The term `General Purpose Financial Statements' includes balance sheet, statement of profit and loss, a cash flow statement (wherever applicable) and other statements and explanatory notes which form part thereof, issued for the use of various stakeholders, Governments and their agencies and the public at large.

3. The Institute has so far (1-11-2009) issued Thirty–two definitive standards as follows:

Name of the Accounting Standard		Year of Issuance
AS 1	Disclosure of Accounting Policies	Issued 1979
AS 2	Valuation of Inventories	Revised 1999
AS 3	Cash Flow Statements	Revised 1997
AS 4	Contingencies and Events Occurring after the Balance Sheet Date	Revised 1995
AS 5	Net Profit or Loss for the period, Prior Period items and changes in Accounting policies	Revised 1997
AS 6	Depreciation Accounting	Revised 1994
AS 7	Construction Contracts	Revised 2002
AS 8	Accounting for Research and Development	Withdrawn from the date AS 26 becoming mandatory

Name of the Accounting Standard		Year of Issuance
AS 9	Revenue Recognition	Issued 1985
AS 10	Accounting for Fixed Assets	Issued 1985
AS 11	The Effects of Changes in Foreign Exchange Rates	Revised 2003
AS 12	Accounting for Government Grants	Issued 1991
AS 13	Accounting for Investments	Issued 1993
AS 14	Accounting for Amalgamations	Issued 1994
AS 15	Employee Benefits	Revised 2005
AS 16	Borrowing Costs	Issued 2000
AS 17	Segment Reporting	Issued 2000
AS 18	Related Party Disclosures	Issued 2000
AS 19	Leases	Issued 2001
AS 20	Earnings Per Share	Issued 2001
AS 21	Consolidated Financial Statements	Issued 2001
AS 22	Accounting for Taxes on Income	Issued 2001
AS 23	Accounting for Investments in Associates in Consolidated Financial Statements	Issued 2001
AS 24	Discontinuing Operations	Issued 2002
AS 25	Interim Financial Reporting	Issued 2002
AS 26	Intangible Assets	Issued 2002
AS 27	Financial Reporting of Interests in Joint Ventures	Issued 2002
AS 28	Impairment of Assets	Issued 2002
AS 29	Provisions, Contingent Liabilities and Contingent Assets	Issued 2003

Name of the Accounting Standard		Year of Issuance
AS 30	Financial Instruments : Recognition and Measurement*	Issued 2008
AS 31	Financial Instruments : Presentation*	Issued 2008
AS 32	Financial Instruments : Disclosures*	Issued 2008

* Accounting Standard 30, 31 and 32 have come into effect in respect of accounting periods commencing on or after 01-04-2009 and are recommendatory in nature for an initial period of two years. These Accounting Standards are not yet notified by the Ministry of Corporate Affairs.

In addition the Accounting Standards Board also issues general clarification to AS and various accounting pronouncement in the form of Guidance Notes which are also required to be taken into account by the vat auditor.

4. The Companies Act, 1956, as well as many other statutes require that the financial statements of an enterprise should give a true and fair view of its financial position and working results. This requirement is implicit even in the absence of a specific statutory provision to this effect. However, what constitutes 'true and fair' view has not been defined either in the Companies Act, 1956 or in any other statute. The Accounting Standards (as well as other pronouncements of the Institute on accounting matters) seek to describe the accounting principles and the methods of applying these principles in preparation and presentation of financial statements so that they give a true and fair view.

5. In this connection, attention is invited to section 211 of the Companies Act, 1956, newly sub-section 3A thereof provides that every profit and loss account and balance sheet of a company shall comply with the accounting standards. Sub-section (3B) thereof provides that where the profit and loss account and the balance sheet of the company do not comply with the accounting standards, such companies shall disclose in its profit and loss account and balance sheet, the following namely:—

(i) the deviation from the accounting standards;

(ii) the reasons for such deviation; and

(iii) the financial effect, if any, arising due to such deviation.

Sub-section (3C) provides that for the purposes of section 211, the expression "accounting standards" means the standards of accounting recommended by the Institute of Chartered Accountants of India as may be prescribed by the Central Government in consultation with the National Advisory Committee on Accounting Standards established under sub-section (1) of section 210A. The proviso under sub-section (3C) provides that the standards of accounting specified by the Institute of Chartered Accountants of India shall be deemed to be the Accounting Standards until the accounting standards are prescribed by the Central Government under sub-section (3C).

Further, sub-clause (d) has been inserted in sub-section (3) of section 227 to provide that the auditors' report shall also state whether, in his opinion, the profit and loss account and balance sheet comply with the accounting standards referred to in sub-section (3C) of section 211.

6. In pursuance of the powers u/s 211 of the Companies Act, the Central Government in consultation with National Advisory Committee on Accounting Standards had made "Companies (Accounting Standard) Rules, 2006 which came into force w.e.f. 07-12-2006. Rule 3 of these rules read as under :—

"3. Accounting Standards (1) The Central Government hereby prescribes Accounting Standards 1 to 7 and 9 to 29 as recommended by the Institute of Chartered Accountants of India, which are specified in the Annexure to these rules.

(2) The Accounting Standards shall come into effect in respect of accounting periods commencing on or after the publication of these Accounting Standards."

Thus, it may be noted that the AS 30 to 32 though issued by the Institute to come into force w.e.f. accounting period commencing w.e.f. 01-04-2009, those are not notified by Central Government.

7. The 'Preface to the Statements of Accounting Standards', issued by the Institute, *inter alia,* states:

"While discharging their attest function, it will be the duty of the members of the Institute to ensure that the Accounting Standards are implemented in the presentation of financial statements covered by their audit reports. In the event of any deviation from the Standards, it will be also their duty to make adequate disclosures in their reports so that the users of such statements may be aware of such deviations."

8. In the case of an enterprise other than a company, Institute also directed its members to qualify their audit reports in case AS issued, prescribed and made mandatory by the institute have not been followed.

9. AS apply in respect of commercial, industrial or business activities of an enterprise. In the case of charitable or religious organisations, AS will not apply if all activities of such organisations are not of commercial, industrial or business nature (e.g. an activity of collecting donations and giving them to flood affected people). In other words, exclusion of an entity from the applicability of the AS would be permissible only if no part of the activity of such entity is commercial, industrial or business in nature. Even if a very small portion of the activities of an entity is considered to be commercial, industrial or business in nature, then it cannot claim exemption from the application of AS. The AS would apply to all its activities including those which are not commercial, industrial or business in nature.

10. **Disclosure of accounting policies**

Accounting policies adopted by the dealer would be very important for discharging attest function under MVAT Act also. Without understanding the accounting policies it may not be possible for a Vat auditor to determine turnover of sales/purchases. Therefore, in particular, attention of members is invited to AS1 which *inter alia* provides that:

1. All significant accounting policies adopted in the preparation and presentation of financial statements shall be disclosed.

2. The disclosure of the significant accounting policies shall form part of the financial statements and the significant accounting policies shall normally be disclosed in one place.

3. Any change in an accounting policy which has a material effect in the previous year or in the years subsequent to the previous years shall be disclosed. The impact of, and the adjustments resulting from such change, if material, shall be shown in the financial statements of the period in which such change is made to reflect the effect of such change. Where the effect of such change is not ascertainable, wholly or in part, the fact shall be indicated. If a change is made in the accounting

policies which has no material effect on the financial statements for the previous year but which is reasonably expected to have a material effect in any year subsequent to the previous year, the fact of such change shall be appropriately disclosed in the previous year in which the change is adopted.

4. Accounting policies adopted by the dealer should be such so as to determine correct turnover of sales and purchases and input tax. For this purpose, the major considerations governing the selection and application of accounting policies are the following, namely:

(i) **Prudence** — Provisions should be made for all known liabilities and losses even though the amount cannot be determined with certainty and represents only a best estimate in the light of available information;

(ii) **Substance over form** — The accounting treatment and presentation in financial statements of transactions and events should be governed by their substance and not merely by the legal form;

(iii) **Materiality** — Financial statements should disclose all material items, the knowledge of which might influence the decisions of the user of the financial statements.

5. If the fundamental accounting assumptions relating to going concern, Consistency and Accrual are followed in financial statements, specific disclosure in respect of such assumptions is not required. If a fundamental accounting assumption is not followed, such fact shall be disclosed.

12. Qualification in Audit Report on Financial Statements

12.1 While discharging the attest function in relation to financial audit the members should qualify their audit reports in case:

(a) accounting policies required to be disclosed under Schedule VI or any other provisions of the Companies Act, 1956, have not been disclosed, or

(b) accounts have not been prepared on accrual basis, or

(c) the fundamental accounting assumptions of going concern and consistency have not been followed and this fact has not been disclosed in the financial statements, or

(d) proper disclosures regarding changes in the accounting policies have not been made;

(e) **Accounting Standards referred to in section 211(3C) of the Companies Act, 1956 have not been followed.**

Where a company has been given a specific exemption regarding any of the matters stated above, but the fact of such exemption has not been adequately disclosed in the accounts, the member should mention the fact of exemption in his audit report without necessarily making it a subject matter of audit qualification.

12.2 Vat auditor while conducting VAT audit should keep in mind that the accounts of the dealer are normally expected to have prepared in compliance with the mandatory accounting standards. He would able to note non-compliance, if any, from the report on the general purpose finance statement. Thus knowledge of AS is necessary to reconcile the data as per financial statement and particulars to be given under MVAT Audit Report.

13. Applicability of Accounting Standards and exemptions/ relaxations for Small and Medium Sized Enterprises

Certain exemptions/relaxations from the applicability of accounting standards have been given to Small and Medium Size Enterprise (SMEs). Accordingly, the Council has decided upon the following scheme which has come into effect in respect of accounting periods commencing on or after 1-4-2004.

(1) For the purpose of applicability of Accounting Standards, enterprises are classified into three categories, viz., Level I, Level II and Level III. Level II and Level III enterprises are considered as SMEs.

(2) Level I enterprises are required to comply fully with all the accounting standards.

(3) It has been decided that no relaxation should be given to Level II and Level III enterprises in respect of recognition and measurement principles. Relaxations are provided with regard to disclosure requirements. Accordingly, Level II and Level III enterprises are fully exempted from certain accounting standards which primarily lay down disclosure requirements. In respect of certain other accounting standards, which lay

down recognition, measurement and disclosure requirements, relaxations from certain disclosure requirements are given. The exemptions/relaxations are decided to be provided by modifying the applicability portion of the relevant accounting standards. The applicability of AS and exemptions/relaxations thereof for SMEs are given in ***Appendix-7***.

14. Financial statements prepared on a basis other than accrual

With regard to the fundamental accounting assumption of accrual, the Institute has made a specific announcement that in respect of (a) Sole proprietary concerns/individuals, (b) Partnership firms, (c) Societies registered under the Societies Registration Act, (d) Trusts, (e) Hindu undivided families and (f) Association of persons, the vat auditor should examine whether the financial statements have been prepared on accrual basis. In case where the statute governing the enterprise requires the preparation and presentation of financial statements on accrual basis but the financial statements have not been so prepared, the vat auditor should qualify his report. On the other hand where there is no statutory requirement for preparation and presentation of financial statements on accrual basis and the financial statements have been prepared on a basis other than 'accrual', the vat auditor should describe in his audit report, the basis of accounting followed, without necessarily making it a subject matter of a qualification. In such a case the auditor should also examine whether those provisions of the AS which are applicable in the context of the basis of accounting followed by the enterprise have been complied with or not and consider making suitable qualifications in his audit report accordingly.

15. Non-compliance with the AS — Implications

As mentioned earlier, AS are applicable to all general purpose financial statements. Therefore, in case of non-compliance with the AS, the chartered accountant who have audited financial statements would have made appropriate qualifications/ disclosures in the audit report. Such qualifications/ disclosures may or may not have any impact on the particulars which are to be attested by the vat auditor. It should be noted that the vat auditor auditing accounts under section 61 is virtually computing the tax liability at the same time is also — (a) reporting on accounts, and (b) reporting on the relevant information furnished in Form No. 704. The Form requires reporting

of the details of deviation, if any, in the method of accounting employed previously. The change in method/system/accounting policies may impact the tax liability.

16. Accounting Standards vs. VAT

While the turnover of purchases or sales for the purpose of Profit and Loss Account is required to be determined in accordance with the Accounting Standards after verification of each invoices of sales or purchases, for the purpose of VAT Audit it needs to be re-determined after re-verifying vouchers of sales and purchases in accordance with VAT Law or CST Act. Some illustrative differences (not an exhaustive list) in this regard, which needs to be determined only after verification of the books of account, are as under:—

1. AS 19 (on leases) provides that in case of finance lease, in the books of account of lessor, cost of asset given on lease should be recorded as receivable and in the books of lessee, asset should be recorded as purchases at fair value and corresponding amount as liability. However, under MVAT Act, the asset will be treated as purchases in the hands of lessor only and fair value of asset recorded as purchases in the books of lessee would not be treated as purchases. In the hands of lessor, as per AS, only finance charges will form part of revenue as against under VAT Act where total lease rental will be turnover of sale. Similarly in the hands of lessee as per AS, the payment of lease rentals will have to be bifurcated as payment of liability and finance charges but under MVAT Act, entire lease rental due will be treated as turnover of purchases during the year in which it is due.

2. Method of Recognition of Contract Revenue and Expenses as per AS 7 is different than the determination of turnover of sales under MVAT Act for construction contracts.

3. As per AS, refundable duties reduces cost of purchases while under MVAT Act that would not be a case and will form part of turnover of purchases.

4. Turnover on account of principal is not reflected in financial statements of the agent and only commission is recorded as revenue for the agent. Under VAT Act turnover on account of principal also form part of turnover of agent.

5. Guidance Note on Accounting for State Level Value Added Tax requires that if in the sale invoice VAT is not charged separately then tax element should be segregated and be credited to VAT payable account. However, under MVAT Act, it forms part of turnover of sales.

6. Under MVAT Act, deposits in connection with or incidental to sale is part of sale price and if such deposit is refunded within a period of six months, then only it will be deductible. However, as per GAAP the deposits will not form part of sale price. Non-refundable position of the deposit or forfeiture of deposit will be termed as other receipts.

There may be many more such differences. Few are already given as illustration in earlier or later chapters. Therefore, VAT auditor will have to verify the reconciliation of the turnover of sales as per the accounts and under MVAT Act and/or CST Act and also give such reconciliation in Annexure K to Form 704. Indicative (not an exhaustive) check list for the purpose is given in **Appendix-8** which may be of help to VAT auditor for verifying and certifying such reconciliation.

17. Supremacy of the Institute

It is submitted that supremacy of the Institute of Chartered Accountants of India, which is apex body to issue guidance to its members in the field of Accounting and Auditing is also approved by Supreme Court in case of Dai Ichi Karkaria Ltd., (1999 (112) ELT. 353 (SC)) in which the Court observed that "there is no doubt that this Institute is an authoritative body in the matter of laying down Accounting Standards as well as Auditing Standards". Therefore, unless any law requires or any direction issued under any law to maintain accounts in any contrary manner, the Standards and Guidance Notes issued by ICAI are final and binding.

❑❑❑

CODE OF CONDUCT AND OTHER MATTERS

CHAPTER IX

1. The Chartered Accountants are governed by the Chartered Accountants Act, 1949 & Regulations framed thereunder. The Institute of Chartered Accountants of India has formulated the Code of Ethics (COE) for Chartered Accountants. In addition Council General Guidelines is also issued in 2008 certain resolutions are also passed by the Council from time to time. All these are also part of COE. In formulating the Code of Ethics for the profession, the Institute has always considered the motto "Pride of service in preference to personal gain" as a litmus test. User expectation & public perception are crucial criteria while formulating the Code of Ethics so that there should not be any expectation gap between the "Standards expected" and "those prescribed". The success of the profession of accountancy is dependent upon a self-imposed Code of Ethics. The COE is essential to command the respect & confidence of the general public. The COE recognizes that the objectives of the accountancy profession are to work to the highest standards of professionalism, to attain the highest levels of performance and generally to meet the public interest requirements set out. Some of the issues which are commonly raised in regard to different aspects of VAT audit vis-à-vis the liability/obligations of the vat auditor are considered hereunder.

2. The liability of the vat auditor in respect of VAT audit will be the same as in any other audit assignment. It may be noted that when any question relating to the audit conducted by a VAT auditor arises, he is answerable to the Council of the Institute under the Chartered Accountants Act. In all matters concerning VAT audit Institute's disciplinary jurisdiction will prevail.

3. In case the dealer is found guilty of having concealed the particulars of his turnover or for liability it would not *ipso facto* mean that the vat auditor is also responsible. If the Assessing Officer comes to the conclusion that the vat auditor was grossly negligent in the performance of his duties, he can refer the matter to the Institute so that appropriate action can be taken against the vat auditor under the Chartered Accountants Act.

4. The assessing officer or any other authority who is authorised to issue summons and to call for evidence or documents, can call upon the vat auditor who has audited the accounts to give any evidence or

produce documents (other than his working papers). Thus, summons under MVAT Act can be issued by the assessing officer or other authorised vat authority to vat auditor.

5. If the actual work relating to examination of books and records is done by a qualified assistant in a firm of chartered accountants and the partner of the firm signing the audit report has relied upon this work, action, if any, for professional negligence, can be initiated against the member who has signed the report and in such an event, it would be open for the member concerned to prove that he has taken due care and diligence in the performance of his duties and is not aware of any reason to believe that he should not have so relied.

6. If the qualified assistant (whether or not holding the certificate of practice) is found to be grossly negligent in the performance of his duties the Institute can take disciplinary action against qualified assistant also.

7. A vat auditor can accept the assignment of tax representation.

8. Under the COE, vat auditor cannot charge professional fees by way of percentage of turnover or percentage of profits. In this connection, reference is invited to Clause (10) of Part I of the First Schedule to the Chartered Accountants Act and the commentary on the subject at page Nos. of the Code of Ethics (2009 reprint of eleventh Edition). Certain exceptions are made in Regulation 192, but these exceptions do not apply for charging of fees for Vat audit.

9. Under reporting requirement of Form 704, the vat auditor is expected to recommend the dealer to pay additional tax liability, or payback excess refund received, or claim additional refund, or reduce the claim of refund or reduce tax liability or revise closing balance of CQBA and/or pay interest. Therefore, the vat auditor virtually steps in the shoes of the assessing authorities. Since while doing vat audit all the figures are duly verified by the vat auditor. It is expected of the tax authorities to accept the figures certified by the vat auditor. If, however, there is a specific reason for deferring with the views taken by the vat auditor, the tax authorities may compute the tax liability.

10. The opinion/recommendations expressed by the vat auditor are expected to be followed but they are not binding on the dealer. If the Vat auditor has qualified his report and expressed an opinion on a particular item, the dealer may take a different view and may not take steps on the advice given by VAT auditor in Form 704.

11. In case if the member is a director of a company the financial statements of which are to be audited and/or opinion is to be expressed, he should not undertake such job and/or express opinion on the financial statements of that company. This applies to VAT audit also.

12. Section 226 of the Companies Act specifically prohibits a member from auditing the accounts of the company in which he is a director or in the employment of an officer or an employee of the company, although the provisions of the aforesaid section are not specifically applicable in the context of audits performed under other statutes, e.g. VAT audit, yet the underlying principle of independence of mind is equally applicable in those situations also. "Relative" means the Spouse, Brother or Sister or any Lineal Ascendant or Descendant of the Member. Please refer to the definition of "Relative" given in Appendix (9) to the CA Regulation, 1988. In this regard attention is invited to Chapter IV of the ICAI Guidelines.

13. The holding of substantial interest by the partner or relative of the member in the business or enterprise of which the audit is to be carried out and opinion is to be expressed on the financial statement, may also affect the independence of mind of the member, in the opinion of Council, in the performance of professional duties. Therefore, the member may, for the same reason as not to compromise his independence, desist from undertaking the audit of financial statements of such business or enterprise.

14. Attention is invited to Council's Guidelines for members dated 08-08-2008 **(Appendix 2)** for various other issues concerning COE.

15. The role of the vat auditor

15.1 The role of vat auditor vis-à-vis the dealer is that of an adviser. This role casts upon him a responsibility to educate and guide the auditee regarding the maintenance of accounting records and vat record in such a manner as to get the information needed for filing of return without delay and extra efforts. In playing the advisory role the auditor may have to help in devising a proper accounting system which will generate the required information regarding the output tax, input tax credit, etc. While doing so the auditor may take the guidance from the Guidance Notes issued by ICAI.

15.2 The role of tax auditor vis-a-vis the tax administrators is that the auditor, while discharging his function finds out whether the turnover of sales/purchases is shown correctly in the returns and is backed up by the accounts and other relevant documents; the deductions claimed by the tax-payer from the turnover of sales are genuine and are supported by valid documents; the claim of input tax credit has been properly made i.e. it has not been claimed on the higher side or on such purchases which are not eligible for grant of input tax credit. There may be certain instances wherein at the time of purchases the goods might have been eligible for set-off and accordingly the same was claimed in the returns but subsequent events might have rendered the input tax credit inadmissible. In such circumstances, it should be the responsibility of the VAT auditor to state whether the inadmissible input tax credit has been reversed or not and if not, he has to point it out in his report. Thus to a certain degree the VAT auditor is expected to assist the VAT administrators in the proper quantification of tax liability of the tax-payer and see that State exchequer get its revenue which is legally due.

15.3 Many dealers assume that the regular engagement of their chartered accountant will also cover the vat audit. Under normal engagement conditions, this will not be the case. The vat audit is a separate assignment. Consequently, a dealer should be aware about the nature and scope of the audits performed by their regular chartered accountant. The vat audit is separate professional assignment. It is solely the responsibility of the dealer to ensure that the appropriate measures for compliance with VAT regulations are put in place and are actually applied. The vat auditor is expected to certify the measurements and compliances.

15.4 Thus vat auditor is required to exhibit his independence and expand his skill and knowledge, otherwise he carries risk of being grossly negligent or not performing his duties.

❑❑❑

APPLICABILITY CRITERIA FOR VAT AUDIT

CHAPTER X

1. Section 61 of the MVAT Act sets criteria to ascertain whether any person or a dealer is required to get the books of account audited. While sub-section (1)(a) sets turnover based criteria for a dealer sub-section (1)(b) sets a criteria for specific dealer or person and sub-section (3) grants exemption from VAT audit.

2. Dealers covered under section 61(1)(a)

Section 61(1)(a) provides that ***"every dealer liable to pay tax"*** who meets the turnover criteria prescribed thereunder, is required to get his books of account audited. Both the terms i.e. 'dealer' and 'liable to pay tax' has definite meaning attached to it under MVAT Act.

3. Dealer

3.1 The term "dealer" is defined in Section2 (8) of MVAT Act as under :

Section 2(8): *"Dealer" means any person who for the purposes of or consequential to or in connection with or incidental to or in the course of his business buys or sells goods in the State whether for commission, remuneration or otherwise and includes*:

a) a factor, broker, commission agent, del-credre agent or any other mercantile agent who buys or sells goods on behalf of any principal whether disclosed or not;

b) an auctioneer who sells or auctions goods or who organizes the sale of goods or conducts auction of goods whether or not he has the authority to sell the goods belonging to any principal and whether the offer of the intending principal is accepted by him or by the principal;

c) a non-resident dealer or an agent or a non-resident dealer who buys or sells goods within the State;

d) any Society, Club or association of persons which buys goods from, or sells goods to its members.

Explanation— For the purposes of this clause, each of the following persons, bodies and entities who sell any goods whether by auction or otherwise, directly or through an agent for cash, or for deferred payment, or for any other valuable consideration, shall,

notwithstanding anything contained in clause (4) or any other provision of this Act, be deemed to be a dealer, namely:—

(i) Customs Department of the Government of India administering the Customs Act, 1962;

(ii) Departments of Union Government and any Department of any State Government;

(iii) Incorporated or unincorporated societies, clubs or other associations of persons;

(iv) Insurance and Financial Corporations, institutions or companies and banks included in the Second Schedule to the Reserve Bank of India Act, 1934;

(v) Local authorities;

(vi) Maharashtra State Road Transport Corporation constituted under the Road Transport Corporation Act, 1950;

(vii) Port Trusts;

(viii) Public Charitable Trusts registered under the Bombay Public Trusts Act, 1950;

(ix) Railway Administration as defined under the Indian Railways Act, 1989 and Konkan Railway Corporation Limited;

(x) Shipping and construction companies, air transport companies, airlines and advertising agencies;

(xi) Any other corporation, company, body or authority owned or constituted by, or subject to administrative control, of the Central Government, any State Government or any local authority:

Exception I. An agriculturist who sells exclusively agricultural produce grown on land cultivated by him personally, shall not be deemed to be a dealer within the meaning of this clause.

Exception II. An educational institution carrying on the activity of manufacturing, buying or selling goods, in the performance of its functions for achieving its objects, shall not be deemed to be a dealer within the meaning of this clause.

Exception III. A transporter holding permit for transport vehicles (including cranes) granted under the Motor Vehicles Act, 1988, which are used or adopted to be used for hire or reward shall not be deemed to be a dealer within the meaning of this clause in respect of sale or purchase of such transport vehicles or parts, components or accessories thereof.

3.2 The definition of term "Dealer" specifies some deemed dealers. It does not suggest that every person is a dealer although such person may be merely buying or selling goods. It is necessary to ascertain whether the person is a dealer as per the definition given above. The definition says that, any person who for the purpose of or consequential to or in connection with or incidental to or in the course of his "**business"** buys or sells in the State is a dealer. Therefore, it is necessary to ascertain the meaning of the term person and whether the activities of buying or selling of the goods of such person is in the course of business or not.

3.3 **Person**

The term "person" is defined in section 2(17) of MVAT Act as under—

Section 2(17)

"person" includes an individual, any State Government, the Central Government, any company or society or club or association or body of individuals whether incorporated or not, and also a Hindu Undivided Family, a firm and a local authority and every artificial juridical person not falling within any of the preceding descriptions;

3.4 **Business**

3.4.1 The term "business" is defined in section 2(4) of MVAT Act as under

Section 2(4)

"Business" *includes any service, any trade, commerce or manufacture or any adventure or concern in the nature of service, trade, commerce or manufacture.* Under Explanation to this definition, the following activities/transactions have been deemed to be business or deemed to comprise in business, *viz. i) raising of man-made forests or rearing of*

seedlings or plants, (ii) sales or purchases of capital assets, (iii) sales or purchases of goods, the price of which is credited or debited to the profit and loss account, and (iv) any transaction in connection with commencement or closure of business.

3.4.2 The definition is very wide. Any activity relating to trade, manufacture, adventure or concern with or without profit motive is included in the scope of business. Thus, the person even doing the activity of merely buying the goods in the course of business in relation to business would also be a dealer. Like wise, the person only selling the goods would also be a dealer. Therefore the VAT auditor is advised to take a view based upon judicial pronouncements as to whether a person is engaged in business or not to decide as to whether a person is a dealer or not.

3.4.3 A special reference is required to be made to the word 'service' included in the definition of business**.** For the time being, the State Government is not entitled to levy tax on service and therefore the inclusion of service in the definition cannot bring any tax on the service itself. However, if the person is engaged in the activity of providing the service and in the course of the same, he has to buy or sell the goods, then to that extent; he will be covered by the definition. Accordingly a person may be a dealer. It is also required to note that all services are not included in the above definition, but only those services which will be notified by the State Government under Section 2(27) will only be covered. At present no such services are notified. Thus till the time services are notified, a person is providing services may not be carrying on business for the purposes of MVAT Act and thus would not be a dealer.

3.4.4 The definition "business" covers certain specifically included transaction of sales or purchases. In normal cases such transactions would not be termed as business. e.g. The transaction relating to the sale or purchase of capital assets or purchase debited to profit and loss account are considered to be in the course of business. Similarly, transactions on account of sale or purchase of any goods relating to business are considered within the scope of business. The transactions effected for commencement of business, though actual activity of business may be carried on later, have been included in the

scope of business. Similarly, the transaction of sales of goods such as stock or fixed assets after the closure of business will also be considered within the scope of term 'business'.

3.5. **Extended definition of dealer**

Under the explanation certain persons are deemed to be a dealer *qua* the activity of selling the goods

3.6 To illustrate following persons would be covered within the scope of dealer if they are liable to pay tax under the MVAT Act, viz.

a) Any person who is engaged in the business of buying or selling goods.

b) Any agents, brokers, etc. who buy and sell goods on behalf of any principal

c) An auctioneer who conducts an auction.

d) Any Society, Clubs or association of persons etc.

e) Customs Department which sells or disposes of confiscated goods.

f) Union or State Government departments and Local authorities which may sell any goods including capital assets and scrap.

g) Public Charitable Trusts which sells the goods like books, cassettes, prasads etc.

h) Railway Administration which dispose of any goods, capital assets, scrap, etc. and supply/sell good and meals etc.

i) Maharashtra State Road Transport Corporation, Shipping and Construction Companies, Airlines, Air Transport Companies and advertising agencies, which sell any goods, capital assets, etc.

j) Insurance companies which sells any goods including salvage.

k) Financial Institutions and Banks which sells any goods, capital assets, confiscated and repossessed goods, etc.

l) Port Trust

3.7 **Exclusions**

Attention is invited to the exception given in section 2(8) under which person covered by excluded categories in definition would not be a dealer even if such person is engaged in buying or selling the goods.

4. Liable to pay tax

Every dealer is not liable to pay tax. The liability to pay tax under the MVAT Act is to be determined as per the provisions of section 3. In general, the liability to pay tax arises in the following circumstances:—

a) If the turnover of sales during the year exceeds the limits given below:—

Sr. No.	Type of Dealer	Turnover of sales	Additional turnover requirement
1.	Importer (One who brings the goods within the State from out of the State or Country)	Rs. 1,00,000/-	Taxable goods purchased or sold is equal to or more than Rs. 10,000/-
2.	Others (Manufacturers, Resellers, Works Contractors, Leasing Companies, etc.)	Rs. 5,00,000/-	Taxable goods purchased or sold is equal to or more than Rs. 10,000/-

The above turnover will also include turnover of tax-free goods, goods sold on account of principals, goods sold by auctioneers if the price is received by him and in the case of agent of a non-resident dealer, turnover of all sales of the non-resident dealer in the State of Maharashtra.

b) The agent will be liable to pay tax whether or not the principal is a dealer and whether or not the principal is liable to pay tax.

c) A dealer opting for voluntary registration from the date of registration irrespective of the turnover is liable to pay tax.

d) In addition, there are special provisions regarding liability to pay tax. In certain cases, the vat auditor is advised to make a reference of sections 44 and 45 of the MVAT Act.

e) Every dealer who is liable to pay tax on the date of commencement of MVAT Act, continues to remain liable to payment of tax under the MVAT Act also. The liability to pay tax ceases only in the circumstances enumerated in section 16(6).

5. **Criteria under section 61(1)(a)**

Section 61(1)(a) provides that every dealer liable to pay tax get his accounts audited if his turnover of sales or purchases exceeds rupees forty lakhs. The Registration under the MVAT Act is not a criteria for deciding liability to pay tax and thereby for finding out whether a person is covered by the provisions of Section 61. In other words, an unregistered dealer who is liable to pay tax, on exceeding the turnover of sales or purchases of Rs. 40 lakhs even remain unregistered will be liable to get his books of account audited under the MVAT Act. Similarly any dealer who opted for VAT registration but exclusively dealing in tax free goods would also be liable to get his accounts audited. Thus, following three things are required to be satisfied.

1. A person should be a dealer;
2. Such dealer should be liable to pay tax;
3. Turnover of sales or purchases should exceeds rupees forty lakhs during the financial year.

How to calculate the turnover of sales or purchases is explained in next chapter.

6. Criteria under section 61(1)(b)

Section 61(1)(b) provides for mandatory audit in case of specified dealers/ persons without satisfying turnover criteria. A dealer or a person who holds a specified liquor licence, as enumerated in the section is required to get his accounts audited irrespective of his turnover of sales or purchases. Thus, the person holding a licence

irrespective of a turnover is liable to get his accounts audited. There may be a case that a person holds specified liquor licence but does not have any turnover of sales or purchases and therefore may not be maintaining any accounts. Similarly any other person is conducting a business on behalf of person holding such license and in that case accounts are maintained by a person who conduct such business. However as per the provisions of section 61(2)(b)a person holding such licence is expected to get his accounts audited. Such person may not be registered under the MVAT Act. Such person, as per the procedure of State Excise Department is required to obtain clearance certificate from the Sales Tax Department for renewal of license. Sales Tax Department at the time of issuance of clearance certificate may ask for audit report under section 61(1)(b). Moreover, a person conducting such business would be agent and will have to get his accounts audited as per criteria u/s 61(1)(a).

7. Exemption from MVAT Audit u/s 61(3)

Section 61(3) provides for exemption from MVAT audit even if he is a dealer and covered under section 61(1)(a) or (b). It is provided that Department of the Union Government, Department of any State Government, local Authorities, the Railway Administration, Konkan Railway Corporation and Maharashtra State Road Transport Corporation are exempted even though the vat audit criteria are applicable to them. It may be noted that this exemption is not applicable to Union Government or State Government owned companies such as electricity generating, distributing companies, etc. Thus, the exemption would not be available to deemed dealers listed at Sr. Nos. (iii), (iv), (vii), (viii) & (x) and other autonomous bodies and corporations of any Government.

❑❑❑

TURNOVER OF SALES OR TURNOVER OF PURCHASES

CHAPTER XI

1. Turnover of Sales — defined meaning

1.1 The term "turnover of sales" is defined under MVAT Act. Therefore, no other meaning can be assigned to this term. Generally accepted accounting principles cannot be applied for the purpose of determination of turnover of sales or purchases.

1.2 The term "turnover of sales" is defined in section 2(33) of MVAT Act as under :

Section 2 (33)

"turnover of sales" means the aggregate of the amounts of sale price received and receivable by a dealer in respect of any sale of goods made during a given period after deducting the amount of :-

(a) sale price, if any, refunded by the seller, to a purchaser, in respect of any goods purchased and returned by the purchaser within the prescribed period; and

(b) deposit, if any, refunded in the prescribed period, by the seller to a purchaser in respect of any goods sold by the dealer.

Explanation I. —In respect of goods delivered on hire purchase or any system of payment by instalment or in respect of the transfer of the right to use any goods for any purpose (whether or not for a specified period) the amounts of sale price received or receivable during a given period shall mean the amounts received or as the case may be, due and payable during the said period;

Explanation II-……..(deleted)

Explanation III. —Where the registration certificate is cancelled, the amounts of sale price in respect of sales made before the date of the cancellation order, received or receivable after such date, shall be included in the turnover of sales during a given period.

1.3 In order to compute the turnover of sales, the definition of terms "goods", "sale" and "sale price" are relevant.

2. Goods

The term "goods" is defined in Section 2(12) of the MVAT Act as under:

"Goods" means every kind of movable property not being newspapers, actionable claims, money, stocks, shares, securities or lottery tickets and includes like stocks, growing crop, grass and trees and plants including the produce thereof including property in such goods attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale.

Thus, goods do not include immovable property, newspapers, actionable claims, money, stocks, shares, securities or lottery tickets. The goods of intangible or incorporeal nature are also goods and therefore, Schedule A entry 27 and Schedule C entry 39 covers such goods.

3. Sale

3.1 The term 'sale' is defined in section 2(24) of MVAT Act as under :

Section 2 (24)

"sale" means a sale of goods made within the State for cash or deferred payment or other valuable consideration but does not include a mortgage, hypothecation, charge or pledge; and the words "sell", "buy" and "purchase", with all their grammatical variations and cognate expressions, shall be construed accordingly;

Explanation,-—For the purposes of this clause,—

(a) a sale within the State includes a sale determined to be inside the State in accordance with the principles formulated in section 4 of the Central Sales Tax Act, 1956;

(b) (i) the transfer of property in any goods, otherwise than in pursuance of a contract, for cash, deferred payment or other valuable consideration;

(ii) the transfer of property in goods (whether as goods or in some other form) involved in the execution of' a works contract including, an agreement for carrying out for cash, deferred payment or other valuable consideration, the building, construction, manufacture, processing,

fabrication, erection, installation, fitting out, improvement, modification, repair or commissioning of any movable or immovable property;

(iii) a delivery of goods on hire-purchase or any system of payment by instalments;

(iv) the transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration;

(v) the supply of goods by any association or body of persons incorporated or not, to a member thereof for cash, deferred payment or other valuable consideration;

(vi) the supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (whether or not intoxicating), where such supply or service is made or given for cash, deferred payment or other valuable consideration.

3.2 Thus, the sale includes sale of goods made within the State only. Sale within the State will have to be determined in accordance with the principles formulated under section 4 of the CST Act.

3.3 An inter-State sale, occasioning the movement of goods from the State of Maharashtra would be a sale within the State of Maharashtra. The subsequent inter-State sale covered by section 6(2) of the CST Act where the movement may or may not occasion from Maharashtra but for purchases of which a declaration under CST Act is issued from the State of Maharashtra would also be a sale within the State of Maharashtra since Maharashtra would be an appropriate State for levy of tax on such transaction.

3.4 The definition of the term "sale" includes deemed sales like lease, sale of goods involved in the execution of works contracts, hire purchase, transfer of property in any goods otherwise than in pursuance of the contract, supply of food and drinks by a hotelier, etc., and supply of goods by any association or club (whether incorporated or not) to any member. Therefore, all amounts received

or receivable for such deemed sales shall form part of the turnover of sale of goods.

3.5 Other transactions of receipts such as labour charges, service charges will not form part of sales unless they are in relation to sale. Branch transfers, stock transfers, consignment transfers are also non-sale transactions. However, for the purpose of reporting the gross turnover of sales in the schedules to the vat audit report, these charges are included though they will not form part of turnover criteria for applicability of section 61.

3.6 Similarly, sale of immovable property, shares and securities, newspapers, lottery tickets, etc. which are not regarded as goods would not form part of sales.

4. Sale Price

4.1 The term "sale price" is defined in section 2(25) of MVAT Act as under :

Section 2(25)

"sale price" means the amount of valuable consideration paid or payable to a dealer for any sale made including any sum charged for anything done by the seller in respect of the goods at the time of or before delivery thereof, other than the cost of insurance for transit or of installation, when such cost is separately charged.

Explanation I. —The amount of duties levied or leviable on goods under the Central Excise Act, 1944 or the Customs Act,1962 or the Bombay Prohibition Act, 1949, shall be deemed to be part of the sale price of such goods, whether such duties are paid or payable by or on behalf of the seller or the purchaser or any other person.

Explanation II. — Sale price shall not include tax paid or payable to a seller in respect of such sale.

Explanation III. — Sale price shall include the amount received by the seller by way of deposit, whether refundable or not, which has been received whether by way of a separate agreement or not, in connection with or incidental or ancillary to, the said sale of goods;

4.2 Under section 2(25) "sale price" means the amount of valuable consideration paid or payable for any sale including any sum charged for anything done by the seller in respect of the goods at the time of

or before delivery thereof. However, the definition provides for exclusion of cost of insurance for transit or of installation when such cost is separately charged.

4.3 Sale price will thus include charges towards Freight, Packing and Forwarding, Processing charges, Octroi, etc. before delivery of the goods which may be charged by the seller to the buyer. However, the statutory recoveries such as APMC fees will not form part of the "sale price".

4.4 Under Explanation I, the sale price will also include duties levied or leviable under the Central Excise Act, 1944 or the Customs Act, 1962 or the Bombay Prohibition Act, 1949 whether such duties are paid or payable by or on behalf of the seller or the purchaser or any other person. Therefore, under the MVAT Act, sale price in the hands of the seller is enhanced by these duties irrespective of the person paying the same.

4.5 Under Explanation II, the sale price does not include tax paid or payable to the seller under the MVAT Act. This would also apply under the CST Act.

4.6 Under Explanation III, the sale price will include the amounts received by the seller by way of deposit, whether refundable or not, in connection with or incidental or ancillary to the sale. In order to form part of the sale price, the deposit should be connected to the sale of goods. Deposits such as security deposit, dealer deposit, etc. would not form part of the sale price.

5. Deduction under Rule 57 from Sale Price

Under Rule 57, certain deductions are provided from the sale price. These deductions are only for the purpose of levy of tax. Therefore, for all other purposes, these deductions will not reduce the sale price. In other words, sale price of the goods will have to be considered without considering the deductions provided in Rule 57.

6. Deductions under Rules 58 and 59 from Sale Price

Rule 58 provides for determination of sale price and of purchase price in respect of sale by transfer of property in goods involved in the execution of a works contract. Similarly, Rule 59 provides for determination of turnover of sale of goods by the residential hotels

charging a composite sum for lodging and boarding. Therefore, deductions provided in Rules 58 and 59 will reduce the sale price. In other words, the sale price in respect of transactions covered under Rules 58 and 59 will be after deducting the amount as prescribed in the respective rules and accordingly, sales turnover will have to be calculated after reducing the amount of available deductions under these rules.

7. Discounts

Discounts agreed to be given as a part of contract of sale, whether given in the invoice or under any other separate document, to the purchaser will not form part of the sale price. In this regard attention is invited to section 63(6) of MVAT Act and accordingly such amounts will be deducted from turnover of sales of the period in which the effect of such discount is given in books of account.

8. Turnover of Sales

8.1 As per the definition of the term given in the section 2 (33), the turnover of sale means the aggregate of the sale price received or receivable in respect of sale of goods. The following deductions are to be made from the turnover of sales :

a) Sale price refunded by the seller to the purchaser in respect of goods returned within the prescribed period. The time limit for this purpose under Rule 3 is six months. Therefore, price refundable in respect of goods returned during the period of six months from the date of sale will only be deductible.

b) Deposit in respect of the goods sold, refunded by the seller to the buyer within the period of six months (as prescribed under Rule 3).

While making above deductions from turnover of sales, the provision of section 63(5) and (6) should be considered. The said section provides that in case of goods returned or reduction of sale price for any deduction by way of debit or credit notes be given effect in the month in which the appropriate entries are recorded in the books of account.

8.2. Under Explanation I, it has been provided that the turnover of sales in respect of transaction of hire purchase, instalment sales and

transfer of the right to use goods would be the aggregate amount of instalments received or instalments due and receivable during the period are only to be considered as turnover of sale. Thus, in respect of such sales, aggregate of all instalments or rentals receivable during the tenure of the agreement is not required to be considered. However, advance instalments received will form part of turnover of sales during the year of receipt.

8.3. Under Explanation III, it has been provided that the turnover of sales in respect of transaction of sales made before the date of order under which certificate of registration is cancelled will have to be considered.

9. Special issues under Central Sales Tax Act, 1956

While determining the turnover of sales for the purpose of section 61, the vat auditor will have to give special consideration for the following special issues which may arise under the Central Sales Tax Act, 1956:

(i) **Works Contracts** — The sale price will have to be determined in accordance provisions of the MVAT Rules in view of the judicial pronouncements of Supreme Court of India in case of *Mahim Patram Private Ltd. vs. Union of India* (6 VST 248). Option for composition will also be available under the CST Act as held by the Central Sales Tax Appellate Authority in the case of Commissioner of VAT vs. State of Haryana (23 VST 10).

(ii) **Deposits** — The sale price will not include deposits, if any, in connection with or incidental or ancillary to the sale.

(iii) **Goods Returns** — Effect of goods returned within the prescribed period of 6 months should normally have to be given in the period in which the original sale was made, as held by the Supreme Court in the case of BASF India Ltd. (117 STC 543). Provisions of section 63(5) and (6) of the MVAT Act may not be apply to turnover under the CST Act. However, the Commissioner of Sales Tax had clarified vide Trade Circular No. 26T of 2006 dated 18.9.2006 (Appendix 12) at Sr. No. 20 that section 63 would apply *mutatis mutandis* to the claim of 'goods return' under the CST Act.

(iv) Customs and Excise Duty — Where the Customs or Excise duty in respect of the goods sold is paid by the buyer or by any other person, when there is no liability to pay such duty by the seller, such Customs or Excise Duty will not be included in the turnover of sales under the CST Act. Only the duty charged by the seller to the buyer will form part of the sale price and will be included in the turnover of sales.

10. Turnover of Purchases

The term "turnover of purchases" is defined in section 2(32) of MVAT Act as under:

Section 2 (32)

"turnover of purchases" means the aggregate of the amounts of purchase price paid and payable by a dealer in respect of any purchase of goods made by him during a given period, after deducting the amount of,—

(a) purchase price, if any, refunded to the dealer by the seller in respect of any goods purchased from the seller and returned to him within the prescribed period; and

(b) deposit, if any, refunded in the prescribed period to the dealer by the seller, in respect of any goods purchased by the dealer.

Explanation I. —In respect of goods delivered on hire-purchase or any system of payment by instalment or in respect of the transfer of the right to use any goods for any purpose (whether or not for a specified period) the amounts of purchase price paid or payable during a given period shall mean the amounts paid or, as the case may be, due and payable during the said period.

11. Purchases

11.1 The term "purchases" is not defined under the MVAT Act. However, the definition of the term "sale" in section 2(24) provides that the words "buy or purchase" with all their grammatical variations and cognate expressions, shall be construed in accordance with the definition of sale. Thus, sale and purchase are two sides of the same

transaction. However, the purchase price in respect of certain purchases, will not form part of turnover of purchases for section 61(1), e.g.,

(i) Inter-State purchases and/or imports, since in both cases *situs of sale* is not in the State of Maharashtra.

(ii) Goods received on consignment, branch transfer, etc. since these are not purchases.

(iii) Amount of expenditure incurred by the purchaser in relation to purchase like freight, octroi, etc. since it is not a consideration for purchase though in normal accounting, it forms part of purchase cost. However, if any, refundable duties are excluded from purchase as per AS, the same will form part of purchases.

11.2 Purchase of any goods including capital assets or purchases debited to profit and loss account (such as stationery, gift articles, etc.) will have to be taken into account for the purpose of determination of turnover of purchases.

12. Turnover of Purchases or Sales

For the purpose of section 61, the turnover of sales or purchases will have to be determined in respect of all places of business of the dealer within the State of Maharashtra and will include turnover of trading goods, manufactured goods, raw materials, consumables, fuel, capital assets (excluding immovable property), tax free goods, intangible or incoporeal goods, waste, scrap, any sale or purchase of goods credited or debited to profit & loss account. In other words, everything connected with the sale or purchase of goods in the course of business within the State of Maharashtra will have to be included for determination of turnover of sales or purchases, as the case may be.

13. Gross Turnover of Purchases or of Sales

The turnover of purchases or sales and gross turnover of purchases or sales are two different terminologies used in MVAT Law. While turnover of purchases or sales is required to be determined in accordance with para 1 to 12 explained above, the gross turnover will include total turnover before any deductions. For determination of gross turnover of purchases or sales, certain deductions available and

explained above from turnover of sales or purchases may not be considered, while claim of the goods returned during the period reduces the turnover of sales or purchases, it forms part of gross turnover of sales or purchases. Similarly, in the audit report format, the gross turnover of sales and purchases is required to be given including value of branch transfers, consignment transfers, job work charges, taxes collected, etc. It may further be noted that the term gross receipt used in the MVAT Rule 53(6) should not be confused with the gross turnover of sales. While for the purposes of Rule 53(6), gross receipts will also include receipts pertaining to all activities including business activities in the State of Maharashtra. This distinction should be borne in mind. However, for the purpose of section 61, the criteria is of turnover of sales or purchases and not of gross turnover of sales or purchases.

14. Year

14.1 In order to find out as to whether the dealer has to get the books of account audited, turnover of sales or purchases during the year has to be determined. The term "year" is defined in section 2 (35) to mean "the financial year". Therefore, irrespective of the accounting year followed by the dealer, the turnover of sales or purchases during the period commencing on 1st April and ending on 31st March will have to be taken into account.

14.2 Since audit report, in Form 704, is required to be given for the year, meaning thereby for the financial year, vat auditor will have to take into account all particulars for the financial year.

15. Turnover limits for part of the year

15.1 Section 58 of MVAT Act is a special provision in relation to part of the year. Applicability of the provision for the purpose of section 61 requires clarification. Section 58 reads as under —

Section 58. *Special provisions for statutory orders pertaining to a period shorter or longer than a year.*

Where any order under this Act is being passed in respect of a dealer for a part of a year for any reason whatsoever, then for the purposes of levy of tax or exemption from the payment of whole or part of tax and for any purposes incidental or ancillary thereto, any reference to

any specified amount or amounts in any section other than section 3 or in any rule or in any notification issued under this Act in relation to a year shall, for the purposes of such order, be construed as a reference to the said amount or amounts as modified by multiplying each such amount or amounts by a number of which the numerator is the number of months in the period for which the order is being passed and the denominator is twelve:

Provided that, where the period includes a part of a month, then if such part is of fifteen days or more, it shall be increased to one complete month and if such part is less than fifteen days, it shall be ignored.

Provided further that, where such period is of less than fifteen days, it shall be increased to one complete month.

15.2 In practice, normally three eventualities are envisaged where the accounts would be prepared for part of the year, viz :

(i) Year in which business is commenced;

(ii) Year in which the business is closed;

(iii) Transfer of Business.

Section 58 may have to be applied differently in the above contingencies for the following reasons:—

15.3 **Business commenced during the year**

Rule 18(1) of MVAT Rules provides that where the dealer has commenced business during the financial year, irrespective of the date of liability to pay tax in the year, first return will be from 1st of April of the year to the end of the quarter in which he becomes liable and thereafter he will continue to file the returns for the balance period of the year. Therefore, if any statutory order is required to be passed in case of such dealer; e.g., assessment order, it will be for whole of the year. Thus the provision of section 58 will not be applicable and for audit, turnover limit of Rs. 40 lakhs will apply.

15.4 **Business closed during the year**

Rule 18(2) of MVAT Rules provides that a dealer is required to file his last return till the closure of the business and therefore, he would be liable for assessment only for part of the year. In such

circumstances, provision of section 58 is likely to apply and thus the limit of Rs. 40 lakhs will have to be worked out on proportionate basis as provided in section 58.

15.5 **Transfer of business during the year**

In case of transferor of business, as explained in para 15.4 above, provision of section 58 is likely to apply as business will be closed during the year. However, in case of the transferee, explanation given in para 15.3 will not be applicable as transferee is required to file his return only from the date of transfer of business. Thus, transferee will be liable for assessment only for part of the year and not from the beginning of the financial year. Hence, provision of section 58 may apply.

❑❑❑

AUDIT REPORT, SUBMISSION AND PENAL PROVISIONS

CHAPTER XII

1. Audit Report

1.1 Section 61 provides that vat auditor has to give his audit report in the prescribed form stating the prescribed particulars. Rule 65 of MVAT Rules provides that the audit report should be in Form 704. Thus the vat auditor is required to give his certificate/opinion/report on the requirements prescribed in Form 704. The vat auditor is not required to give his opinion on Financial Statements. In other words, the vat audit report is nothing but a special purpose audit report/certificate, although on some of the issues opinion of the vat auditor is also called for.

1.2 In the case of a dealer having accounting year which is different from the financial year, the vat auditor is required to submit audit report for the financial year. Therefore, the particulars in Form No. 704 should be in respect of the financial year and not for the accounting year adopted by the dealer.

2. Form No. 704

Form 704 is in three parts comprising of the following:

(a) **Part 1:** This part requires the vat auditor to compute the tax liability as per provisions of MVAT and CST law from the books of account and report the differences as compared with the amounts returned, give his opinion on certain issues e.g. records maintained and its sufficiency, claim of deductions and exemptions, computation of set-off, place (s) from where the business is conducted, etc. The vat auditor is also required to give his remarks and observations for differential dues or refund as well as qualifications or remarks having impact on the tax liability and advise the dealer about further action to be taken for the period.

(b) **Part 2:** This part gives the General and Business Information of the dealer such as details of nature of business and activities, places of business, accounting software used, changes during the year, details of registrations under other laws and financial ratios. The new form also includes details of Activity Code Number pertaining to the business activities of the dealer.

(c) **Part 3:** This part comprises of the Schedules and Annexures to be annexed to the vat audit report. The Schedules Nos. I to VI are drafted on the lines of the returns in Form 231 to 235 under the MVAT law and Form III(E) under the CST law. The Schedules require compilation of figures from the returns filed by the dealer, and determination of turnover and liability of tax under MVAT Law and CST Act from the books of account. The Annexures (Nos. A to K) require the vat auditor to give details such as payment of tax with returns, TDS certificates received as well as issued, computation of set-off, financial ratios, details of purchases exceeding Rs. 5 lakhs from new local suppliers, details of pending certificates and declarations with computation of differential tax liability, TIN-wise details of sales and purchases as well as reconciliation of gross turnover with the Profit & Loss A/c, Trial Balance and the Sales / Purchase registers, as the case may be. Thus the schedules and annexure are by and large working sheets for arriving at conclusions required to be reported in part 1. Thus it is necessary for the vat auditor to cross check the schedules and annexure with finally reported figures in part 1.

Requirements of Parts 1, 2 and 3 are discussed in the subsequent chapters.

3. Audit Report in respect of different forms of returns

3.1 MVAT Law provides different forms of returns for different purposes e.g. Form 231 is required to be filed by most registered dealers who are not engaged in execution of works contracts or transfer of the right to use goods or opting for composition. Dealers who opt for composition for whole of the business (other than works contractors) are required to file returns in Form 232, whereas dealers engaged in works contracts, transfer of the right to use goods or whose part of the business is under composition are required to file returns in Form 233. A dealer under the Package Scheme of Incentives is required to file returns in Form 234, whereas notified oil companies and dealers dealing in motor spirits are required to file returns in Form 235. Thus there could be more than one return filed by the dealer. Consolidation of all returns is to be made separately and the same is to be reported in respective Schedules.

3.2 Section 61(1) provides that a dealer should get his accounts audited for the year in which audit criteria are met. Thus, audit is qua dealer and for the whole year. The new audit report in Form 704 requires filing of a single audit report for all places of business in the State. For the different activities of the business of the dealer, the vat auditor is required to prepare and annex different Schedules (Nos. I to VI) depending on the correct requirement for filing different returns by the dealer.

4. Specified date

Rule 66 provides that the dealer should get his accounts audited and furnish the audit report within ten months from the end of the year to which it relates. Since under the MVAT Act, year is defined to mean the financial year, in all cases the specified date for filing the report would be 31st January of the succeeding year.

5. Completion of vat audit by specified date

A question may arise whether a vat auditor appointed under section 61 can be held responsible if he does not complete the audit and give his audit report before the specified date. Answer to this question will depend on the facts and circumstances of the case. Normally, it is the professional duty of the chartered accountant to ensure that the audit accepted by him is completed well before the due date, so that the dealer is in a position to comply with the filing requirement of the MVAT Law. It is, therefore, necessary that no chartered accountant should accept audit assignments which he cannot complete within the time frame. If there is any delay on his part, he is answerable to the Institute if the complaint is made by the client. However, if the delay in the completion of audit is attributable to his client, the vat auditor cannot be held responsible.

6. Audit Report – Whom to furnish

6.1 After completing the audit, the vat auditor is expected to draw his report. The report so drawn be submitted to the dealer/person (client). After submission of the audit report to the client, assignment of Vat Auditor comes to an end. It is advisable to submit the duly signed hard copy of the report to the dealer against the acknowledgment. There is no responsibility on the vat auditor to furnish his report to any VAT Authorities. In this regard, attention is invited to Clause 1 of

Part 1 of the second schedule to the Chartered Accountant Act which, prohibits a Chartered Accountant from disclosing the information to others without the consent of his client or otherwise than as required by law.

6.2 The Commissioner of Sales Tax vide Notification No. VAT/AMD-1009-1B/ADM-6 dtd. 21-08-2009 issued u/r 17A(1) has made it mandatory for all the dealers who are required to file Audit Report in Form 704, as per Section 61 of the MVAT Act, to file the said audit report electronically for the period starting on or after 1st April, 2008. The facility of uploading the Audit Report is started by the Sales Tax Department w.e.f. 01.10.2009. The Commissioner in this regard has also issued a Trade Circular No. 27T of 2009 dtd. 1st October, 2009 (Appendix 13) which gives detailed information/instructions about uploading the audit report. The vat auditor may render additional service to the dealer in relation to uploading the vat report.

6.3 The responsibility of uploading the audit report electronically is of the dealer. The Trade Circular No. 27T of 2009 dtd.1st October, 2009 requires that after submission of the audit report, the dealer should take two print outs of the acknowledgment which shall be signed by the dealer as well as by the Vat auditor and shall also bear his seal and rubber stamp. The said acknowledgment is required to be annexed to the "statement of submission of the audit report in Form 704". This also cast a burden on vat auditor to re-verify the details uploaded electronically and compare the same with the report. Thus vat auditor is advised to do necessary verification before signing the acknowledgment.

In some cases the requirement of signing acknowledgment may be difficult, more particularly, if the auditor is residing in other city. It is therefore, advised that the vat auditor should complete his audit in such a way that the dealer is in position to comply with all requirements of the submission of vat audit report electronically.

7. Penalty for failure to furnish audit report

7.1 In order to ensure the proper compliance of Section 61(1), sub-Section (2) provides for levy of the penalty. Failure to furnish the audit report within the prescribed/or time/or non-submission of report invites penalty which is equal to 1/10 per cent of total turnover of sales. It may be noted that there is no upper ceiling on the quantum of

penalty. As per Trade Circular No.27T of 2009 dtd.1st October, 2009 it is necessary to upload the audit report in Form 704, for the year 2008-09 electronically on or before 31st January, 2010 and submit the "statement of submission of the audit report in Form 704" along with the necessary documents on or before 10th February, 2010 so as not to attract the penalty. The furnishing of the report will be deemed to be within time only if the audit report is uploaded before 31st January, 2010 and the statement of the submission of the audit report in Form 704 is physically filed along with necessary documents before 10th February, 2010.

7.2 If the dealer furnishes audit report within one month of the end of the prescribed period and proves to the satisfaction of the Commissioner that the delay was on account of factors beyond his control, then in view of proviso to section 61(2) no penalty shall be imposed upon him. Therefore, if the dealer furnishes a report up to 28th / 29th February, as the case may be, and proves to the satisfaction of the Commissioner that there was reasonable cause, no penalty would be attracted.

7.3 Some of the instances which Tribunals/Courts have accepted as "reasonable cause" are as follows:

(a) Resignation of the tax auditor and consequent delay;

(b) Bona fide interpretation of the term "turnover" based on expert advice;

(c) Death or physical inability of the partner in-charge of the accounts;

(d) Labour problems such as strike, lock out for a long period etc.;

(e) Loss of books of account because of fire, theft, etc. beyond the control of the assessee;

(f) Non-availability of books of account due to seizure;

(g) Natural calamities, commotion etc.

7.4 There are number of judicial pronouncements which provide that the penalty is not mandatory. Penalty is quasi-criminal proceedings and should not ordinarily be imposed unless the party is deliberately defying the law or was guilty of conduct, contumacious or dishonest or acted in conscious disregard of obligations. Thus, penalty will have

to be based on the facts of each case and to be imposed after proper application of mind. The section requires that the authority shall give a reasonable opportunity of being heard to the dealer before levy of penalty.

8. Prosecution for failure to get accounts audited or to furnish audit report

Failure to get accounts audited without sufficient cause or to furnish an audit report within the prescribed time is an offence under section 74(3)(m) and attracts, on conviction, a simple imprisonment up to a term of six months or a fine or both.

9. Revision of Audit Report

Once an audit report u/s 61 is submitted to client, normally, it should not be revised. However, in certain cases the vat auditor may be called upon to revise audit report on the ground such as:-

1. Revision of the final accounts after submission of vat audit report.
2. Change of law for e.g. retrospective amendments.
3. Change in interpretation for e.g. Government Notification, Clarification, Judicial Pronouncement etc..

The VAT Auditor may be called upon to give a revised report,

1. after submitting the report to the client but before submitting the same to the department or
2. after submitting the report to the department.

In both the cases, if the vat auditor has revised the audit report then, it should be mentioned that the report is revised report and also a reference should be made to the earlier report. In the revised report, reasons for revising the report should also be mentioned. The revised Audit Report should be given in the manner suggested by the Institute in SA 560 after proper disclosure. The attention is invited that two Guidance notes on the issue viz. a Guidance Note on Revision / Rectification of the Financial Statement and a Guidance Note on Auditor's Report on Revised Accounts of the Companies before circulation to the shareholders, stand withdrawn after issuance of SA 560.

10. Qualifications in Auditor's Report

The Statement on Qualification in Auditor's Report, issued by the Institute, requires the auditor that all qualifications be disclosed at one place together with its impact. However, in Form 704 two places are identified for giving the qualifications. If the vat auditor is unable to give any certification listed in para 2(B) of Part 1 then the qualification along with the reasons be given in Para 3 of Part 1. Similarly, if there are any qualification(s) having impact on the tax liability the same needs to be reported in para 5 alongwith impact. Depending upon the circumstances, the vat auditor will have to decide whether the qualification will come under para 3 or para 5 or at both the places. There could be situations where disclosures/ qualification are neither related to certification in para 2B nor has material impact on tax liability but it is necessary for the vat auditor to disclose some material information. It is suggested that such information/qualification should also be disclosed in para 5 of the report.

11. Branch Audit Reports

It is possible that the dealer whose accounts are to be audited may have branches at various places in the State. In respect of these branches, the dealer may appoint separate branch auditor (s) for conducting vat audit under section 61. If the audit under section 61 is carried out by the branch auditor (s) or other chartered accountant (s) then they should submit their report in Form 704 to the management or if directed by the management to the principal vat auditor appointed for the principal place of business. Attention in this regard is drawn to SA 600 Revised (old AAS-10) "Using the work of another auditor", which discusses the procedure in this regard as well as the principal vat auditor's responsibility in relation to his use of work of the branch auditors. The principal vat auditor should submit his consolidated report for all places of business in respect of which one return is filed and report in his vat audit report as under:

"I/We have taken into consideration the audit report and/or the audited statements of accounts and the particulars in Form 704 received from the auditors duly appointed by the dealer for auditing the accounts of the branches not audited by me/us."

❑❑❑

INSTRUCTIONS

CHAPTER XIII

INSTRUCTIONS FOR PREPARING THE VAT AUDIT REPORT

The opening Para of Form 704 directs the vat auditor to read the instructions carefully before preparing the report. Part I of Form 704 i.e. 'Audit Report and Certification' also requires the vat auditor to confirm that he has read and followed the instructions for preparation of his audit report. It is, therefore, imperative for the vat auditor to read carefully, understand fully and act upon diligently on each of the instructions.

There are in all 19 Instructions; most of which are in the nature of providing guidance to the vat auditor on various aspects of reporting in Form 704. Strict adherence to these instructions will certainly help the vat auditor in effective discharge of his duties. The vat auditor should disclose the fact, wherever it is not possible to follow any of these instructions. All such negations or inabilities should invariably be listed in Para 3 or para 5 of Part I or at both the places after weighing the impact on the Report.

Before embarking upon the finalization of Vat audit a Vat auditor is advised to see three sets of instructions.

(1) Instructions for preparing the report in Form 704.

(2) Instructions contained in various return forms.

(3) Instructions for electronically uploading the Form 704.

In this chapter instructions contained in Form 704 only are discussed, in brief. So far as instruction contained in various returns form are concerned, the vat auditor has to follow the same while filling the information in various schedules. As regards instructions for electronically uploading the Form 704, the Commissioner has also issued Trade Circular No. 27T dated 01-10-2009 **(Appendix 13).**

1. This form is to be used in respect of all accounting periods starting on or after 1st April 2008 (Instruction 1).

As this Form is applicable for the accounting periods starting on or after 1st April 2008, it becomes clear that for all the periods up to 31st March 2008, wherever audit reports are pending, the earlier Form 704 shall remain applicable.

A question may arise as to whether the audit reports for the year 2008-09 already submitted in the earlier Form, need to be resubmitted? So far as audit reports issued before 26th August 2009 and filed with the department before 1st October 2009 there appears to be no difficulty as the new Form has been notified on 26th August 2009 and requirement of electronic filing was made applicable w.e.f. 1st October, 2009, as such reports submitted need not be resubmitted. The reports submitted in newly notified form after 26th August, 2009, manually, on or before 30th September, 2009 are also valid. Resubmission is not necessary. However, if the reports are submitted in earlier form but not filed with department till 1st October, 2009, it would be necessary for the dealers to take report in new form and upload the same electronically.

2. The Audit Report is to be submitted by all the dealers to whom the provisions of Section 61 of the MVAT Act, 2002 apply. Non-filing of Audit Report within prescribed time is an offence. (Instruction 2)

Section 61 of MVAT Act requires certain dealers and persons to get their accounts audited from a chartered accountant or cost accountant, obtain the audit report in prescribed form and submit the same to the prescribed authorities. In fact, after 1st October 09, the dealers are required to upload the report electronically and thereafter submit the "Statement of submission of audit report in Form 704" alongwith necessary documents to the departmental authorities.

The due date or the last date for submission (e-filing) of audit report is 10 months from the end of financial year. Thus for financial year 2008-09 the due date is 31st January, 2010. However, the dealer is required to submit physically the 'Statement of submission of audit report' along with specified enclosures by 10th February, 2010 [Refer Trade Circular No. 27T dated 01-10-09. Appendix 13].

If a dealer or person, who is required to get his accounts audited u/s. 61, fails to submit audit report in prescribed form by the due date, penalty provisions are attracted.

3. Only those documents which are required under the Audit report should be enclosed with this report. (Instruction 3)

The new Form has been designed in such a manner that most of the information, required by the Department, is available through various

Schedules, Annexure and Tables. Thus there is no need to attach or enclose any other document or working sheets etc. The schedules and annexure itself are working sheets. However, enclosures as mentioned at the end of Part 1 have to be attached along with statement of submissions of audit report in Form 704. Those documents need not be uploaded but filed in physical form.

4. Do not leave any field or box blank. In case any field or box is not applicable, enter '0' (zero) in numerical fields and write 'N.A' for 'Not Applicable'. (Instruction 4)

Normally, it is understood that blank fields have zero value.

But as instructed here, the vat auditor may have to do this exercise of writing '0' in numerical fields of all the Tables, applicable Schedules as well as Annexures. It is also compulsory to write 'N.A.' in all those text fields, which are Not Applicable.

5. This Audit report is divided in three parts, which are as under:-

(1) Part-1 is related to verification and certification, computation of tax liability and recommendations to the dealer.

(2) Part-2 is related to general information about the dealer under audit.

(3) Part-3 is about the various Schedules and Annexure (Instruction 5)

The new Form is divided in three divisions / parts, which are integral parts of the Audit Report. The vat auditor must go through relevant chapters of this Guide to understand the intricacies involved in filling the information required to be furnished therein.

6. All Parts of this report are mandatory for all the dealers. In the third part, the respective Schedules and Annexure applicable to the dealer should be filled up. Third part of the report is linked with the type of return(s) required to be filed by the dealer as shown in following table and be verified accordingly. (Instruction 6)

6.1 This is one of the most important instructions, which every vat auditor must note carefully. As stated earlier, all three divisions

(parts) are integral parts of Audit Report and are mandatory in respect of all the dealers and persons required to get their accounts audited. While Part 1 and Part 2 are common in respect of all the dealers, Part 3 contains Schedules and Annexure, out of which applicable Schedules and Annexure alone will have to be filled up according to the activities of the dealer. The dealers for this purpose have been divided in different categories depending upon the type of returns required to be filed by such dealers.

Section 20 of MVAT Act requires every registered dealer to file correct, complete and self consistent return/s in the prescribed form. These forms have been designed differently for different classes of dealers depending upon the business activity of such dealers as per Rule 17.

6.2 In Part 3 of the Report, the vat auditor is required to select a Schedule applicable to the class of dealer whose accounts are being audited. This Part contains six Schedules. Schedule VI is applicable in respect of sale/supply of goods under the provisions of Central Sales Tax Act, 1956. Out of remaining five Schedules, normally, any one Schedule will be applicable to a dealer and the vat auditor is required to furnish information in that particular Schedule only, except in case of those dealers, who are falling under two or more different categories. The vat auditor must also go through the instructions contained in various Return Forms (231 to 235). Those instructions will guide the vat auditor to select appropriate Schedule applicable to the dealer for the purposes of Part 3 of the Report and will also help him in filling the data in respective columns.

6.3 As per Rule 17 of MVAT Rules and the instructions contained in Return Forms, various classes of dealers are required to file their periodic Returns in one of the following forms (as may be applicable to the dealer according to his business activity): -

Form 231	Applicable to all VAT dealers (other than the dealers to whom Form 232 to 235 are applicable)
Form 232	Composition dealers, whose entire turnover of business is covered under the Composition Scheme u/s. 42(1) or 42(2) of MVAT Act (i.e. the Retailers, Hoteliers, Caterers, Bakers and 2nd hand motor vehicle dealers)

Form 233	Dealers, who are in the business of executing Works Contract, Leasing, etc. (all such dealers whether opting for works contract and/or leasing composition scheme/s or not).
Form 234	Applicable to PSI units holding Entitlement Certificate under any of the Package Scheme of Incentives
Form 235	Notified Oil Companies and w.e.f. 1.7.2009 all dealers dealing in motor spirit.

Multiple returns by certain dealers:

While most of the dealers have to file their returns in one particular type of Return Form explanation I to rule 17 requires certain dealers to file more than one returns in the following circumstances, ,:

1. A PSI dealer, undertaking the job of executing works contract and/or carrying on the business of leasing any goods then in respect of this activity has to file return in Form 233 in addition to his normal return in Form 234.

2. If a notified oil company as well as the dealer (after 1.7.09) dealing in motor spirits undertakes the job of executing works contract and / or carrying on the business of leasing any goods then in respect of this activity has to file return in Form 233 in addition to his normal return in Form 235.

It is possible that a dealer starting the activity of executing of works contract or leasing in between the year would have filed return in respect of earlier period of the year in the applicable Form. In such a case the vat auditor will have to report the figures in respective schedules.

6.4 Depending upon the type of Return Form to be used by the dealer, the Vat auditor shall select appropriate Schedule as indicated hereunder: -

Relevant Schedules applicable, as per type of return:

Sr.	Type of Return required to be filed	Relevant Schedule
1	Form 231	Schedule I
2	Form 232	Schedule II
3	Form 233	Schedule III
4	Form 234	Schedule IV
5	Form 235	Schedule V
6	Form III E (CST)	Schedule VI
7	Dealer filing different types of returns	Different combinations of Schedules as applicable depending upon the types of returns filed

7. Instructions for filling information in the return(s) remain applicable for respective items of the Schedules. If, while filing returns, these instructions have not been followed, the auditor should ensure that they are followed while preparing the audit report. In other words the auditor should use required Schedule as per the activity of the dealer. (Instruction 7)

Once the appropriate Schedule is chosen it is expected that instructions as given in the relevant return form have to be followed by vat auditor while preparing the audit report. This will be the position even in the cases where the dealer has failed to follow these instructions.

Instruction 6 mentions table indicating relevant schedule to be filled in by the vat auditor depending upon type of the return. If instructions 6 & 7 are read together, it implies that the vat auditor should use required schedule as per the return Form applicable to the dealer and should not consider in which form the return is actually

filed. E.g., a dealer who is executing the works contract is required to file return in Form 233 but has factually filed return in Form 231. The vat auditor is supposed to fill in schedule III & not schedule I. In such a situation a question arises as to whether the vat auditor should consider the figures from return in Form 231 for reporting the figures 'as per returns' in Schedule III? Looking to the structure of these schedules, it may not be possible to consider the figures in one type of Form as 'return figures' for the schedule meant for other type of form. It is therefore recommended that based on type of returns filed, a consolidation be made and same be reported in the respective schedule relatable to that type of return filed. Taking the above example, the returned figure be shown in Schedule I, however the determined figure be shown in Schedule III. Therefore in schedule III, column for 'amount as per returns' would be NIL and in schedule I, the 'amount as per audit' would be NIL. The vat auditor should disclose this fact in his report. The same would also be applicable if a wrong row/cell is filled in by the dealer. No responsibility is cast on auditor to regroup the 'return figures'. In part 1, in Table 2, consolidation of all schedules will appear and necessary figure as per returns filed and as determined by vat auditor will get computed and actual difference, if any will be reflected.

8. If the books of account are audited under the provisions of the Income Tax Act, 1961 then the Auditor should obtain the certified Financial Statement and should strike off certification under Paras-1(B) and 1(C) in Part-1. In case books of account are audited under any other Act but not under the Income Tax Act, 1961 then the Auditor should obtain the certified Financial Statement audited under that Act and should strike off certification under Paras 1(A) and 1(C). In other cases the Auditor should obtain Financial Statement duly certified by the dealer and should strike off Paras 1(A) and 1(B) in Part-1. (Instruction 8)

The first Para of Part 1 of Audit Report (Form 704) refers to three alternate situations: -

1(A) Where the Audit of the dealer has been conducted under the provisions of the Income Tax Act, 1961.

1(B) Where the Audit of the dealer has not been conducted under the provisions of Income-tax Act, 1961 but the books of account have been audited under any other statute governing the entity.

1(C) Where the dealer's books of account have not been audited under any statute.

The vat auditor has to select one out of three paras in order of preference as indicated above. If the Tax Audit of the dealer has been conducted under the provisions of the Income-tax Act, 1961 then the vat auditor shall select the certification as provided in [1(A)] and strike off remaining two paras. But, if the audit under the provisions of the Income-tax Act, 1961 has not been conducted but audit of accounts under any other statute governing the entity (such as under Companies Act, Co-operative Societies Act, Trusts Act, etc.) has already been conducted then the vat auditor shall select certification in Para [1(B)] and strike off remaining two paras. The third situation may be that the books of account of the dealer have not been audited under any of the statutes, then the vat auditor shall strike off Para [1(A)] as well as Para [1(B)] and select the certification of Para [1(C)].

9. No part of the certifications in Para 2B of Part-1 shall be modified. If auditor has to give negative certification it should be given in Para 3 of Part 1 along with the reasons for the same. (Instruction 9)

Para 2B of Part-1 contains in all 16 certificates / opinions to be given by the vat auditor in an affirmative manner. The vat auditor shall not modify or amend any of these certificates. A separate space is provided in Para 3, wherein all negations, disclaimer and qualifications should be listed along with reasons.

10. Wherever difference is found between amount as per returns and amount as per Audit, same should be shown in respective Schedules. Amount of additional tax liability for wanting declarations/certificates should be given in Annexure-H for the Declaration in Form-H and for any other declarations or certificates in Annexure-I. This information should also be given in row xiv) of Table No. 2 and row xi) of Table-3, Para-4 of Part-1. This is essential to make the report complete and transparent. It will also prevent avoidable queries by the Department. (Instruction 10)

All the Schedules have three columns requiring the vat auditor to mention figures as per returns, as per audit findings and the difference thereof. The E template provided by the Government auto calculates the said difference.

This instruction in particular mentions that the vat auditor is to give report for all transactions under section 5(3) of the CST Act where Form H are pending in annexure H and for any other pending declarations / certificates report be given in annexure I.

The Trade Circular No. 27T/2009 dt. 1.10.09 for E 704, however provides that only local transactions (where the delivery of the goods is made within the State) against Form H for which Forms are not received is to be reported in Annexure H and inter-state transactions wherein Form H are pending, to be reported at Annexure I.

Therefore, in annexure I along with other pending declarations under the CST Act, the information about inter-State transactions against Form H will have to be reported, even though it is contrary to the instructions contained in the form.

It may also be noted that Trade Circular No. 11T/2005 dated 30.5.2005 **(Appendix 10(b))** require a dealer to disclose all sales u/s. 5(3) of the CST Act, whether local or inter-State in the return under the CST Act. Therefore, the turnover of such sales will continue to be reported in Schedule VI while the tax liability for wanting declarations in form H will be reflected in Table 2 and / or Table 3.

11. If more than one Schedule is required to be filled then the auditor may attach as far as possible a separate Annexure to each Schedule. However, a common Annexure can be filled for all such Schedules. If so, then all figures in all schedules need to be synchronized with Annexure. (Instruction 11)

The different types of Annexures attached to the report are as under:-

(a) **Annexure-A** is about the details of returns filed and amount of tax paid as per returns or paid by separate challan under MVAT Act and interest calculation thereon. It also provides details of Refund Adjustment Order issued and amount adjusted against the tax payable for the period under Audit.

(b) **Annexure-B** is about the details of returns filed and amount of tax paid as per returns or by separate challan interest calculation thereon under CST Act corresponding to Schedule-VI. It also provides details of Refund Adjustment Order issued and amount adjusted against the tax payable under the period of Audit.

(c) **Annexure-C:—** is about the tax deducted at source from the dealer by an employer.

(d) **Annexure-D:—** is about the tax deducted at source by the dealer as an employer.

(e) **Annexure-E:—** is about the details of purchases on which the set-off is claimed by the dealer. It further provides for determination of reduction of set-off according to various rules.

(f) **Annexure-F:—** provides for financial ratios for the period under audit and other information. If the dealer has multi-state activities, then the ratios related to gross and net profit may be given for entire business of entity and other ratios should be given at state level.

(g) **Annexure-G:—** The annexure seeks information about the purchases exceeding Rs. 5 Lakhs from the new local supplier on which set-off is claimed.

(h) **Annexure-H:—** is about the details of declarations or certificates in Form-H not received for the period under Audit under the MVAT Act, 2002.

(i) **Annexure-I:—** is about declarations and certificates other than Form-H not received under the CST Act, 1956.

(j) **Annexure-J:—** is about the dealer-wise information of sales and purchases effected during the period under Audit.

(k) **Annexure-K:—** is about determination of Gross Turnover of Sales and Purchases along with reconciliation with Profit and Loss Account, Trial Balance / Sales and Purchase register.

Further, the auditor should give his material remarks at Para 5 of Part-1 and qualifications having the impact on the tax liability in brief, wherever applicable. **(Instruction 11)**

Requirements of annexure are discussed separately in other chapters of this Guide.

The instruction requires that for each schedule a separate annexure may be prepared. In that case, all figures in annexure and schedules are to be synchronized. The instruction further gives an option to the vat auditor to file separate annexure or a common annexure when

more than one schedule is applicable. However, the E template as made available on the government website does not provide for separate annexure qua each schedule. As per the E template, annexure G is omitted.

12. If the dealer has multi-state activities then Trial Balance in relation to the business activities in Maharashtra should be attached. (Instruction 12)

This is in respect of those dealers who have business in various States. In such cases the vat auditor, under the provisions of Section 61 of MVAT Act, is concerned only with those transactions which are effected from the State of Maharashtra. All other transactions, which have taken place outside the State of Maharashtra, will remain out of the purview of MVAT Audit. In all such cases, usually, a single Profit & Loss A/c. and Balance Sheet is prepared covering all the transactions throughout India and in some cases may be globally.

The question which arises is about the reconciliation of turnover of sales and purchases as determined by the vat auditor with the sale-purchase registers and the Profit & Loss A/c. This instruction, therefore, provides attaching a copy of Trial Balance in respect of activities of business in the State of Maharashtra. But here again the difficulty may be that it is not necessary that the dealer is maintaining separate books of account for each State and/or the dealer may not be having a system of preparing State wise Trial Balances.

The vat auditor shall find out from the dealer or from the examination of books of account and other records as may be available to him, whether the dealer is preparing a State wise Trial Balance or a separate Profit & Loss A/c, etc. Non-availability of state wise Trial Balance per se may not be negation, disclaimer or qualification in relation to any certificate in Para 2B of Part 1. If the Trial Balance is available, same needs to be attached with the Report. The non-availability of state wise Trial Balance is a fact that may be disclosed appropriately.

13. Wherever prescribed documents are not made available to the auditor or same are insufficient and incomplete then the tax liability is to be computed as required by law. The differential tax liability on account of non-receipt of declarations/certificates should be shown in Para-4, Part-1,-

(i) under MVAT Act, in Table No. 2 at serial number- (xiii), and

(ii) under CST Act in Table No. 3 at serial number-(xi). (Instruction 13)

The instruction is discussed appropriately in other chapters of this Guide. In instruction there seems to be a typographical error. Instead of 'Sr. No. (xiv)' in table No. 2 the reference is given as 'Sr. No. (xiii)'.

14. The auditor should certify the Annexures. Further, the Auditor should also give material reasons for additional Tax liability, if any. The dealer may accept the Auditors finding and discharge the liability if any, worked out by the Auditor either fully or partly. (Instruction 14)

The annexure are required to be certified by the vat auditor. Thus the physical copy to be given to the dealer needs to be certified. The annexure are not required to be filed physically with the department.

The vat auditor is expected to give material reasons for additional tax liability. However, Table 5 of the report itself gives the various reasons where amount of differential tax amount is to be shown pertaining to each of such reasons. If vat auditor has to give any qualification or remarks having impact on tax liability in relation to reasons broadly given in Table 5, the same should be reported in para 5 of part 1.

The remaining part of the instruction is to be followed by the dealer.

15. In the certification given in Part-1 at Sr. No. 2 (h) the auditor should reasonably satisfy himself about the genuineness of purchases on which set-off is claimed. (Instruction 15)

A reasonable satisfaction of the auditor is an essential part of any audit report. A chartered accountant is expected to design his audit program in such a manner so as to have reasonable satisfaction before certifying any financial statements.

Although, it is true that an auditor is a 'watch dog' and not a 'blood hound', and it is also true that there are certain inherent limitations of an audit, howsoever an auditor is expected to keep his eyes and ears open for anything which is unusual.

As stated in 'responsibility statement' in Part 1 of the audit report, vat audit is conducted on a test basis. Further, the audit evidence is persuasive rather than conclusive in nature. The SAP 2 on "Scope of Financial Statements" also states that the auditor cannot be relied

upon to ensure discovery of all frauds or errors. It is still more difficult for the auditor to detect a fraud than error because fraud usually involves acts designed to conceal it, such as collusion, forgery, deliberate failures or intentional misrepresentations made to the auditor. Unless the auditor's examination reveals evidence to the contrary, he is entitled to accept representations as truthful and records and documents produced before him as genuine.

Wherever the auditor has any indication about the existence of non-genuine transactions or the circumstances which could result in a material misstatement, the auditor should extend his audit procedures to confirm or dispel his suspicions.

16. The Activity Codes are generally used to classify the commodities on the lines of the economic activities. It is published by International Standard Industries Classification. The same activity codes are adopted by the National Industrial Classification. These Activity Codes are to be used to fill up the information in Part-2 Table 3. These Activity Codes are available at the Departments Web-site i.e. www.mahavat.gov.in (Instruction 16).

As per para 3(viii) of Trade Circular 27T/2009 dated 1.10.09, the 4 digit classification 'activity code' is adopted by the department which is made available on the department's website. If the dealer is engaged in more than one activity, then the top six activities on the basis of turnover needs to be mentioned in descending order.

17. Auditor should put his seal and sign on every page of the Audit Report. (Instrutction 17)

The wordings of the instruction seems to be little misleading. Normally the auditor is required to sign the Audit Report at one appropriate place.Same is the case with Form 704. However, all Schedules and Annexure referred to in the Report must bear some identification mark from the auditor so as to identify various pages of Schedules and Annexure attached to report issued by him.

18. It is mandatory for the Auditor to visit the principal place of business or the place where major business activities are carried out. (Instruction 18)

This is a unique requirement, which may provide tremendous value addition to the exercise of VAT Audit. It will help all i.e. the Dealer, the vat auditor and the Department. When the vat auditor visits POB

he will come to know closely the intricacies of business, activities of the dealer, various processes and procedures involved in procurements, manufacturing, distributions and supplies, etc., and also the accounting, financing and management thereof. This may help vat auditor in evaluating the internal control system and in devising the audit programme.

19. Where dealer is required to maintain the records about the sales, purchases, Imports and Exports under Central Excise Act, 1944, the Customs Act, 1962 or under the State Excise Act in such cases the Auditor should invariably correlate the details of sales, purchases, Imports and Exports disclosed under the said Acts and disclosed under MVAT Act. Any material difference noticed should be reported at Para 5 of Part-1 accordingly. (Instruction 19)

It may or may not be possible for the vat auditor to co-relate the exact details of sales and purchases as declared under the MVAT Act and as declared under the Central Excise Act and the Customs Act, etc. for various reasons such as taxability or no-taxability of a transaction, different methods of determination of value for the purposes of different statutes, timing differences, etc.

The statutory auditor while conducting the audit under the other statute(s) and giving his report there under would have considered, where required, the records maintained under other statutory enactments like Central Excise, Customs & State Excise & therefore, the vat auditor may rely on the report of the statutory auditor.

In any case, material difference noticed, if any, should be reported/ appropriate disclosure be made at para 5 of Part 1.

❑❑❑

AUDIT REPORT AND CERTIFICATION

CHAPTER XIV

1. Part 1 of Form 704

Part 1 of the Audit Report in Form 704 is the heart of the entire audit report. The vat auditor is called upon to express his opinion on certain issues and to certify certain aspects of verification of documents, availability of documents and sales tax related records.

1.1 The Form 704, applicable for the periods up to 31.3.08, (i.e. old form) required the vat auditor to verify the correctness and completeness of the returns of the dealer/person. The entire thrust of the old vat audit report was on verification of correctness and completeness of the returns. It was represented by WIRC that vat auditor is not verifying the returns but verifying the books and thereafter is giving opinion, certificates and advice to client. Thus, the new Form 704, now notified, requires the vat auditor to verify the correctness of the tax liability of the dealer in respect of the returns for a period covered under the audit. Therefore, now the objective of the vat audit is to verify/ compute the tax liability as per the books of account maintained by the dealer/person. This suggests the basic change in the approach of the Government in seeking the audit report and certification from the vat auditor.

1.2 Ideally the auditor is called upon to furnish his audit finding in the form of the audit report expressing his opinion in respect of the audit exercise carried out by him. Certification of particulars is generally part of the schedule or annexure to the audit report. However, the report in Form 704 calls for certification of various factual aspects after verification. Thus the new form is more as certification than that of opinion. The difference between certificate and opinion is already explained earlier. This casts enormous responsibility on the vat auditor.

2. The audit report starts with a box requiring the vat auditor to mention the period under audit. Usually, in this box whole of the financial year would come. Thus starting date and ending date of financial year be given. However, in circumstances explained earlier, audit conducted by the vat auditor may be for a part of the year also. In such cases, appropriate period may be stated.

3. Clause 1

3.1 Name of the dealer

This clause requires vat auditor to mention the name of the dealer / person together with its TIN and CST Registration Certificate numbers. Name of the dealer and trade name of the dealer are two different things. E.g., an individual XYZ may be carrying on the business in the trade name of ABC. Similarly XYZ Private Ltd. may have an independent unit under trade name and style of ABC. In both these cases, the trade name (i.e. ABC) is not a name of dealer. The name of the dealer is XYZ or XYZ Private Ltd., as the case may be. The registration certificate (TIN) normally gives name of dealer as well as trade name. The vat auditor is advised to make a reference to TIN Certificate granted to the dealer and write the correct name of the dealer. In addition, for more clarity, he may also write the trade name under which the dealer is carrying on the business. In part 2 of this report, under the heading 'General Information' about the dealer, the vat auditor is also required to mention the name of the dealer as appearing on the Registration Certificate, trade name etc.

3.2 Tax Payers Identification Number (TIN)

Clause 1 requires TIN under the MVAT Act and CST Act to be given. There would be only one TIN under MVAT and CST Act for all places of businesses of the dealer within the State.

3.3 Chartered Accountants/Cost Accountant

There is no need of these words here. In fact at the end of the report, it is always stated by vat auditor whether he is Chartered Accountant/ Cost Accountant. Since it is mentioned in the report ,the vat auditor has to strike off non applicable portion.

4. Clauses 1(A), 1(B) and 1(C)

The vat auditor has to select one from the Clauses 1(A), 1(B) and 1(C). Going by instruction No.8, it appears that if 1(A) is applicable then vat auditor should not go to 1(B) or 1(C). Only in case where 1(A) is not applicable, then he should go to 1(B) and if either of 1(A) or 1(B) are not applicable, then vat auditor should go to 1(C).

In case the dealer's accounts are audited under the provisions of the Income Tax Act, 1961,the auditor will have to select clause 1(A) and

attach report of the audit under Income-tax Act, 1961 along with all annexures which also includes audit report made under any other law, if applicable e.g. Companies Act, 1956, and copies of audited Profit & Loss A/c / Income & Expenditure A/c and audited Balance Sheet. Even though this part of Audit Report is under Income Tax Act, the emphasis of the department appears to obtain, as far as possible, the accounts audited under all applicable laws.

4.1 Audit Report under Income-tax Act, 1961 [(Clause 1(A)]

4.1.1 This clause read with Instruction No.11 requires vat auditor first to find out as to whether Tax Audit under Income Tax Act was conducted or not. If so, whether it was by the vat auditor or by any other Chartered Accountant(s). In case Tax Auditor under Income Tax Act is different from vat auditor, then a reference should be made to the name of tax auditor. The date of such audit report is also to be given and copy of such tax audit report along with all its annexure is to be annexed.

4.1.2 Under the Income Tax Act there are several provisions under which audit report is called for. There are several forms in which audit report are to be given e.g. Form Nos. 3AAA, 3AC, 3AD, 3AE, 3CA, 3CB, 6B, 10B, 10BB, 10C, 10CC, 10CCA and 10CCAA. Under all these reports, Chartered Accountant(s) is required to opine about true and fair view of profit/loss as disclosed in Profit and Loss Account and also of the Balance Sheet. Thus, all these reports are in respect of general purpose financial statements. Besides, there are several other reports to be issued by a Chartered Accountants (e.g. 3AA, 3B, 10CCAB, 10CCB etc.). These are special purpose reports. In a case of a dealer, more than one report may apply (e.g.3CB, 10B, 10C). Thus, question arises as to whether any one or all such reports are to be attached?

4.1.3 Technically speaking under the requirement all reports under the Income Tax Act needs to be annexed. However, in a common commercial parlance tax audit is generally understood as Audit u/s 44AB. Therefore, the term 'Tax Audit Report' used in this clause needs to be considered as Audit Report u/s 44AB. Further, also because of the fact that MVAT Audit is required to be conducted, by and large, in case of a dealer whose turnover of sales and purchases has exceeded Rs.40 Lakhs, in

most of such cases the Audit u/s 44AB of the Income Tax Act might have been conducted.

4.1.4 **Audit Report u/s 44AB:**

Audit Report u/s 44AB of the Income Tax Act is given in the form prescribed under the Income Tax Rules. These Forms are 3CA, 3CB and 3CD. Form 3CD is statement of particulars and necessarily to be attached with report in Form 3CA or 3CB. Thus, the tax audit report may be either in Form 3CA or 3CB.

Form 3CA applies where Statutory Audit of the dealer is conducted by Chartered Accountants or any other auditors (such as co-operative auditor) in pursuance of the provisions of statute governing the entity. Thus, true and fair view is expressed on Financial Statements by the Statutory Auditor.

Form 3CB applies where the accounts are not audited under any statute governing the entity. In such case, true and fair view is expressed on Financial Statements by the Tax Auditor.

Thus, the Audit Report u/s 44AB would be either in Form 3CA or 3CB and in both cases, Form 3CD would be annexed. Besides, there would be more annexure, the clause requires that all such annexure be annexed.

4.2 **Statutory Audit Report [(Clause 1(B)]**

It is possible that even though the dealer is subjected to MVAT Audit, tax audit under the Income Tax Act, 1961 might not have been conducted. For example, A company, which acts as a commission agent or a company which holds specified liquor licenses (covered by Section 61(1)(b) of MVAT Act). Such company is statutorily required to get its account audited under the Companies Act, 1956 but the audit u/s 44AB may not be applicable because of the criteria under the Income Tax Act. There could be many such examples. In such cases the auditor should select clause 1(B) and strike out clauses 1(A) and 1(C).

4.3 **Books of Account not audited [(Clause 1(C)]**

If the books of account are not audited either under the Income Tax Act or under any other statute, then the vat auditor has to obtain a Balance Sheet as on closing date of a period under audit and P&L Account/Income and Expenditure Account for the period, duly

certified by the dealer and the same is required to be annexed. In such cases, Clause 1(C) should be selected striking out other two clauses.

5. Auditor's Responsibility Statement

Below the clauses 1(A), 1(B) & 1(C), the audit report requires the auditor to make the "auditor's responsibility statement" mentioning that the maintenance of books of account and sales tax related records is the responsibility of the entity's management.

The auditors' responsibilities statement clearly provides that the auditors' responsibility is to express an opinion on maintenance of sales tax related records based on the audit carried out by him. Further, the vat auditor has conducted the audit in accordance with the standard auditing principles generally accepted in India. This statement also mentions that the auditor has obtained reasonable assurance about the financial statement and sales tax related records being free from material mis-statements. Further, the auditor has examined the documents on test check basis to form his opinion.

Thus, the vat auditor, while conducting the vat audit may employ 'test check' for verification of documents etc. The vat auditor may also obtain necessary clarification or management representation letters to form his opinion.

6. Clause 2(A)

As mentioned in the earlier para, the vat auditor is to verify the correctness of the tax liability of the dealer in respect of the return filed by him for the period under audit. It does not mean that if no returns are filed, tax liability need not be verified. The objective of the report is to verify the tax liability as per books of account for the period/year.

7. Table 1

The clause 2(A) has table – 1 which requires certain information to be given by the vat auditor.

7.1 Periodicity of Returns

At serial no.1, the vat auditor is to tick mark the appropriate box in respect of monthly/quarterly/six monthly or annual return (for deemed

dealers) which the dealer is required to file. Since the vat auditor is called upon to tick mark the box in respect of the periodicity of return which the dealer is required to file, the vat auditor would have to ascertain from provisions of the MVAT Act & Rules, the correct periodicity of the returns and accordingly tick the correct box. Therefore, in a case where a dealer has filed a quarterly return instead of monthly return, the vat auditor should tick 'monthly' as in such a case the legal liability is to file monthly return.

7.2 **Facts of filing the Returns**

7.2.1 Serial no. 2 requires the vat auditor to state as to whether the dealer has filed all the returns as per given frequency. That is to say, in a case where a dealer has filed quarterly returns instead monthly returns, the vat auditor would tick against 'No'. Similarly it is quite possible that the dealer has filed quarterly return for first two quarters and thereafter has filed monthly returns. In such cases also vat auditor would be required to tick against 'No'. Similarly, if all or any of the returns are not filed the auditor will have to tick against 'No'. It may be noted that the clause does not require to state as to whether the returns are filed in time or not. It simply talks about filing of the returns as per prescribed frequency. Thus, even if there is delay in filing the returns, but the same are filed as per required frequency then the vat auditor should tick 'Yes'.

7.2.2 The vat auditor is required to verify, in addition to returns for Sales Tax liability under MVAT Act, TDS return in Form 405 and returns under the CST Act.it is possible that the returns under MVAT Act are filed as per given frequency, but Form 405and/or CST returns are not filed/ or not filed as per given frequency/ not filed because of exemptions. Then the question arises as to whether vat auditor should tick 'Yes' or 'No'. It appears that serial 2 is linked with serial 1 and therefore while answering this question, the vat auditor should take into account only returns for sales tax liability under MVAT Act

7.2.3 In view of electronic uploading of the audit report, vat auditor may not be in a position to give further observations in this respect. However, he can disclose the facts under para 3 or under para 5.

7.3 Stock Register

Serial No. 3 requires the vat auditor to answer about the maintenance of the stock register. This is a statement of fact.

7.4 Period of Returns Verified

Serial no.4 requires the vat auditor to mention the period under audit for which returns are verified. This is repetitive information, since at the beginning of the Form itself period under audit is given. Therefore, the vat auditor has to mention the period of audit at the serial no.4 as is stated in the beginning of the Form.

7.5 Returns Verified

7.5.1 Under this the Auditor is expected to tick the appropriate box, so as to ascertain whether he has verified the returns filed under MVAT Act or CST Act or under both the Acts. If the dealer is registered under MVAT Act and CST Act, vat auditor has to verify the returns under both Acts. Besides, if dealer has deducted tax, vat auditor will have to verify the returns in Form 405. In certain circumstances, a dealer may not be required to file return(s) in Form 405 or under the CST Act (Refer Circular 52T of 2007 dated 31.07.2007, Appendix 10(a)). In that case for some periods the dealer being exempted may not have submitted return. This position has been clarified in the form itself with regard to CST returns. This has no relation with the information given at serial 2 of the Table. Even where a single return is verified, the auditor has to tick the box.

7.5.2 At serial No. 5 the vat auditor is called upon to mention the returns filed under the MVAT Act & under the CST Act. In this regard, certain questions are raised:-

a) What is the difference between 4 & 5?

Under 4, Audit Period is to be given whereas under 5, the Act under which returns verified is to be given.

b) If some returns are not filed under MVAT Act, how to report?

This may be covered in para 3 or para 5.

c) If TDS is made & paid but return in 405 not filed – how to report?

There is no provision in the report Form. The same be reported in para 3 and/or para 5.

d) CST returns –Where there are only stock transfer out but no CST return filed – how to report?

Since there is no place, the observations may have to be reported under para 3 or 5.

Strictly these issues cannot be termed as 'remarks on a certificate under 2(B) or 'qualifications or remarks having impact on the tax liability'. However as a good disclosure practice matter can be reported in para 3 and/or 5 for want of any other place in Form.

8. Reporting requirements [Clause 2(B)]

After the table, the vat auditor is required to certify that —

8.1 ***Subject to *my/our remarks about non-compliance, shortcomings and deficiencies in the returns filed and tax liability computed and presented in respective schedules and Para-4 of this Part, I/We certify that,-***

*(a) 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 the audit.*

*(b) *I/We have read and followed the instructions for preparation of this audit report. Considering the nature of business of the dealer and the Form in which the dealer is expected to file return(s), we give the information as required in Part-3 in Schedule I / II / III / IV / V / VI (score out whichever is not applicable) along with the applicable annexure(s).*

(c) The books of account and other sales tax related records and registers maintained by the dealer alongwith sales and purchase invoices as also Cash Memos and other necessary documents are sufficient for computation the tax liability under the MVAT Act and the CST Act.

(d) The gross turnover of sales and purchases, determined by us, includes all the transactions of sales and purchases concluded during the period under audit.

(e) The adjustment to turnover of sales and or purchases is based on entries made in the books of account during the period under Audit and same are supported by necessary documents.

(f) The deductions claimed from the gross turnover of sales and other adjustments thereto including deduction on account of goods return, adjustments on account of discounts as also debit/ credit notes issued or received on account of other reasons, are supported by necessary documents and are in conformity with the provisions of the relevant Act.

(g) Considering the schedule and entry wise classification of goods sold, classification of exempted sales, sales at reduced rates are correct. The tax leviable on sales is properly computed by applying applicable rate of tax and/or composition tax.

*(h) Computation of set-off admissible in respect of purchases made during the period under Audit and adjustments thereto are correct. While ascertaining the correctness, *I/We have taken into account the factors such as goods returned, adjustments on account of discounts as also debit /credit notes issued or received on account of other reasons and these claims and adjustments are supported by necessary documents. The Set-off is worked out only on the basis of tax invoices in respect of the purchases.*

(i) Wherever the dealer has claimed sales against the declarations or certificates; except as given in Annexure-H and Annexure-I, all such declarations and certificates are produced before me. I/ we have verified the same and they are in conformity of the provisions related thereto.

(j) Computation of Cumulative Quantum of Benefits (CQB), wherever applicable, is in conformity with the provisions of the Act in this regard.

(k) The records related to the receipts and dispatches of goods are correct and properly maintained.

(l) The tax invoices in respect of sales are in conformity with the provisions of law.

*(m) The Bank statements have been examined by *me/us and they are fully reflected in the books of account.*

*(n) *I/we certify that *I/we have visited the principal place of business or a place of business from where major business activity is conducted by the dealer. The dealer is conducting his business from the place/places of business declared by him as his principal place of business/and the additional place of business.*

(o) Due professional care has been exercised while auditing the business and based on my observations of the business processes and practices, stock of inventory and books of account maintained by the dealer, I fairly conclude that,-

(i) Dealer is dealing in the commodities mentioned in the Part-2 of this report;

(ii) sales tax related records of the dealer reflects true and fair view of the volume and size of the business for period under audit.

(p) I have verified that the purchases effected by the dealer in respect of SEZ Unit of the dealer are used in the said Unit.

8.2 The vat auditor has to certify & report on each of the above 16 requirements which are opinions and/or certificates. Each of them is discussed in this chapter. The certificate/report on each requirement could be subject to his observations and comments about non-compliance, short comings, deficiencies in the returns filed by the dealer as per tables 2, 3 & 4 of para 4 of part 1 of the report.

As per the Form, the qualification under caption "subject to" are limited to only non-compliance, short-comings, deficiencies in relation to the returns filed as also in respect of the computation of tax liability as per para 4 of part 1. Therefore, as per requirement of the Form other observations though reported in part 2 and/or in schedules of part 3 or annexure may not be a matter of his qualificatory opinion. The Vat Auditor has to report his observations and comments about non-compliance, short comings, deficiencies subject to which he has given his opinion. The expression "subject to" makes it clear that such observations/comments are of qualificatory nature. Thus the Vat Auditor should report all such observations / comments / non-compliance / short-comings /

deficiencies which are of qualifactory nature and which affects his reporting. All such observations / comments / non-compliance / short comings / deficiencies are brought under the caption 'subject to'. The other observations / comments / non-compliance/short-comings/ deficiencies etc. which do not affect the reporting on the specified matters may not form part of caption "subject to". Attention is also invited to 'Statement on Qualification in auditors' report' issued by the Institute ***(Appendix.9)*** which requires all qualification be stated at one place and attention to such qualification be drawn in the main report.

As per instruction no.9 attached to this Form, the vat auditor is not allowed to modify any of the Certificates given in para 2(B).Para 3 requires to state as to on which of the reports/certificate in para 2(B) the vat auditor has given negative certifications/qualification , giving reasons for the same. Any attention drawing observation or disclosure in relation to reporting requirement at 2(B) may also be stated in para 3.

The qualifications / remarks having impact on tax liability have to be reported at para 5. Here the auditor has also to quantify the tax impact on account of the qualification. There could be some qualification other than certifications in 2(B) which may not have tax impact but disclosure of which is necessary so as to avoid material mis-statement(s). It is suggested that such disclosures may also be given in para 5.

8.3 Opening para of this clause 2(B)provides that the certificates and/or opinion expressed by the vat auditor is subject to remarks in respect of non-compliance, short comings and deficiency in the returns filed and the tax liability computed as per paragraph 4 of Part 1. Thus, the requirement is in two parts (1) qua returns (2) qua tax liability computed and presented at appropriate places.

8.3.1 Observation/Comments are required to be given in case of non-compliance, short coming and deficiencies in the returns filed by the dealer. Non compliance qua return would mean dealer has not filed any return in accordance with law or has not followed any provision of MVAT law or no return is filed or return is filed late or periodicity of filing the return is not followed etc. Short comings and deficiencies are also related to returns would mean that in a return filed by the dealer, some

information is not given; some claim is wrongly made or return is not filed in appropriate form etc. In some cases there may not be any short coming or deficiencies in filing of the return and may not require any attention to be drawn by the vat auditor e.g. Merely the turnover as per the audited Profit & Loss Account & Balance Sheet attached with the audit differs with the return figures for various reasons discussed earlier.

8.3.2. Non-compliance qua tax liability would mean the computed tax liability is not paid/ short paid or paid late etc. Shortcoming or deficiencies related to tax liability would mean the tax liability is not correctly calculated.

8.4 The auditor therefore, may consider this aspect also. Most of the shortcomings and deficiencies would have automatically reflected either in the schedules or the annexure. Thus many non-compliances/ short comings/in deficiencies which have appeared in schedules will also automatically become subject matter of report. Therefore, the same may not be reported in para 3 and/ or para 5 of Part 1.

9. Clause (a)

The vat auditor has to opine as to whether he had obtained all the information and explanation which, to his best of knowledge and belief, were necessary for the purpose of the audit.

10. Clause (b): Instructions to be followed

10.1 This clause requires the vat auditor to certify that he has not only read but also followed the instructions for preparation of the audit report. That is to say, all the instructions which are given at the beginning of Form are to be followed scrupulously. Instruction at serial no.6 mentions that the vat auditor has to attach schedule as per the nature of business of the dealer, even if, the dealer has filed return in wrong Form. As per the instruction the auditor is to give the report in the required schedule of part 3 which is applicable to dealer along with applicable annexure. Since this is part where certificates are to be given by the auditors the information given in the schedules and the annexure also acquires the status of the certificates. It is the responsibility of the dealer to prepare the information required for schedules and annexure from the books of account and give the same to the vat auditor. The auditors' responsibility is to verify the books of account and related records, documents and supporting evidences.

10.2 As pointed out earlier, there are three sets of instructions and there are also Trade circulars issued by the Commissioner of Sales Tax. Besides, in the instructions in relation to e-template, some of the instructions are contradictory. Therefore, the vat auditor may take appropriate stand in the matter and if need be, disclose his understanding of the instructions.

11. Clause (c) : Books of Account

11.1 The Vat Auditor is required to give under this clause his opinion as to whether in his view; the books of account and other sales tax related records and registers maintained by the dealer along with sales and purchase invoice, cash memo and other necessary documents maintained by the dealer, are sufficient for computation of the tax liability under the MVAT & CST Acts. The vat auditor is called upon to give his comments only in relation to sufficiency of the books of account and other sales tax related returns and registers for computation of tax liability both under MVAT & CST Acts. Therefore, the Vat Auditor has to examine the records maintained and their sufficiency for computation of tax liabilities only and give this opinion.

11.2 Section 63 of the MVAT Act provides for the accounts. The dealer liable to pay tax is expected to maintain a true account of the value of goods sold or purchased. Books of account will include cash book, journal, ledger and registers for purchase, sales and delivery of the goods, payment made and received towards the sale or purchase etc. The dealer is expected to maintain these accounts at the place of business specified in the registration certificate. The books may be maintained manually or in electronic form. The auditor is expected to verify the books of account.

11.3 If the Commissioner of Sales Tax, in case of particular dealer, by notice, may prescribe a form for maintenance of the books of accounts in relation to a particular dealer, then it is mandatory for the dealer to maintain the books of accounts as prescribed. The vat auditor should keep this provision in mind wherever applicable.

11.4 The various provisions of MVAT Act and CST Act require the dealer to maintain particulars in the prescribed form such as TDS Register, C Form/F Form Receipt and Issue register, etc. Under rule 55 of MVAT rules, availability of set-off or input tax credit is subject to the

maintenance of the true accounts in the chronological order of all purchases of goods. Term 'chronological order' is not explained anywhere in MVAT Law. Similar provision existed in the CST Act where reasonable method of accounting was accepted. These provisions are also required to be looked into by vat auditor while framing his report.

11.5 For a dealer/person whose accounts have been audited under any other laws, such as Companies Act, the requirement for maintenance of books of account is contained in the relevant statutes. In the case of other assessees, as explained earlier and under requirement of audit u/s. 44AB of Income-tax Act, normal books of account to be maintained will be cash book/bank book, sales/purchases journal or register and ledger. Assessees engaged in trading/manufacturing activities should also maintain quantitative details of principle items of stores, raw materials and finished goods. If the accounts are maintained on computer, vat auditor should obtain a list of books of account which can be generated by the computer system. The list given by the assessee can be verified by applying appropriate test. Only such books of account and other records which properly come within the scope of the expression 'proper books of account' should be maintained. The guidance note on tax audit u/s. 44AB directs the tax auditor to insist on proper print out of books of account being taken out for the purpose of forming his opinion.

11.6 Books of account would constitute the books of original entry and the other books of account. While the dealer is required to maintain proper evidence in the form of bills, vouchers, receipts, documents etc. It may be noted that these are essential to support the entries in the books of account. Thus vat auditor should also verify about its proper maintenance.

11.7 Usually, the Sales Tax Authorities, in addition to the ledger, cash book, verify sales registers, purchase register, stock movement records (branch transfer registers) debit /credit note register, etc. These records are maintained for sales tax purposes, thus will become Sales Tax related records.

11.8 In the era of ERP and SAP it is possible that all transactions made by the entity globally are recorded at one place. The vat auditor should examine whether there is a system to segregate the transactions of sale and purchase relating to the operations of the dealer in the State of Maharashtra.

In case of a dealer having multi-state activities, the vat auditor is also asked to enclose Trial Balance in respect of their operation/business activities in the State of Maharashtra. This particular requirement is usually not possible to comply with since in most of the cases other accounts e.g. expenses, depreciation, interest etc. are not maintained with reference to locations/States, more particularly in case of the standard ERP and/or other integrated computer software for financial accounting maintained by the dealer. In such a case the auditor should appropriately give his remark in para 3 and/or also at Annexure K of Part 3. As such remark of this nature may not have any impact on the tax liability and hence may not be required to be reported in para 5 of Part 1.

11.9 The vat auditor should obtain from the dealer, a complete list of books of account and other documents maintained by him (both financial and sales tax related records) and make appropriate marks of identification in his own interest, to ensure the identification of the books and records produced before him for audit.

12. Clause (d) : Gross Turnover of Sale concluded during the period

12.1 Vat auditor is required to give under clause (d), his opinion as to whether the gross turnover of sales computed by him include all the transactions of sales concluded during the period of review. The auditor is therefore expected to examine the policy of the dealer for determination of concluded sales and then satisfy himself whether all concluded sales are declared in the return or not. The auditor may take into account the accounting policies of the dealer and frame his opinion accordingly. In this clause the certificate has used the phrase '*The gross turnover of sales and purchases,* ***determined by us****'*. The vat auditors' role is to compute the tax liability based on the audited books of account and sales tax related records. The vat officer who may carry out the assessment proceedings may further determine the turnover of sales and purchases.

12.2 Besides the transactions of sales in the regular course of business, the following transactions amongst others are also sales transactions for the purpose of MVAT Act:

(a) Disposal of any movable assets, scraps;

(b) Works contracts including repairs & maintenance contracts and service contracts involving transfer of property in goods;

(c) Rentals received in respect of lease of goods;

(d) Royalty or other consideration in respect of transfer or leasing of trade mark, copy rights or other intangible or incorporeal goods;

(e) Recovery charges for meals etc. from the employees;

(f) Supply of material to contractor, at price, for execution of works contract.

Vat auditor is expected to verify whether all concluded transaction of sales in respect of the above transactions are also included in the gross turnover of sales.

12.3 Vat auditor may scrutinize the statement of closing stock and find out whether it includes any stock lying at a place other than dealers' own place of business to verify whether such stock is a concluded sale but not billed. Bills issued during next financial year may also be verified to find out whether any sale for which bills were issued in next year were concluded sale for the year under audit.

13. Clause (d) : Gross Turnover of Purchases

13.1 This clause requires statement of vat auditor as to whether gross turnover of purchases computed by him include all the transactions of purchases concluded during the period of audit. The purchases may be of the goods in the regular course of business, capital goods and other purchases of goods debited to various heads of expenses (e.g. printing stationery, staff welfare etc.). The auditor is expected to give his comments as to whether such purchases are included in the course of turnover of purchases or not.

13.2 The policy of recording sales or purchase is expected to be consistent. If there is a deviation in consistency, one must report. Usually, the accounts are maintained based on accounting standards and the vat auditor may look into any deviation between accounting standards and MVAT law for determination of gross turnover.

13.3 While purchases debited to Profit and Loss account also forms part of turnover of purchases, the Commissioner *vide* trade circular 26T/2006 dtd. 16-9-2006, the purchases debited to expense head on which set off is not claimed need not be included in the GTO of purchases.

14. Clause (e): Adjustment to Turnover of Sales and/or Purchases

14.1 Vat auditor's statement is sought as to whether adjustments to turnover of sales and/or purchase are based on entries made in the books of account during the period of review and are supported by necessary documents.

14.2 Sections 63(5) and (6) of the MVAT Act require that such adjustment be given effect on the basis of entries in the books of account and in the period in which such entries are made. The auditor is expected to verify this aspect and form his opinion.

14.3 Such claims are to be verified with the documents etc. in support of the claims. Attention is invited to Rules 3, 57, 58 and 59 of MVAT Rules and other sections of MVAT Act, which allows deduction from the gross turnover of sales. All claims for deductions needs to be verified by vat auditor on touch stone of the provisions of MVAT Law.

15. Clause (f): Deductions from Gross Turnover of Sales

15.1 Vat auditor is expected to certify that the deductions from the gross turnover of sales on account of goods return, discounts, debit notes, credit notes or other reasons, etc., claimed in the books of account are in conformity with the provisions of the Act. This in effect is the repetition of the statement made at clause (e) discussed as above.

16. Clause (g): Classification of goods and rate of tax

16.1 Vat auditor is required to satisfy the correctness of the sales tax payable considering the schedule and entry wise classification of goods sold, rate of tax, classification of exempted sales, sales at reduced rates and on the application of correct rates of tax on the sales to work out the computation of tax.

16.2 Classification of the goods by the auditor may require interpretation. The auditor may consider the judicial pronouncements, orders passed by the Commissioner for Determination of Disputed Questions, advanced rulings if any, the clarification issued by the sales tax department in any manner, previous assessment/appeal orders etc. for determining the classification and rate of tax and ensure that classification as made by the dealer is in consonance with legal principles. In addition, the auditor can draw the support from the

harmonized system of nomenclature and judgements under the Customs & Excise Tariff Act. The auditor may also rely on expert's opinion in this regard. Once the classification, has been ascertained and checked properly, the rate of tax applicable as per MVAT Law follows as a natural corollary.

16.3 If there is any dispute with regard to the classification of goods or the rate of tax, the vast auditor must give his working with suitable reasons. Further, there may be disputes in the earlier years between the dealer and the department regarding classification and rate. The vat auditor should give suitable disclosure depending upon the facts and circumstances of the case. Alternatively, where the vat auditor adopts a system of classification different from the one adopted by the dealer suitable disclosure should be made quantifying the effect thereof.

16.4 It will, therefore, be advisable to put a suitable note with regard to those items in respect of which disputes for the earlier years are not resolved, up to the date of giving the audit report and it should be clarified that the account of tax determined may change as a result of any decision which may be received after the audit report is given. This note can be in the following manner.

"NOTE: Certain disputes about the classification of the product _____and rate of tax thereon have arisen in the years_____ for which assessment/appeals are pending. The figures of tax payable mentioned in the above statement may require modification when these disputes are resolved. Therefore, the amount of tax payable as stated in the above statement will have to be accordingly modified. If department's view is accepted, then impact on tax liability of dealer would be of Rs._____."

Such note/ remark will be required to be made in paras 3 and 5 of Part I of this report.

17. Clause (h): Computation of Set-off

17.1 Vat auditor is required to give his certificate/opinion as to whether a computation of set-off admissible in respect of the purchases made during the period of review and adjustments to set off claimed in the period is correct. Further, while ascertaining the correctness, the vat auditor is to take into account the factors, such as goods returned, adjustments on account of discounts as also debit /credit notes issued

or received on account of other reasons and that such claims and adjustments are supported by necessary documents. Further, the set-off is worked out only on the basis of tax invoices in respect of the purchases.

17.2 The computation of set-off will be in accordance with the provisions of section 42 of MVAT Act and Rules 51 to 55 of MVAT Rules. This may again require interpretation of the provisions. Thus disclosures as explained in para 16.4 is called for wherever need be.

17.3 The instruction No. 15 of the Form 704 requires that the vat auditor reasonably satisfies himself about the genuineness of the purchases on which set off is claimed. The vat auditor has no machinery to ascertain the genuineness of the purchases on which set off is claimed. The auditor is not an investigator. Thus, where applying the standard auditing practices, i.e. verification of documents relating to placing of orders, receipt of goods, tax invoice, payment etc., the vat auditor forms a reasonable opinion about the genuineness of the purchases, he is justified in giving such certification.

19. Clause (i): Verification of Declarations and Certificates

19.1 The vat auditor is to give his certificate as to whether the claim of sales made by dealer against declarations are produced before the auditor except on sales wherein such declaration/certificates are shown as not received in Annexure-H and Annexure-I. The vat auditor is also required to give the certificate that he has verified the declaration/certificate and they are in conformity of the provisions in that regard. The declaration and certificates could be either under MVAT Act like Forms 406, 407, 408, 409 etc. and certificates or declarations like Forms C, F, H, I, EI, EII, J etc. under the CST Act. By referring Annexure H and I it appears that the vat auditor needs to report about only declarations/certificates under CST Act and not required to report on any declarations/certificates under MVAT Act (except Form H for intra-State sales).

19.2 Thus, the vat auditor may verify such declarations/certificates produced before him by applying appropriate method.

19.3 The declarations and certificates so produced and verified by the vat auditor need to confirm to provisions in that respect. E.g. while verifying the declaration in Form C, the auditor may check the invoice value, the date of invoice, the issuing authority, the CST

registration certificate No. and its effective date etc. It is observed that several states including the authorities in the State of Maharashtra, while issuing the declaration forms do not mention the effective date of the CST RC and therefore it is quite possible that the same may not be found while verifying the declaration. Such observation can also be noticed in relation to other declaration forms i.e. Forms H, EI, EII & F. Now-a-days, in almost all States, such declarations are issued by the departmental authorities duly filled in. Thus, if date of transaction is not covered by registration, the issuing authority would generally not have issued declaration for such transactions. Therefore, the auditor will be justified in accepting the registration as in force. The vat auditor is expected to reasonably satisfy, on the *prima facie* basis, that the declarations/certificates are in conformity with the provisions related thereto.

20. Clause (j): Cumulative quantum of benefit

20.1 Vat auditor's opinion is sought as to whether the computation of cumulative quantum of benefit is in conformity with the provisions of the MVAT Law.

20.2 There appears to be no provision for computation of cumulative quantum of benefits (CQB) in the MVAT law in relation to dealers who has opted for 'deferment option'. The provision for CQB computation given in Rule 78 of MVAT Rules is related to only PSI unit availing incentive under the 'exemption option'. The provision applies only in case of a dealer who holds a valid Certificate of Entitlement granted by the Commissioner for the purpose of any of package scheme of incentives. The auditors' opinion is sought on the compliance of provision while calculating CQB. Thus, this certificate will apply only in cases covered by Rule 78. For the purpose of giving an opinion on this clause, the auditor will have to consider the provision of Rule 78 and may have to do the calculation. The provision of Rule 78 of MVAT Rules is explained in the subsequent Chapter. So far as the 'deferment' option, the deferred liability in respect of sales under the MVAT Act is calculated at Sr. No. (x) in Table 2. In respect of the inter-state sales, the deferred liability will have to be reported at Sr. No. (vi) of Table 3 for want of any specific row/ cell. It may further be noted that the deferred liability on account of the additional refund as per rule 79 will not form part of Sr. No. (x) of Table 2 since it is not included in the total liability at

Sr. No. (iv) of Table 2. There is also no provision in Part 1 to report / disclose this liability u/r 79(2).

20.3 Recently the section 93 of MVAT Act, 2002 is substituted retrospectively w.e.f. 1-4-2005 vide Maharashtra Ordinance No. XVIII of 2009 dt. 27-8-2009 providing for allowance of benefits on proportionate basis in case of a unit covered and enjoying benefit on account of 'expansion'. The newly inserted section provides that such benefits are available only on proportionate basis either on the production capacity or on the basis of 'additional investments'. It is quite possible that in view of such retrospective amendment, the vat auditor may come across a situation which may warrant qualification / disclosure in para 3 of Part 1 and may have to quantify the tax liability/ CQB availed in para 5 of Part 1.

21. Clause (k): Records related to the Receipts and Despatches of Goods

21.1 The auditor has to satisfy as to whether the records related to receipts and despatches of goods are correct and are properly maintained.

21.2 The records related to the receipts and despatches of goods would include challans, tax invoice cum challan, goods receipts note (GRN), stock transfer advices, registers maintained for stock in/stock out, stock register, etc. The vat auditor has to verify about the adequacy of maintenance of such records and its correctness by applying the appropriate tests.

21.3 In Table 1, at Sr. No. 3 of para 2(A), the vat auditor is asked to report about maintenance of stock register. It is possible that answer to this question is 'no'. However, in some cases, some records in respect of receipts and despatches of goods (like delivery memo, MRN/ GRN) are maintained. While, stock register is one of the records in relation to the receipt and despatch of the goods, vat auditor may satisfy from the other corroborative records and the internal control in the organisation about this statement. Accordingly, may consider whether the qualification is called for or not. If yes, the vat auditor may give qualificatory statement at para 3 giving the circumstances in which records are not properly maintained and/or are not possible to maintain due to the nature and the size of business of the dealer.

22. Clause (l): Tax Invoices

22.1 The vat auditor is required to give certificate as to whether the tax invoices issued by the dealer are in conformity with the provisions of law.

22.2 MVAT Act and Rules do not provide the format of tax invoice. However, section 86(2) provides that the tax invoice shall contain the following particulars on the original and all the copies thereof.

- *the words "tax invoice" in bold letters at the top or at any prominent place,*
- *the name, address and registration certificate number of the selling dealer as well as the name and the address of the purchasing dealer,*
- *an individual serialised number and the date on which the tax invoice is issued,*
- *description of the goods, the quantity or as the case may be, number and price of the goods sold and the amount of tax charged thereon indicated separately, and*
- *signed by the selling dealer, or his servant, manager or agent duly authorised by him.*

22.3 Besides this, Rule 77 also provides certificate to be given by the dealer about the issuance of tax invoice and holding of the registration certificate or as the case may be, Entitlement Certificate.

22.4 The vat auditor is to verify from the 'office copy' of the invoices as to whether the tax invoices issued are in accordance with the section and the rule.

22.5 The invoices can be either cash memo or credit memo. In most cases cash memo may not be tax invoices. This may not be in conformity of Sec. 86. The vat auditor is required to make statement only in relation to tax invoices and not in relation to any other invoices/bills/cash memo etc.

23. Clause (m): Verification of bank statements

23.1 The vat auditor is called upon to give a certificate that he has examined the bank statements and that the bank statements are fully reflected in the books of account.

23.2 This particular certificate casts huge responsibility on the vat auditor. He has to verify all bank accounts of the entity including maintained in other States or countries. Therefore, the vat auditor is expected to ask for bank statements of all bank accounts for the entire period and check whether the same are reflected fully in the books of account. Usually, the accounts of the dealer are either audited under the Income-tax Act or under other statutes like Companies Act, Maharashtra Societies Act, etc. If that be the case, the statutory auditor would have audited the books of account with the bank statements and drawn the Profit & Loss A/c/Income and Expenditure A/c and Balance Sheet and seen that whether they are in agreement with the books of account. Under this certificate the vat auditor has to satisfy himself that all bank transactions are reflected in books. The vat auditor, therefore, take into account the requirement of certificate and apply necessary audit procedure.

23.3 In part 2 at para 4 the dealer is called upon to give listing of the bank account maintained during the period under the audit. In the era of 'all India Banking', the dealer may have the receipts and payments on account of the business activities of branch or head offices situated outside the State of Maharashtra being reflected in the bank account maintained in those State or vice versa. In the circumstances, it would be difficult for vat auditor to observe in respect of banking transactions taking place in other States are accounted in the books of account since these transactions may have been reflected in the books maintained in the other States/countries. The vat auditor, who is appointed to conduct the audit under the MVAT Act, may not have any access to information/records in respect of those bank accounts and the books of account. The vat auditor may in such cases give appropriate remark in para 3 of Part 1.

24. Clause (n): Visit to place of business

24.1 The vat auditor is to certify that he has visited the principal place of business (POB) or a POB from where the major business activities are conducted by the dealer. Further, the certificate also includes a statement that the dealer is conducting his business from the place or places of business declared by him as his principal POB or additional POB.

24.2 The place of business is defined in section 2(18), which reads as under:

"place of business" includes a warehouse, godown or other place where a dealer stores his goods and any place where the dealer keeps his books of account;

24.3 Section 2(dd) of the CST Act defines place of business as under:

"place of business" includes—

(i) in any case where a dealer carries on business through an agent (by whatever name called), the place of business of such agent.

(ii) a warehouse godown or other place where a dealer stores his goods, and

(iii) a place where a dealer keeps his books of account.

Rule 2 (C) of the CST (Registration & Turnover) Rules, 1957 defines 'Warehouse' as under : "Warehouse" means any enclosure, building or vessel in which a dealer keeps a stock of goods for sale.

24.4 It is clear from the definitions under the MVAT & CST Acts that the place of business would include the places from where the goods are stored or sold and also includes place where books of account are kept. The vat auditor has to obtain list of such POBs from the dealer and the nature and activities carried from those places and take a decision which POB should he visit. The vat auditor is to visit such place. The vat auditor need not visit all POBs. It is possible that manufacturing unit of a dealer is out of the State and in Maharashtra there is only sale depot. The vat auditor need not insist that since major POB is out of State, he is required to visit that POB. Visit of sale depot in Maharashtra will be sufficient.

In case of a non-resident dealer there is no POB in Maharashtra and therefore, the vat auditor should make an appropriate disclosure.

25. Clause (o): Business Processes & Practices

25.1 This is a peculiar certificate the vat auditor is to give.

25.2 The vat auditor is to state that he has exercised due care in 'auditing the business'. Since the vat auditor is required to visit the POB of the dealer for auditing the books of account, it appears that word

'auditing of business' is used. In any case every auditor is expected to conduct audit with due diligence. In case of any gross negligence, the provisions of the Chartered Accountants Act will apply. The vat auditor has also given the 'responsibility statement' in Part 1 of the Form 704. Keeping this in mind, based on his observations in respect of business processes & practices, stock inventory and books of account maintained, the vat auditor is to give his opinion that he can fairly conclude that "the dealer is dealing in the commodities mentioned in Part 2 of this report and also that the sales tax related records of the dealer reflects 'True & fair view' of the volume & size of the business for the period under audit". It should be borne in mind that the views expressed by the vat auditor are also in respect of the 'true & fair' maintenance of the sales tax related records. Thus, the vat auditor is also expected to ascertain, on an overall basis, as to the adequacy of the maintenance of such records looking to the volume, size & nature of the business.

25.3 The view to be expressed here is 'true & fair' and accordingly reasonable judgement is expected to be exercised.

26. Clause (p) : Purchases by SEZ

26.1 This clause requires the vat auditor to certify that the purchases effected by the dealer in respect of the SEZ unit have been utilised in the SEZ unit. Since under the MVAT Act no concession has been given to the SEZ units, if goods are not utilised in a SEZ units but used in business there is no loss of revenue. Still this certificate is called for. It appears that the objective of this certification is to know the contravention if any, of declaration in Form I under the CST Act, as the dealer is allowed to purchase goods for use in the SEZ unit, without payment of any tax.

26.2 Thus the vat auditor should verify all purchases against Form I and utilisation thereof in accordance with the recitals of Form I. Therefore, the goods purchased if used/utilised/disposed of in any other manner like transfers to any other unit/POB/consignment agent outside the SEZ or non use of the goods on account of loss by fire etc. is required to be reported.

26.3 It is to be noted that no reporting is required for developer of SEZ.

27. Para 3 : Negative Certificates

27.1 As per instruction No. 9, no part of certification in para 2(B) of Part 1 shall be modified. If the auditor has to give negative certification, the reasons for the same should be given in para 3 of Part 1.

27.2 Vat auditor has to certify/ give report on each of the above sixteen requirements. Each requirement is discussed in this chapter. The certificate/report on each requirement could be subject to his observations and comments about non-compliance, shortcomings, deficiencies in the returns filed by the dealer and tax liability computed as given in para 4 of Part 1 of the report. As per the form, the qualification under caption "subject to" are limited to only non-compliance, shortcomings, deficiencies in relation to the returns filed and tax computation. Looking into the requirement of the Form, in para 2B, other information though reported in Part 2 (e.g. additional POB, registration under profession tax etc.) may not be a matter of his qualificatory opinion for Para 3.

27.3 Even though the Para 3 requires the vat auditor to give reasons for negative certificates only, he may give a disclaimer statement, a qualificatory statement or a statement drawing attention in respect of each of the certificates given by him in para 2(B).

28. Computation of Tax Liability

In para 4 of part 1, vat auditor is to give summary of the tax liability computed as per the audit exercise and compare it with the consolidation of tax liability disclosed as per return(s) filed by the dealer. Table Nos. 2, 3, 4 & 5 given under para 4 require auditor to give a tabulated comparison and work out the difference at each level. The auditor is not to give any observations and comments in respect of the difference, if any, noticed / arrived at by him. Qualifications or remarks having impact on tax liability need to be reported only at para 5 of Part 1. The particulars/numbers in the tables have been linked with Schedules and annexure. In the E template made available on the Government website, for some fields such figures are automatically picked up and get reported appropriately. The important particulars in the various Tables 2, 3, 4 and 5 are discussed hereunder:

28.1 Tables 2, 3 & 4 require the vat auditor to give amount as per return(s), amount as determined after audit and calculate the difference against

each of the rows of the respective table. In fact, fields of 'difference column' are autocalculated and protected in the E template. Table 2 deals with computation of tax liability under the MVAT Act; Table 3 deals with computation of tax liability under the CST Act and Table 4 is for reporting of CQB availed by a PSI unit. Table 5 summarises / classifies the main reasons for the additional dues/ for refund and the interest payable, if any.

28.2 **Table 2 Sr. No. (i) and Table 3 Sr. No. (i)**

Gross Turnover of Sales

The format of the returns to be filed under MVAT Rules requires the dealer to include turnover of non-sales transactions like branch transfer, consignment transfer, job work charges etc. to the turnover of sales. Therefore, the vat auditor would be required to report the gross turnover including these transactions. Though the terminology used in Sr. No. 1 of Table 2 is different than the one used in Sr. No. 1 of Table 3, the meaning is the same. The matter is discussed in details in later part of this chapter.

28.3 **Table 2 Serial No. (ii) and Table 3 Serial No. (ii) Allowable deductions**

In table 2 the vat auditor should report only the deductions from gross turnover of sales which are allowable deductions i.e. to say, the deductions claimed by dealer which are supported by the necessary documents. This would include the local stock transfer to a consignment agent, job work charges (where there is no transfer of property in goods amounting to works contract), goods return, credit note, discounts, schemes, post-sale recoveries etc. This would be sum total of all deductions claimed under various rows/heads of respective schedules, shown before arriving at net taxable sales. These deductions, in the E templates would be automatically picked up and get reported in the Table.

28.4 **Table 2 Serial No. (iii) and Table No. 3 Serial No. (iii) Net Turnover liable for tax**

In case of Table No. 2 this would be sum total of item 1(l) of Schedule I, Item No. 1(8) of Schedule II; Item No. 1(s)+2(f)+3(e)+4(c) of Schedule III; Item No. 4(m) of Schedule IV and of Item 1(l) of Schedule V, as applicable. In case of Table No. 3 this should match with Item No. 5 of Schedule VI. These figures in the E templates would be automatically picked up and get reported.

28.5 **Table 2 Serial No. (iv) and Table No. 3 Serial No. (iv) Tax Leviable**

In case of Table No. 2 this should match with sum total of Box 2 of Schedule I, Box 9 of Schedule II, Box 5 of Schedule III, Box 5(III) of Schedule IV and Box 2 of Schedule V. In case of Table 3 this should match with total of Box 6A, 6B and 6C. These figures in the E templates would be automatically picked up and get reported.

28.6 **Table 2 serial No. (v) and Table 3 serial No. (x) – Excess collection of tax under MVAT Act**

28.6.1 The dealer is supposed to collect tax not in excess of tax payable by him under the Act. Therefore, excess tax, if any, is to be reported here. These figures in the E templates would be automatically picked up and get reported.

28.6.2 So far as Table 3 this amount will match with 6(D) of Schedule VI. Excess collection is to be reported here. These figures in the E template would be automatically picked up and get reported.

28.7 **Table 2 serial No. (vi)(a) – Set off claimed**

The vat auditor should report the set off admissible as worked out by him in the audit and report it here. Set off in respect of inputs, capital goods and also on others like expenditure debited to P & L A/c, etc. should be reported together as an aggregate of all of them. Of course, the amount to be reported here should be after reducing the retention/reduction amount as per rule 53 and non-availability of set off as per rule 54. Therefore this amount will match with total of section 6 of Annexure E. This figure in the E template would be automatically picked up and get reported.

28.8 **Table 2 Serial No. (vi)(b) and Table 3 Serial No. (v)(a) – Amount of Tax paid**

The amount in Table 2 will match with Annexure A and the amount in Table 3 will match with Annexure B. It is to be noted that the amount to be reported here is the total of the tax and interest paid. However, it does not include the RAO. This figure in the E template would be automatically picked up and get reported.

28.9 **Table 2 Serial No. (vi)(c) – TDS certificates**

The credit for the Tax Deducted at Source Certificate as per certificates produced as per Annexure C is to be reported here. This

figure in the E template would be automatically picked up and get reported.

28.10 **Table 2 Serial No. (vi)(d) – Other deductions**

Other deductions, if any, like the adjustment on account of 'Refund Adjustment Order', credit of TDS claimed for which certificates are not received but tax is deducted by the employer etc. may be reported in this row. The details of refund adjustment orders are also required to be given in Annexure A.

28.11 **Table 2 Serial No. (viii) and Table 3 Serial No. (vi) – Add/less any other adjustment**

In Table 2 if there are any deductions available other than listed in (vi) above, the same be provided here. Similarly, if credit available at Sr. No. (vi) is to be reduced, e.g. previous year tax liability adjusted while granting claim of refund for the current year, direct recovery of tax by the department from debtors, deposit of taxes for voluntary registration u/s. 16(2) (in the year of payment or remaining unutilised), etc. Similarly, if CST liability is deferred, then same also needs to be shown here. Please note refund u/r 79(2) need not be reported as it is not deferred tax amount.

28.12 **Table 2 Serial No. (ix) and Table 3 Serial No. (vii) — Amount Payable**

In Table 2 this would be balance of liability in Serial Nos. (iv), (v) and (viii) (if positive) of this table as reduced by credit in (vii) and (viii) (if negative) of this table. If balance is positive then it is payable. If it is negative then it is refund due.

In Table 3 this would be balance of liability in Serial Nos. (iv) and (vi) (if positive) as reduced by credit and (v) and (vi)I (if negative).

These figures, in the E template would be automatically computed and get reported.

28.13 **Table 2 Serial No. (x) — Tax Deferred**

This would be matching with 5(I), 10-12(D) (a) of Schedule IV. One needs to note that while total amount deferred will include additional refund u/r 79, that will not be deductible here, since that amount is not included in Serial (iv). The said amount along with amount deferred will appear in Table 4 of serial (i).

There is no cell/field to show amount of tax deferred under the CST Act. Thus the tax deferred under the CST Act be shown in Table 3 under Serial No. (vi) giving its details.

28.14 **Table 2 Serial No. (xi) and Table 3 Serial No. v(b): MVAT to CST refund adjustment**

As per Rule 55(3)(a) of the MVAT Rules, refund under the MVAT Act can be adjusted against the dues under the CST Act. Whatever amount of refund from MVAT Act is adjusted under the CST Act, the same should be mentioned here. The same amount shall be mentioned in Sr. No. (xi) of Table 2. The same amount will also appear in Sr. No. v (b) of the Table 3.

In normal course under the CST Act there would be no refund. However, in case of goods return etc. under CST Act there could be refund, the same might be adjusted against the dues of MVAT Act. If the CST refund is adjusted against the MVAT dues, then that may have to be stated under Sr. (vi) of Table 3 and accordingly credit can be taken under item (viii) under Table 2.

28.15 **Sr. No. xii in Table 2 — Refund already granted to dealer**

If the dealer is granted and has received any refund before the completion of MVAT audit, such refund has to be stated in Sr. No. (xii) of Table 2. If such refund is under the CST Act, there is no column provided in Table 3. Therefore, the said amount may be included at Sr. No. (vi) of Table 3. In order to verify this , the vat auditor should verify an application in Form 501 and Refund Sanction Order is being issued in Form 502.

28.16 **Sr. No. (xii) in Table 2 and Sr. No. (vii) in Table 3 — Balance Tax Payable/Refundable**

This is the result of arithmetic summation / subtraction of Sr. Nos. (ix) to Sr. No. (xii) of Table 2 for MVAT and for CST, it would be Sr. No. (iv) to (vi) of Table 3.

28.17 **Table 2 Sr. No. (xii)(i) – Interest u/s 30(2):** Interest u/s 30(2) is payable on the delay in depositing the tax liability as per the returns filed. Such interest is calculated at the rate of 1.25% for each month or part thereof. The amount of interest as per the returns filed is to be reported in first column whereas the amount of interest calculated by the vat auditor at Annexure A should be reported in the column 'determined as per audit'.

28.18 **Table 2 Serial No. (xii)(ii) and Table 3 Serial No. viii (b) – Interest u/s 30(4):**

Interest u/s 30(4) is attracted if the dealer has filed one or more returns or, as the case may be, has filed Revised returns in respect of the period after the commencement of the business audit or inspection of accounts, etc. or search of any place of business of the dealer or on receipt of intimation issued u/s 63(7). The interest u/s 30(4) is equal to 25% of the additional tax payable as per the return or the revised return filed in the circumstances as described above.

28.19 **Table 2 Serial No. (xiv) – Differential tax liability for non-production of declaration / certificate as per annexure H**

Annexure H requires details of declarations or certificates in Form H not received in respect of local sales as per trade circular 27T/2009 dtd. 1-10-2009. The vat auditor is required to report the differential liability computed in Annexure H. However, the vat auditor is not required to advice the dealer to deposit the differential liability in the case of declarations / certificates expected to be received. This figure in the E template would be automatically picked up and get reported.

28.20 **Table 3 Serial No. (iv) — CST leviable subject to production of declaration certificates**

Vat auditor is to report the CST liability computed considering that the declaration forms for concessional rate of CST like Form C, E I or E II etc. would be received.

28.21 **Table 3 Serial No. (xi) — Differential tax liability for non-production of declaration as per Annexure I**

The differential tax liability for non-production of forms under the CST Act is to be reported here. This will also include sales against Form H for inter-State sales. The vat auditor is required to report the differential liability computed in Annexure I here. However, the vat auditor is not required to advice the dealer to deposit the differential liability in the case of declarations / certificates expected to be received. This figure in the E template would be automatically picked up and get reported.

29. Table 4 – Cumulative Quantum of Benefits Availed (CQBA)

Rule 78 of MVAT Rules provides for calculation of CQBA in case of exempted unit as computed and reported at Schedule IV. CQBA is

calculated in Box 10C, 11C and 12C of Schedule IV. The amount of additional refund u/r 79(2) is required to be added to the CQBA as reported in Schedule IV Box 10(E)(d), 11(E)(d) and 12(E)(d).

In case of deferment, the tax deferment is to be calculated as per Rule 81 of MVAT Rules. This would be calculated in Box 10-12D for sales and in respect of Refund u/r 79(2) in Box 10-12(E)(d). This is not required to be stated in Table 4.

30. Table 5 – Main reasons for additional dues or refund

This table requires the vat auditor to classify the differential dues or refund as a result of the audit exercise with the reasons mentioned therein and report the same. The corresponding taxable amount is not to be reported.

30.1 Table 5 – Serial No. 1 – Difference in taxable turnover

The computation of differential tax as per audit may be because of the differences in the taxable turnover. This could happen on account of disallowance of claim of goods return, credit notes, sales of fixed assets, etc. not considered in the returns. The vat auditor will have to work out the tax rate wise difference in the turnover and compute the differential taxes. However, only the total of tax is to be reported here.

30.2 Table 5 – Serial No. 2 – Disallowance of Branch /consignment transfer

The vat auditor is to report here tax payable on account of the disallowance of the claim of consignment transfers within the State, where the agents have failed to discharge the liability for payment of tax on the sales effected through him. In case of inter-State transfers, where it cannot be established that the transfer of goods were otherwise than way of sale and the vat auditor has determined liability on such transfers, the differential liability is required to be reported here. It may be noted that the claim of branch transfer is not to be disallowed on account of non-production of declaration forms and is not to be included here; it has to reported in Serial No. xi of Table 3.

30.3 Table 5 – Serial No. 3 – Disallowance of interstate sales or in transit – Sec 6(2) sales

The vat auditor is to report here only the disallowance of claim of inter-State sale or of claim in respect of sales u/s 6(2) of the CST Act.

30.4 **Table 5 – Serial No. 4 – Disallowance of 'High Seas sale' – Sec. 5(2) of the CST Act**

The vat auditor is to report here only the disallowance of claim for exemption in respect of 'High sea sales'.

30.5 **Table 5 – Serial No. 5 – Additional tax liability for non-production of declaration forms**

Declaration forms & certificates required to claim concessional rate of tax or deduction or exemption from taxable turnover if not produced, may result in the additional tax liability. Vat auditor is to give a listing of such Forms & certificates not produced in Annexures H & I. The differential tax liability on account of such transactions gets reported in Table 2(xiv) and Table 3(xi). This liability has not to be reported in this Box.

There may be certain transactions where it is known that the forms are not expected to be received and therefore the differential liability is computed by the vat auditor. The liability in respect of such transactions is to be reported here.

30.6 **Table 5 – Serial No. 6 – Wrong rate**

If the dealer has collected tax at a rate other than the legally applicable rate, the tax computed in the audit may result in either excess or short collection of tax. The heading of the table requires the vat auditor to report only the reasons for the additional dues or refund. However, at Serial No. 9, 'total dues payable' is to be tallied with the audit outcome. In the circumstances, even if excess tax is collected, the same may, also will have to be reported here.

30.7 **Table 5 – Serial No. 7 – Excess claim of set off**

Dues arising due to excess claim of set off is to be reported here. It is quite possible that the dealer would have claimed set off in excess on the purchases of inputs and has short claimed or not claimed set off on certain capital assets or vice versa. The auditor is to report only the net position irrespective of the short or excess claims of set off on the different purchases. Even in a case where short set off is claimed compared to the set off available as per the audit finding, negative amount may be required to be shown herein so as to tally with the total dues payable at Serial No. 9.

30.8 **Table 5 – Serial No. 8 – Disallowance of other non-admissible claims**

Dues or reduction in refund on account of disallowance of other claims not included elasewhere in the Table need to be specified in this Box.

30.9 **Table 5 – Serial No. 9 – Total dues payable**

Amount to be reported would be the dues or refund as per the audit findings. Therefore, the total of Serial No. 1 to 8 (including negative figures) should tally with amount reported at Serial No. 9. This would be equal to the total tax payable/refundable at Sr. No. (xii) of Table 2 and Sr. No. (vii) of Table 3.

30.10 **Table 5 – Serial No. 10 – Interest payable**

The requirement of this clause is to calculate the amount of interest payable on the total dues as per Serial No. 9 of the Table 5 from the due date to the date of audit. Therefore, the amount of interest payable to be reported here appears to be the amount of interest to be worked out as per section 30(3). It may be noted that interest for late payment of returned dues would have been already calculated under section 30(2) and reported in Table 2 and /or Table 3. Under this clause, the vat auditor is required to calculate the interest on the additional dues as determined as a result of audit. It is to be calculated on the lines of section 30(3) from next day after the end of the audit period till the date of an audit report. This appears to be an exercise which may not be useful to anyone since the vat auditor is not required to recommend the payment of this interest in Table 6, the dealer will have to calculate the interest u/s 30(2) taking into account the actual date of payment of such dues, so also the assessing officer will have to calculate interest on additional dues till the date of assessment order or any other proceedings, as the case may be.

It may be noted that on excess collection of tax noticed, no interest is payable u/s 30.

30.11 **Table 5 – Serial No. 11 – Total Amount Payable**

This is the sum total of Serial No. 9 & 10. Although the term mentioned is 'total amount payable'; it is quite possible that audit finding may result into refund due to the dealer. The heading of the Table 5 does consider this where it reads 'the main reasons for additional dues or refund'.

31. Clause 5 – Qualification or remarks having impact on the tax liability

31.1 In this chapter while discussing the reporting requirement at clause 3 as also on various clauses of certificates and opinion required in para 2B, discussion about the qualification and its quantification of the impact on the tax liability, if any, of the dealer is given. One has to consider last para of instruction No. 11, wherein the vat auditor is called upon to give his material remarks and qualifications in para 5 of Part 1. This being the case, only material remarks having impact on the tax liability is to be given in brief. E.g. qualification in respect of discounts etc. disallowed by the auditor and its tax impact may be mentioned in para 5.

31.2 Disclaimers or remarks and observations wherein the auditor is not in a position to quantify the tax impact may be reported here with appropriate disclosure. Other observations which are not qualificatory in nature and not having any tax impact may also be reported here in Para 5. Observations in relation to matters which are not in respect of certificates/opinions covered by Para 2B may also be reported here.

32. Recommendations: Advice by Vat Auditor

32.1 At the end of the audit report, the vat auditor is required to give recommendation to the dealer to pay additional tax liability, pay back the excess refund received, claim additional refund, reduce the claim of refund or reduce the tax liability and/or revise the closing balance of CQB. In this table, the amount of tax payable or the reduction in the claim of refund or advice to pay back of excess refund received will tally with clause No. 9 of Table No 5. It may be noted that the advice is to be given for entire period under audit and not *qua* return period. If the dealer is entitled to refund as per the said clause, it will match with advice to claim additional refund or reduction in tax liability. Depending upon Table 4 read with Sr. Nos. 10-12E of Schedule IV, the vat auditor will advice the revising of closing balance of CQB. As per Sr. No. (xii) of Table 2 and Sr. No. (viii) of Table 3, the vat auditor will advise the payment of balance interest u/s 30(2) and/or 30(4).

32.2 During the audit exercise the vat auditor may find that the refund of particular month/quarter is not carried forward or wrongly carried forward to the next month/quarter as the case may be. In such a case,

to cross tally, the recommendation in para 6, the vat auditor may show this as a claim of 'additional refund' and give a suitable note in Para 5 of Part 1.

32.3 If the dealer is enjoying benefits under Package Scheme of Incentives under deferment of tax option, then on eligible sales tax is not required to be paid and dealer can claim deferment of such tax. The amount deferred as per MVAT law amounts to payment of tax. In such case also auditor is not required to give advice for payment of tax eligible for tax deferred. However a suitable disclosure be made in the report in para 5 of Part 1.

33. Signature of the Vat Auditor on report and other matters

At the end of a report i.e. Part I of Form 704, the vat auditor is required to put his signature. He is also required to give his name, membership number, place where the report is signed and a date on which the report is signed. In this regard the attention of the Members is invited to Para 25,27 and 28 of SA 700

"25. The date of an auditor's report on the financial statements is the date on which the auditor signs the report expressing an opinion on the financial statements. The date of report informs the reader that the auditor has considered the effect on the financial statements and on the report of the events and transactions of which the auditor became aware and that occurred up to that date.

27. The report should name specific location, which is ordinarily the city where the audit report is signed.

Auditor's Signature

28. The report should be signed by the auditor in his personal name. Where the firm is appointed as the auditor, the report should be signed in the personal name of the auditor and in the name of the audit firm. The partner/proprietor signing the audit report should also mention the membership number assigned by the Institute of Chartered Accountants of India."

Therefore, normally vat auditor is required to put his signature in the following manner:

1. In case of individual Member:– Member should sign and give his name and membership number

2. In case of use of Trade name or report by Partnership firm "For XYZ & Co., Chartered Accountants

(_____)

Name

Partner/Proprietor

Membership No._____

Please note that the auditor is to seal and sign on each page of the audit report. This is also made specific in instruction No. 17 as discussed earlier.

34. Enclosures to audit report

34.1 The enclosures to the audit report have to be mentioned as 'yes' or 'no' whichever is applicable. Therefore, wherever the auditor is not in a position to enclose or has some disclosures to be made for not enclosing the same, the vat auditor may have to give appropriate disclosure at para 3 in the audit report. The following enclosures are to be made with the audit report.

34.2 **Statutory Audit Report and its Annexures:**

34.2.1 Statutory audit report given by the auditor under the statute governing the entity like The Companies Act, Maharashtra Co-operative Societies Act, Bombay Trust Act etc. have to be enclosed together with schedules and annexures forming part of such audit report. In case of non-corporate entity like a partnership firms or proprietary concerns, accounts may not be subjected to any audit under the other statute. In that case, the auditor may strike out 'yes'.

If audit is conducted under section 44AB, the Statutory report would be enclosure to the report under section 44AB. Therefore, there is no need to attach extra copy of the statutory report.

34.2.2 It is also possible that the dealer might have prepared consolidated Profit & Loss Account and Balance Sheet in respect of all his branches (including the branches in other States/Country). Therefore, the statutory audit report and the Profit & Loss Account and Balance Sheet would be for the

entire business and not necessarily in relation to the accounts and the sales tax related records under the MVAT Act for which the audit report is submitted. The consolidated profit & loss account and balance sheet along with statutory report on the same can also be enclosed.

34.4 Tax Audit Report under the Income-tax Act, 1961

Technically all reports under the Income-tax Act submitted by the tax auditor are to be attached along with annexures. However, it is advised that if audit report u/s 44AB is attached it will serve the purpose. In case of a dealer having multi-State activities, this report would be for all India accounts and therefore appropriate disclosure should be made at Para 3 of Part 1.

34.5 Balance Sheet and Profit & Loss Account /Income and Expenditure Account

Since with the Tax audit report or statutory audit report, the P & L a/c and the Balance Sheet is always annexed and forms part of the report, there is no need to attach these documents once again. However, in a case where neither the statutory audit nor the tax audit is conducted by any auditor, the vat auditor should enclose the unaudited P & L a/c and Balance Sheet, duly certified by the dealer.

34.6 In case dealer is having multistate activities the Trial Balance for the business activities in Maharashtra

In case a dealer having multistate activities the vat auditor is called upon to enclose Trial Balance reflecting business activities in the state of Maharashtra. Some dealers may prepare Profit & Loss account and Balance Sheet for the activities within the State. In such case, it is not necessary to attach the trial balance even though there are multistate activities. In some cases, the software employed by the dealers facilitate drawing of Trial Balance for the state wise activities. In these cases, the Trial Balance so prepared by the dealer may be enclosed.

In some cases, the software employed does not facilitate drawing State wise trial balance. In some cases where accounts are maintained on all India basis and/or ERP software is used with branch offices and depots having limited authority to access the common data base, the State wise Trial Balance is not possible to be drawn. In such a case,

the state level sales and purchase register and day books are generated with the use of various parameters from the common data base. The vat auditor should make appropriate disclosure.

❑❑❑

GENERAL INFORMATION ABOUT THE DEALERS BUSINESS ACTIVITIES

CHAPTER XV

Part 2 of Form 704

This part of the form 704 requires the VAT auditor to report about general information of the dealer whose accounts are being audited. This part has been divided into four paras as follows:-

1. General information
2. Business related information
3. Activity code
4. Particulars of the bank accounts maintained during the period under audit.

Each of the above paras is discussed herein-below:-

1 GENERAL INFORMATION

This part comprises of three sections, namely, A, B & C. In section A, the following information is required.

1.1 Section A

1.1.1 Period under audit [Sr. No. A(1)]

Section 61 of the MVAT Act, 2002 requires the dealer to get his accounts audited by a chartered accountant in respect of a **year** when his turnover of sales or purchases exceeds the prescribed limits (presently Rs. 40 Lakhs). The section refers to the "year" which is defined in section 2(35) to mean "the financial year". Therefore, the period under audit will normally be a financial year irrespective of the accounting year followed by the dealer. The turnover of sales & purchases during a period commencing on 1st April to 31st March, will have to be considered in the audit report. In certain circumstances like change in constitution, succession of business etc. during the year, the audit report could be from such date. In case of a business which is closed /transferred before the closure of the year, audit report would be till such date. The dealers

following a different accounting period also prepare the financial statements for the financial year in order to comply with provisions under Income Tax Act wherein the year is defined as financial year. The Vat auditor can consider such financial statements for the purpose of vat audit.

1.1.2 Tax payer's identification number under MVAT Act, 2002 [Sr. No. A(2)]

1.1.2.1 TIN is a unique 12 character alphanumeric code which is allotted to every dealer in Maharashtra either upon crossing the prescribed threshold limit of turnover of sales or upon voluntary application. It starts with first two digits as 27 which is census code of the State and ends with alphabet V. Similarly, the registration number under CST Act is the same number with suffix C.

1.1.2.2 The dealers who were registered under the erstwhile BST Act were allowed to continue the registration number under that Act till 31-12-2005 provided they applied for TIN in prescribed form, in prescribed manner & within prescribed time as stipulated in section 17 r/w rule 8A. The registration numbers of the dealers who did not apply for TIN within prescribed time were cancelled automatically under the MVAT Act w.e.f 01-01-2006 as stated in trade circular number 37T of 2005 dated 19-11-2005. The dealers who applied for TIN in the prescribed manner were allotted TIN w.e.f 01-04-2006. The Commr. of Sales Tax has issued a trade circular no. 33T of 2007 dated 18-04-2007 allowing administrative relief to the dealers who became unregistered due to delayed application for TIN. The vat auditor should verify such application for administrative relief & the consequential order granting TIN with retrospective effect wherever applicable.

1.1.2.3 In majority of the cases, the Sales Tax Dept. has not issued original TIN certificates to the dealers. In such cases, the vat auditor should verify the TIN from the web-site of the Govt. of Maharashtra namely.

www.mahavat.govt.in or the allotment letter granted by the registration department at the time of granting TIN. If the TIN certificate is received by the dealer, then the vat auditor may verify the TIN from that certificate.

1.1.2.4 The dealer is required to obtain only single TIN certificate for all his places of business in Maharashtra specifying one of such places as principal place of business as per rule 8(3) of the MVAT Rules, 2005. The MVAT Act has discontinued the system of issuing separate registration / TIN certificates for different places of business of the same dealer w.e.f 08/09/2006. Therefore, the vat auditor has to give single report covering all POB.

1.1.3 Registration Number under CST Act, 1956 [Sr. No. A (3)]

It is the same TIN with a suffix C which has to be mentioned in this column. All other precautions are same as in case of TIN under MVAT Act.

1.1.4 Permanent account number under Income Tax Act 1961 [Sr. No. A (4)]

It is mandatory for all dealers to obtain PAN under Income Tax Act & furnish the proof thereof either to the registering authority at the time of obtaining new registration as required u/r 8(12) or otherwise as required u/r 16(3). Therefore, the dealers have to compulsorily obtain PAN which needs to be filled in this column.

1.2 Section B

1.2.1 Name of the Dealer as appearing on the Registration Certificate [Sr. No. B (1)] The name of the dealer should be stated as disclosed in the TIN certificate. It must be borne in mind that name of the dealer & trade name can be different & normally, both are specified in the TIN certificate. The trade name should be stated in the succeeding column separately. E.g. An individual XYZ may be carrying on the business in the trade name ABC. Here, the name of the dealer will be XYZ whereas trade name will be ABC. Thus, the form provides separate spaces for name of the dealer & trade name. The vat

auditor is advised to make the reference to the TIN certificate granted to the dealer, document of the constitution of the dealer etc. in order to ascertain the name of the dealer as well as his trade name, if any.

1.2.2 Trade Name (If any) [Sr. No. B(2)]

The trade name should be mentioned here as explained above.

1.2.3 Address of the Business (To be given only if there is change in the address during the period as compared with the Registration Certificate) [Sr. No. B(3)]

It appears that this requirement is relation to principal place of business since the information in relation to additional places of business is sought under the next clause. The vat auditor is required to mention the address of the dealer only when there is a change in such address during the period of audit as compared with the TIN Certificate. As stated earlier, a single TIN certificate is required to be obtained for all places of business within the State of Maharashtra specifying therein the principal place of business. As stipulated in section 16(6) of the MVAT Act, the dealer is not required to apply for fresh registration if his place of business is changed to a different local area. He has merely to inform the sales tax authorities about such change in the principal place of business & get it endorsed upon his TIN Certificate.

1.2.4 Additional place of Business (to be given only if there is change in the address during the period as compared with the Registration Certificate) [Sr. No. B (4)]

The additional places of business also need to be added or deleted from the TIN Certificate upon intimation to the sales tax authorities. The additional place/s of business need to be mentioned only if there are additions / deletions during the year. The vat auditor should mention such additions or deletions with clear remarks in this column. If necessary, an annexure may be attached here clearly indicating additions during the year & deletions during the year.

1.3 **Section C**: Related information under other Acts.

1.3.1 R.C Number under P.T. Act, 1975 [Sr. No. C(1)]

A dealer who employs staff earning salaries more than the minimum amount of salary prescribed in entry 1 of the Schedule-I appended to the Profession Tax Act 1975 are required to deduct & pay profession tax on behalf of such employees as per section 4 of the Profession Tax Act. Registration Certificate under the Profession Tax Act is to be obtained by such dealer. The sales tax department has started allotting new 11 digit Registration Certificate number in lieu of the old Certificate without any formalities such as application etc. In case of registered dealers having TIN, it is the same TIN with suffix P instead of V. It can be verified from the web-site of the Govt. of Maharashtra. In case the new registration certificate incorporating the new 11 digit number is not available then earlier PT RC no. be. mentioned.

The dealer may have obtained separate RC under the PT Act for additional places of business. Separate annexure may be attached in such case.

1.3.2 Date of effect of R.C. under P.T. Act [Sr. No. C(2)]

The date of effect of R. C is normally from the 1st of the month in which the dealer becomes liable to pay profession tax on behalf of the employees. The vat auditor should verify this date from the original registration certificate. It is observed that the registration certificate issued to new employers bearing 11 digit R.C. No. does not contain the date of effect. In that case, the vat auditor should mention the fact in the said column. In case of E-filling of the audit report this may not be possible. The field could be left blank with appropriate disclosure at Para 3(a) of Part 1.

1.3.2.1 Profession Tax Returns filed under Audit [Sr. No. C(2-a & b)]

The auditor is required to tick against the options Yes / No. The answer be given after verifying returns for all places for which separate RC numbers is available.

The returns under Profession Tax Act are required to be filed in form III which is a return- cum–challan form.

A] If the dealer has filed a single or more return/s for the entire period under audit, only then the vat auditor will have to tick against the option "yes".

B] Payments are made as per returns: - Here too, the vat auditor is required to tick against the option Yes / No. The payments of profession tax as an employer are also to be made in return cum challan in form no III. The vat auditor has to verify whether the liability disclosed in the return portion is fully paid by the dealer. It is an experience that dealers do not keep carbon or zerox copies of the returns and only the chalans for the tax payment are available. Therefore, it would be difficult for any auditor to report as to whether payment of tax dues as per return is made or not. It is suggested that the vat auditor should ask for self authenticated copies of such returns and disclose the fact appropriately. It may be borne in mind that the vat auditor is not required to compute the correct tax liability under the Profession Tax Act. He is also not required to certify whether returns / payments are filed / made within prescribed time.

1.3.3 E.C Number under P.T. Act, 1975 [Sr. No. C(3)]

This is Enrollment Certificate No. which a dealer is required to obtain u/s 3 r/w section 5 of the Profession Tax Act. The Profession Tax Department has started issuing new 11 digit Enrollment Certificate No. in lieu of the old E.C No. In case the dealer, say a senior citizen, partnership firm or HUF etc. are exempt from payment of profession Tax, then 'N.A.' be reported in the field. Where enrollment certificate incorporating the new 11 digit number is not available then earlier PT EC no. be mentioned.

1.3.4 **Date of effect of E.C under P.T. Act [Sr. No. C(4)]**

The profession tax is payable by the enrolled person as per the rate mentioned against the respective entry in Schedule-I appended to the Profession Tax Act for the entire year irrespective of the fact that he became liable to pay profession tax from the middle of the year. It is observed that the new E.C issued by the Dept. does not contain the date of effect. In that case, the vat auditor will have to mention such fact in this column.

1.3.5 **The Profession Tax under above E.C. No. has been paid for period under audit [Sr. No. C(5)]**

The vat auditor will have to verify whether the dealer has paid the profession tax for the period under audit. The receipted challan evidencing such payment should be verified by the vat auditor.

Section 8(3) of the Profession Tax Act provides a facility to make a lump sum payment of profession tax for four consecutive years at rate applicable in the first year. The dealer earns exemption in respect of the fifth year irrespective of the changes made in the rates of profession tax in the subsequent years. If the dealer opts for such facility, then auditor will have to verify the receipted challan evidencing such lump sum payment to ascertain whether the year under audit is covered by the same and tick mark 'yes' in the field.

1.3.6 **Registration Numbers under other Acts administered by the Sales Tax Department [Sr. No. C(6-9)]**

1.3.6.1 The Sales Tax Department administers other Acts along with MVAT & CST Act & registration Nos. under following Acts are required to be mentioned in the form.

(a) The Maharashtra Tax on Luxuries Act, 1987.

(b) The Maharashtra Tax on Entry of Goods into Local Areas Act, 2002.

(c) The Maharashtra Purchase Tax on Sugarcane Act, 1962.

1.3.6.2 Under some of the above acts, separate registration is required for every place of business. The vat auditor may attach separate annexure in such case.

1.3.6.3 In this form, additional information regarding filing of the returns & payments under Luxury Tax Act, 1987 only is required to be given. Here again for want of copies of returns, the instructions given in Para 1.3.2.1 be followed.

1.3.7 **Eligibility & Entitlement Certificate Nos. [Sr. Nos. C (10 & 11)]**

At these serial Nos., the vat auditor is required to give Eligibility Certificate Number and Entitlement Certificate Number, respectively held by the dealer. The Govt. of Maharashtra has notified various Package Schemes of Incentives (PSI) to promote industrialization in the undeveloped areas or underdeveloped areas of the State and also at the same time to decongest the industrially advanced areas of the State. The Govt. of Maharashtra for this purpose has passed various Govt. Resolutions. These Resolutions are popularly known as Package Scheme of Incentives (PSI) such as PSI 1979, PSI 1983, PSI 1988, PSI 1993, and PSI 2001. Besides, the Govt. has also issued schemes to promote tourism, electronic industry & power generation.

Chapter XIV of the MVAT Act covering sections 88 to 94 of the MVAT Act governs specific provisions in respect of dealer who enjoy benefits under PSI.

Section 88(e) of the MVAT Act defines the term "Package Scheme of Incentives" as under:-

"Package Scheme of Incentives" means the 1979, 1983, 1988 or 1993 Package Scheme of Incentives introduced by the Industries, Energy & Labour Department, the Package Scheme of Incentives for Tourism 1993, Electronic Scheme, 1985 & the New Package Scheme of Incentives for Projects 1999, introduced by the Home & Tourism Department and the Power Generation Promotion Policy, 1998 introduced by Industries, Energy and Labour Department, all as amended from time to time".

Thus, the PSI units would include the units enjoying benefits under 1979, 1983, 1988 or 1993 PSI as also the Tourism 1993.

Electronic 1985 & project 1999 schemes. Even the hotels enjoying the benefits of 1999 scheme & power generations units covered by 1998 scheme would be eligible to enjoy the benefits under the respective schemes pronounced.

Units enjoying the benefits under the PSI have basically two options to avail the benefits (a) Exemption or (b) Deferment.

In order to enjoy the benefits under PSI, the dealer is required to apply to the implementing agency. The implementing agency thereafter, grants Eligibility Certificate. On the basis of such Eligibility Certificate, the sales tax department thereafter issues an Entitlement Certificate. It is possible that in respect of the same unit, the dealer may hold more than one Eligibility Certificate & Entitlement Certificate. It is also possible that the dealer may hold Eligibility Certificate and Entitlement Certificate under different options. Similarly, the dealer may hold Entitlement Certificate & eligibility certificate which is transferred in his favour under power generations promotions policy. The form does not require listing of all the Eligibility Certificate & Entitlement Certificate numbers. However, it is advisable to list all Eligibility Certificate number & Entitlement Certificate numbers under respective column since it has a direct bearing on the information to be furnished in schedule IV of the Form.

1.3.8 **ECC No under Central Excise Act [Sr. No. C (12)]**

The Central Excise Department allots Excise Control Code (ECC) to a dealer under the Excise Law. Such code no. should be mentioned here.

1.3.9 **Import Export Code given by DGFT, if any [Sr. No. C (13)]**

Import & Export Code (IEC) is allotted by the Director General of Foreign Trade & the same needs to be given here.

1.3.10 **Service Tax Registration No, if any [Sr. No. C (14)]**

The Service Tax Department allots the Registration no. based on PAN under Income Tax Act with a suffix ST001, 002 etc. depending upon the number of offices held by the service provider. It is sufficient to mention service tax number allotted to the principal place of business in Maharashtra.

2. BUSINESS RELATED INFORMATION

A. Specify the divisions or units for which separate books of account are maintained: - Although it is proclaimed policy of the sales tax department not to allow separate registration number in respect of different places of business within the state, divisions, units etc., the vat auditor is expected to give information about such divisions & units which are maintaining separate set of books of account. Many of the large companies have divisions / units based on the type of business activity carried out by them which are watertight compartments although governed by the same legal entity. The vat auditor is required to give a consolidated audit report for all divisions / units.

B. Business Activity in brief: - On verification of books and on visit to POB, the vat auditor will be in a position to note principal line of business activity such as manufacturer, wholeseller, importer, etc. In relation to business activity in brief, the principal line of business such as manufacturing of electrical goods, whole-sale trading in chemicals, retail trade in FMCG, food grains and grocery, execution of works contracts of bridges, equipment leasing, hotel or restaurant etc. should be stated. A review of business report or the minutes of the various meetings would enable the vat auditor to note the business activity. A brief note on the business activity to be obtained from the dealer and after due verification, necessary information be given.

C. Commodity Dealt in (5 major commodities):- In case of a manufacturer, the 5 major commodities dealt would normally be 5 major products manufactured by him. In case of a trader, major commodities would be those traded by the dealer. It may not be possible to mention five major commodities in each & every case. In such a case, less number of 'major commodities' can be mentioned. By the word "Commodities", it is conveyed that the class of commodity be mentioned & not the brand names. E.g. Class of commodity can be medicines & different brand names of the medicines need not be mentioned separately. The commodities here would not include inputs i.e. raw materials, packing materials or consumables etc. & would cover only products sold by the dealer.

D. **Address of the Place of Business of the Dealer where books of account are kept:** - This would normally be the principal place of business as mentioned in the TIN Certificate. If the books of account which normally consist of sale/ purchase registers, General Ledger, Journal, Cash / Bank books etc. are maintained in physical forms, then it is easier to locate the place of business where they are kept. However, if they are maintained in computerized system which is accessible from all the locations, then it will be difficult to pinpoint the place of business where books of account are kept. For example, in SAP system, the accounts can be accessed from various locations at the same time since it is an integrated software system. In such cases, the auditor can give appropriate remark to that effect, a specimen thereof can be as follows:-

"The dealer has maintained books of account on integrated computerized system which is accessible from all places of business by the authorized persons to the extent of the authority given to them. Therefore, all places of business can be construed as maintaining books of account as required under this column."

E. **(i)** **Name & version of accounting software used: -** Here, the name of the accounting software package can be given. The software could be a self made or tailor made or ready made e.g. Tally (9.2 version), SAP (version…) etc. If there is combination of accounting softwares, then all such software names should be mentioned.

(ii) **Change in accounting software if any: -** If the accounting software has been changed during the year, the vat auditor has to report this. Mere updation of existing software (e.g. facilitating generation of additional reports) may not be a change in accounting software.

F. **Major changes made during period of review:-** The vat auditor is required to make a statement on major changes made during a period of review in relation to method of valuation of stock, accounting system, product line, business activity etc. The whole objective of this statement appears to help the

department to use the information as a review tool. The vat auditor is expected to list only major changes upon comparison of dealer's records which has a direct impact on tax liability. In this form, the vat auditor is required to give his statement on (1) Changes in the method of valuation of stock (2) Changes in the accounting system (3) Changes in the product line (4) New business activity.(5) Any other changes. Since vat auditor's statement called for on these issues, if there are no major changes, the vat auditor should make a statement that there are no such changes in respect of the aspects specified herein.

i. **Changes in the method of valuation of stock:** Statement of vat auditor on the changes in the method of valuation of stock is required under this clause. The dealer may be required to do the valuation of stock for various purposes such as valuation of stock in trade, valuation of stock sent on consignment or to the branches, valuation of stock given as samples, etc. It is normal practice to disclose the method of valuation of opening & closing stock as a part of disclosure of accounting policy. Accordingly, the vat auditor should make a reference to the above disclosure. The method of stock valuation must be consistently followed. The vat auditor should verify the procedure followed by the dealer in this regard & also examine the basis adopted for ascertaining the value. This basis should be consistently followed. Normally, the opening & closing stock is valued in accordance with AS 2. However, for valuation of stock for other purposes such as stock transfers, AS 2 is normally not adopted. It is observed that while dispatching the stock to branches / consignment agents, generally valuation adopted for excise purpose is taken as a basis for valuation. In some cases, transferred stock is valued based on the expected sale price / MRP. Since the changes in the basis of stock transfer valuation may have a direct impact on admissibility of set-off (input tax credit), the vat auditor should carefully examine the procedure & method of valuation of stock transfer.

ii. **Changes in the accounting system:-** Normally, for preparation of books of account any of the three systems viz. (i) Accrual system (ii) Cash System or (iii) Mixed System or Hybrid system, is followed. The AS issued by the Accounting Standard Board of the Institute has established standard which have to be complied with to ensure that financial statement are prepared in accordance with the generally accepted accounting policy & on accrual system. In India, in some cases statute governing entity also provide which accounting system is to be followed for preparation of accounts. E.g. under the Companies Act, 1956, all companies are required to keep books of account on accrual basis only. If no accounting system is prescribed under the statute, other entities are free to keep their account on any of the system of accounting. It may, however, be noted that the Income Tax Act, 1961 requires that for the purpose of Income Tax Act, the assessee may adopt either of the two systems: i.e. Cash System or Accrual system. Thus, the Income Tax Act does not permit the hybrid / mixed system for accounting. Therefore, by & large the dealer would be maintaining books of account either on Accrual system or Cash System. The choice of deciding the method of accounting is with the dealer. However, once the method is adopted, same needs to be followed consistently so that there is no impact on determination of tax liability under any of the tax laws. A dealer can follow a number of accounting polices for the purpose of maintaining his books of account. AS-1 require significant accounting polices adopted in preparation of financial statement shall disclose at one place & shall form part of the financial statement. Any changes in the accounting polices may not necessarily constitute change in accounting system, e.g. change in the basis of determination of cost or market value of the stock. This may be change in accounting policy but not a change in accounting system. However, as stated earlier such changes in accounting policy for stock valuation has direct impact on determination of set-

off. Thus, even change in accounting policy may have material impact on determination of tax liability under the MVAT Act. Therefore, such change may be reported under this clause.

iii. **Change in product line: -** The dealer may have diversified its business activities during the year with respect to the products manufactured or dealt in by him. The vat auditor may examine this fact from the annual report or the books of account including sales invoices etc. & mention the changes made in the product line during the year. The word "product" here conveys the class of product & not various items or brands under the same category of product. To give an example, if the dealer is a chemical dealer & adds up certain new chemicals in product profile, the said fact need not be mentioned in this column. However, if he ventures to enter the line of bulk drugs, then the said fact will have to be mentioned in this column.

iv. **New Business activity:** - The expression "business activity" covers the type of activity such as manufacturing, trading, leasing, works contract, carrying on restaurant, hotel etc. If the dealer being manufacturer has diversified his business activities during the year such as commencing trading activity, then this fact will have to be mentioned here. Normally, the expansion of business spectrum geographically would not be required to be mentioned here. For example, the dealer opening his branches in other states is not required to mention such fact in this column. However, if he starts export activity to foreign countries during the year, he is required to mention such fact.

v. **Other changes if any, (please specify):**- In addition to the changes discussed above, if there is any material change which may have bearing on the determination of tax liability, e.g. merger/demerger, transfer of part of the business, switch over of option by PSI unit etc. should be reported by the vat auditor.

G Nature of business:-

The vat auditor is required to tick one or more boxes as applicable to the dealer in order to indicate whether the dealer is a manufacture, reseller, restaurant, wholesaler, retailer, bakery, importer, liquor dealer, works contractor, PSI UNIT job worker, franchise agent, mandap decorator, motor vehicle dealer, secondhand motor vehicle dealer etc. If the dealer is capable being classified in addition to above category, then the same has to be specified in the box mentioning "other". This information about the principal business activity can be verified by the vat auditor from the TIN certificate or from the books of account.

H Constitution of the business:-

The vat auditor to tick the appropriate column indicating constititution of the business such as proprietary concern, trust, partnership, HUF, Pvt. Ltd Co., Public Ltd Co., Co-operative Society etc. The constitution can be verified from the documents such as partnership deed, memorandum of association, trust deed etc. obtained from the dealer.

I Working Capital employed by the entity:-

Under this column, the vat auditor is required to give working capital employed in lakhs rupees only. The term "working capital" has been stated in the form as difference between current assets & current liabilities. The term "current assets" and "current liability" are defined in the Guidance Note on Terms used in Financial statement issued by the ICAI as under:

"Current assets: cash & other assets that are expected to be converted into cash or consumed in the production of goods or rendering of services in the normal course of business".

Thus, loan & advances, deferred tax assets recognized as per AS 22 etc. will not be current assets.

"Current liability : liability including loans, deposits & bank overdraft which falls due for payment in a relatively short period, normally not more than twelve months"

A provision which is an amount written off or retained by way of providing for deprecation or diminution in value of assets or retained by way of providing for any known liability the amount of which cannot be determined with substantial accuracy is not a current liability. Similarly, deferred tax liability as recognized by AS 22 or deferred tax under Maharashtra PSI is also not a current liability.

The issue may arise as to whether the working capital employed by the dealer for entire business (having multi State activities) be given or same may be given in respect of State of Maharashtra. The obvious answer is only in respect of place/s of business in Maharashtra be given. However, the trade circular no. 26T/2006 dtd. 18-09-2006 has clarified that in such cases working capital be reported as per the balance sheet of the entire business with suitable foot note.

3 ACTIVITY CODE

Under this column, the vat auditor has to classify the business activities of the dealer according to the activity codes as per instruction no 16 of the Form 704. As per the said instruction the activity codes are generally used to classify the commodities on the lines of the economics activities. They are published by International Standard Industries Classification. The same activity codes are adopted by the National Industrial Classification. These activity codes are to be used to fill up the information in this table & they are made available at the department's web site www.mahavat.gov.in

The vat auditor also has to obtain the description of the activity against each activity code & respective turnover of sales thereof from the dealer. The rate of tax on such goods & total tax payable have also to be reported. The rate of tax for various items in same activity code differs. Thus the turnover needs to be determined accordingly. The turnover of sale would include local, inter-State as well as export sale. Therefore, the matching of tax liability vis-à-vis turnover considering the tax rate in relation to same commodity would not be possible. the vat auditor may make a appropriate disclosure in this respect. As mentioned in Trade Circular 27T/2009 these data is called for only top 6 activities based on sales turnover.

4 PARTICULARS OF THE BANK ACCOUNTS MAINTAINED DURING THE PERIOD UNDER AUDIT

The vat auditor has to give a complete list of all banks accounts, maintained by the dealer during the year. The table provides for column such as serial no. name of the bank, branch BSR no. & account no. Branch BSR is a number allotted by the Reserve Bank of India to a particular branch of each bank which will have to be enquired with the respective branches. If the information about BSR no. is not available, then the vat auditor can give branch address.

❑❑❑

PART 3 — SCHEDULE I TO FORM 704

CHAPTER XVI

A INTRODUCTION AND SCHEME OF SCHEDULES

1.1 Part 3 of the Form 704 is about various schedules & Annexure. In this part, the respective Schedules & Annexure applicable to the dealer should be filled up. This part is linked with the type of return(s) required to be filled in by the dealer.

1.2 In case the returns are filed in the wrong form or wrong cell/field is selected, vat auditor may refer guidance given in this regard in Chapter XIII under instruction 7.

1.3 While filling the schedules, the vat auditor should carefully note the instructions given in respective returns so that information is reported in proper cell/field in the column 'amount as per audit'.

1.4 The dealer may be registered under the CST Act, 1956. There being no inter-state Sales, in Schedule I the said cell/box will be indicated as NIL or Zero. In such circumstances, Schedule VI need not be filled up.

1.5 The Schedules in general have 5 columns, viz. Sr. No., Particulars, Amounts as per the Returns, Amounts as per the Audit and difference. The Auditor is supposed to fill in columns 3, 4 & 5. The information in column 3 needs to be filled from consolidation of returns submitted by the dealer periodically. If auditor is verifying a case, wherein no returns are filled, it may be mentioned as 'zero' for this column with appropriate disclosure in Para 3 of Part 1. The information in column 4 needs to be prepared by the dealer from his books of account and made available to the vat auditor. The vat auditor thereafter should verify the above information from the books of account applying the necessary audit tests. If there is the difference in amounts from columns 3 and 4, it will appear in column 5. As per the E-template, this difference is auto calculated. If there is material difference and auditor has to make certain observations & remarks, which, could be of informative or qualificatory in nature, then he has to put them in part 1 at relevant places, discussed earlier.

In Paras relating to the Tax computation and set off of these schedules, the number of column increases from five to seven. In this part, applicable tax rate wise net amount and tax is to be shown separately as appearing in returns filed and as finalized by vat auditor.

B. SCHEDULE I

This part of the Chapter also covers the discussion about the common fields/ thread of information expected to be filled in by the vat auditor for Schedules II to V. The specific information required and the details pertaining thereto for Schedules II to V are discussed in ensuing chapters.

VERIFICATION OF SALES

2. Gross Turnover of Sales [Sr. No. 1(a), 1(b) & 1(c)]

2.1 The information to be given at Sr. No. 1(a) is in relation to Gross Turnover of Sales including taxes as well as non sale transactions like value of branch transfers, consignment transfers and job work charges.

2.2 The Gross Turnover of Sales will also include all transactions of sales concluded during the period including miscellaneous sales such as sales of scrap, assets, supply of various goods to employees etc. As explained earlier in chapters, "Turnover of Sales" and "Gross Turnover of Sales" are two different terms. While turnover of Sales is defined in the MVAT Act, Gross Turnover of Sales is not defined. Thus, for the purpose of giving information under serial No. 1(a), the gross turnover of sales would have to be computed taking into account the discussion in the paras 4 to 11 hereunder. The amount so arrived is to be reconciled by the vat auditor with the books of account and as per reconciliation statement given in Annexure K.

2.3 The starting point for determination of gross turnover of sales would be the turnover of sales as appearing in the Profit & Loss Account. Other adjustments such as excise duty, sales tax etc. calculated & credited to separate accounts will have to be added. The auditor will have to use his great auditing skills for finding out as to whether all sales of goods are included in the gross turnover of sales e.g. sales of raw material may have been credited to raw material consumption account, out of sales proceeds of fixed assets an amount equal to W.D.V. would have been credited to asset account & profit/loss on such sales would have been credited/debited to the Profit & Loss Account. Similarly, other receipts/recoveries in relation to sale of goods [such as deposits] may not necessarily form part of sale price for the purpose of preparing the financial statement but it may form part of gross turnover of sales under MVAT Law.

For the purpose of reporting in this schedule, the gross turnover of sales so determined is required to be added with turnover of non sale transactions like value of branch transfers, consignment transfers & job work charges. An illustrative check list for determination of gross turnover of sales is given in *Appendix 8.*

2.4 If the dealer has to fill up, additional Schedule(s) II, III, IV or V, then he has to reduce the gross turnover of sales covered by these schedules at Sr. No. 1(b) and work out balance turnover at 1(c). The vat auditor, therefore, should verify the statement prepared by the dealer showing bifurcation of turnover schedule-wise. Once the figures at Sr. Nos. 1(a) and 1(b) are correctly worked out and reconciled then verification of amount at 1(c) is only an arithmetic verification. In the e-template Sr. No 1(c) is auto calculated.

3. Value of goods return (inclusive of tax), including reduction of sale price on account of rate difference and discount: [Sr. No. 1(d)]

As per rule 3 of MVAT rules, the prescribed time for allowable goods Return is 6 months from the date of sale. Sec. 63(5) states that goods return are to be claimed in the month in which Credit notes are accounted for, provided that tax element is shown separately therein.

Sec. 63(6) speaks about reduction of sale price on a/c of rate difference and discount. Even though not specified the amount of rate difference and discount to be reported here has to be inclusive of tax element. The vat auditor will have to consider information prepared by the dealer for Annexure J, sections 1 and 3.

4. Net Tax Amount: [Sr. No. 1(e)]

Under this cell/field, the amount of total tax payable on taxable sales is required to be determined. The dealer might have collected the tax separately on some transactions. Such amounts should be taken into consideration for the purpose of determining the amount. Where the dealer has not collected the tax separately, the amount be determined in accordance with rule 57(1). The total sales tax payable is calculated under Sr. No. 2 of this section, therefore the total of tax payable computed under Sr. No. 2 should match with this amount. While usually this would be the case, in some cases, i.e. where the sales tax collected, either short or excess of a liability, then this amount may

not match with the total sales tax payable. At Sr. no. 2A of this schedule, sales Tax Collected in excess of amount of tax payable is to be reported. Excess collection of taxes also gets reflected in Table 2 [Sr. No. (v)] under clause 4 of Part 1 of this report.

5. Branch/ consignment Transfer within the state if tax is to be paid by an agent [Sr. No. 1(f)]

Under this row, information is asked for the branch transfer/ consignment transfers within the state where the tax is to be paid by the agent. Normally, if it is a branch transfer, no tax would be payable by the branch separately and the corresponding sales out of such branch transfers will get reflected in gross turnover of sales of the entity as such there is no need to report such branch transfer separately. Care should also be taken that such transfers should not be included in GTO of sales reported in 1(a).

In case of a consignment transfer within the state, the turnover of sales is usually reflected in the return filed by the consignment agent and the tax is payable by such agent. The sale by the consignment agent is reflected in the books of account on the basis of consignment note /sale patti etc. received and the same forms part of the GTO of sales though on the same tax is not payable in the hands of principal. The local branch transfer will not be normally part of GTO of sales. The vat auditor therefore, should take into account how the GTO is determined and that basis decides a deduction under this field/cell.

6. Sales under section 8(1) & Branch Transfers: [Sr. No. 1(g)]

6.1 Section 8(1) provides that the sale which takes place outside the State or in the course of the imports of the goods into the territory of India or the export of the goods out of such territory or in the course of inter-State trade or commerce would not be subjected to tax under the MVAT Act. For this purpose, sections 3, 4 & 5 of the CST Act are required to be considered. Special consideration will have to be given for sales u/s 5(2) of the CST Act [known as high seas sales] and u/s 5(3) of the CST Act [known as penultimate sales to export], when made to purchasers within the State of Maharashtra. The sale covered under Section 5(2) or 5(3) of the CST Act to purchasers within the state of Maharashtra is also not required to be included in the return under MVAT law though such sale is within the State of Maharashtra. Normally, the sales under sections 5(2) and 5(3) of the CST Act to the

local purchasers may be local sales since there is no movement of goods from one state to another, still such sales are also included as a turnover of sales under the CST Act and not as a turnover of sales under MVAT Act. The Commissioner of Sales Tax *vide* his Circular No. 11 T of 2005 dated 30-5-2005 **[Appendix-10(b)]**, has clarified that all sales determined as penultimate sales are also in the course of export & were accordingly covered by section 75 of the BST Act. Therefore, such sales should also be included in the CST return. The same principle will also apply for sales u/s 8(1) of MVAT Act. However, if declaration in Form H is not received in respect of such sales then the same shall be taxable under the local Sales Tax Act.

6.2 The vat auditor should report the figures determined as per books. Normally, the amount reported in this cell/box should match with the amount reported in Schedule VI.

6.3 At Sr. No. 1(g), the amount of branch transfer included in the figure at Sr. No. 1 is also to be given. The term "branch transfer" needs to be understood so as to include even the goods transferred on consignment. It is expected of the vat auditor that he should verify: [1] method involved for valuation of branches transfers, [2] verification of the amount with the books of account and [3] movement is not as a result of sale. No standard method is followed by trade and industry for valuation of the transfer of goods. Generally, value adopted for excise purpose is taken as value of goods. In some cases, the transfer stock is valued based upon the expected sale realization. In some cases, it is valued at maximum retail price, less certain percentage & in some cases, the goods are not at all valued and only memorandum records of stocks transfer are maintained. Entries in books of account are taken for sale proceeds on the basis of consignment agent / branch.

6.4 The vat auditor should take note of the method adopted by the dealer for valuation of stock transfers. If there is any change in such method of valuation, vat auditor should give his observation in this regard in part 2. Most of the dealers do not take entries in relation to goods sent on consignment or branch transfer in financial books, but only memorandum entries are taken in stock records / stock transfer registers, or in other register. In such cases, the verification of the amount with books of account may not be possible. The vat auditor's observation and remarks, if any, are called for in this regard.

6.5 A heavy responsibility is cast upon the vat auditor to verify as to whether the movement of goods shown inter-State as branch/ consignment transfers is not as a result of sale. The provision in CST Act and the judicial pronouncements need to be taken into account by the vat auditor while deciding whether the movement is as a result of sale. It has been held by various courts that, if the goods are moved from one State to another State against a specific order or against a pre-existing order or a contract, then such inter-State movement of the goods will be deemed to have occasioned as a result of sales. The vat auditor is expected to examine and report whether any dispatches of the goods, which are classified and declared as branch transfers, are in nature of inter-State sale. Where any goods dispatched to branches, depots or consignee agent are earmarked for any particular customer, the transaction may be inter-State sale. Therefore, in such cases, the vat auditor will have to examine the business process adopted by the dealer from the stage of booking of the purchases orders to dispatch of the goods to the branches and subsequent disposal of such goods. Internal communications requisitions, references on the dispatch documents, special packing, and excise invoice, etc., if available may establish the nexus between the inter-State movement & sales. Goods manufactured as per the specific requirements of the customer would generally indicate pre-determined sales.

6.6 Normally, a vat auditor can take a view that movement of the goods is not as a result of sales in respect of the transaction for which a certificate in Form F under the Central Sales Tax (Registration & Turnover) Rule, 1957 is received from branches/consignee agent, unless some positive evidence to conclude otherwise, as explained above is available.

7. Sales of tax-free goods specified in Schedule A of MVAT Act [Sr. No. 1(h)]

Section 5 of the MVAT Act provides that, subject to the other provisions of the MVAT Act and the conditions or exceptions, if any, set-out against each of the goods specified in column (3) of Schedule A, no tax shall be payable on the sale of any goods specified in column (2) of Schedule A. Therefore, under this column, the turnover of sales of tax-free goods covered under Schedule A will only appear. The auditor will have to carefully examine the description of the goods sold viz. its schedule entry under Schedule A and verify

whether the claim is correct. This again calls for an interpretation of schedule entry with reference to the concerned commodities. For this, the vat auditor can keep the reliance on judicial pronouncements, experts' opinion etc., as discussed in earlier Chapters. Here, total turnover is to be reported without giving any schedule entry-wise breakup of turnover.

8. Sales of taxable goods fully exempted under section 8 [Sr. No. 1(i)]

The description itself makes it clear that, sales under section 8(1) and covered in box 1(g) above are to be excluded. If there are exempt sales under more than one sub-section, the vat auditor has to take aggregate figure for the purpose of this box.

8.1 **Sales under section 8(2)**

Under section 8(2) of the MVAT Act, sale of fuel and lubricants which are filled into an aircraft registered in the foreign country is exempt from tax, subject to certain conditions. The vat auditor is to examine:

(1) Whether the sale is of fuel or lubricant

(2) Whether fuel or lubricant is filled into an aircraft

(3) Whether such aircraft is registered in the foreign country.

8.2 **Sales under section 8(3)**

Under section 8(3) of the MVAT Act, sales by any unit located in Special Economic Zone (SEZ), Software Technology Park (STP), Electronic Hardware Technology Park (EHTP), hundred per cent Export Oriented Unit (EOU) or by a developer of the SEZ is exempt from tax under MVAT Act, if the sale is made in accordance with the conditions specified by the Government in the Order issued for the purpose.

The vat auditor has to report such sales. After going through the Government Notification/ Order, conditions etc. the vat auditor should verify such sales.

8.3 **Sales under section 8(4)**

Under section 8(4) of the MVAT Act, sale of goods made by a unit holding a Certificate of Entitlement as defined under section 88 of the

MVAT Act, to whom incentives are granted are exempted from payment of tax if it has opted for 'exemption option'. Such sales are to be reported in Schedule IV. Therefore, the same gets deducted at Sr. No. 1(b) in this schedule and hence, will not be included for reporting here.

8.4 **Sales under section 8(3A)**

No notification is yet issued to exempt dealers specified in Import and Export policy.

8.5 **Sales under section 8(3B)**

Under this sub-section, subject to Notification, sales to and by Canteen Stores Department (CSD), Indian Naval Canteen Services (INCS) are exempt. Also further sales by unit canteens run by officers of armed forces or families of deceased personnel, certified canteen contractor etc. are exempt.

It may be noted that at present sales made to CSD & INCS are not exempted. Notification [No.VAT-1505/178/Taxation-1 dt. 27-7-2006] issued provides exemption only in respect of sales made by CSD and INCS.

8.6 **Sales under section 8(5)**

Certain sales of goods by any registered dealer to classified dealers are exempt, fully or partially, subject to notification. The vat auditor has to note those sales fully exempt u/s 8(5) only are to be reported here.

The vat auditor after satisfying himself about admissibility of above mentioned sales should consider the figure and report with appropriate disclosure, if needed.

9. Job work charges or labour charges [Sr. No. 1(j)]

The items on account of this charges received, which are included in gross turnover of sales at Sr. No. 1(a) need to be excluded while working out taxable turnover. The vat auditor has to verify the nature of such receipts and ensure it does not involve any sale element.

10. Other allowable deductions, if any [Sr. No. 1(k)]

10.1 The vat auditor has to specify other allowable deduction in this box. E.g. purchase price of goods manufactured by PSI unit under

exemption mode is entitled for deduction under rule 57(2). The working for the same has to be verified. Some other deductions under this field/cell are discussed below.

a. Turnover of sales pertaining to consignment transfers received from the principal in the state, where such principal has undertaken to pay the taxes on such sales is an allowable deduction.

b. Deduction under rule 59 in case of composite sum charged for supply of food and luxuries by a hotelier.

c. Deduction under rule 57(4) in respect of component of interest contained in the sale price when goods are delivered under hire purchase agreement.

d. Resale of diesel or motor spirits exempted under section 41. [With effect from 1-7-2009, such dealers have to file return in Form 235 and as such these sales would get reflected in appropriate Schedule V and deduction of such sales will come in field/cell 1(b) above]

10.2 **Charges claimed as non-taxable**

10.2.1 The vat auditor will have to be provided a list of charges recovered in respect of the sales which are claimed by the dealer as non-taxable. These could be Freight, Octroi, Packing Charges, Processing Charges, Installation, Transit Insurance, etc.

10.2.2 **Admissibility of deductions in the light of definition of "sale price" read with terms of sale**

As discussed earlier, "sale price" includes any sum charged for anything done at the time of or before delivery. The definition and explanation thereunder have provided for specific inclusions and exclusions. Therefore, with reference to the terms of sales and the conduct of the parties, the vat auditor will have to ascertain the liability for payment of tax on any sum charged by the seller. If the seller provides some post-sale service to the buyer after delivery of the goods, such sum charged will not form part of the sale price. E.g. where under the terms of sale, all sales were completed at the factory gate and the property in the goods and risk thereon passed to the

buyer and where the seller in order to assist the buyer arranged for transport of the goods to the buyer and recovered the freight charges, no tax should be payable on such freight charges reimbursed by the buyer being a post-sale service.

The definition specifically provides for deduction of "Installation charges" or "Transit Insurance" where the same are separately charged. Such charges should be reasonable and the deduction would not be allowed in cases where part of the sale price is recovered in the form of such charges. On the other hand, Excise Duty and Customs Duty will always form part of the sale price irrespective of who pays the same. In respect of deposits, while dealer deposit or security deposit would be excluded, dispute arises in the case of container deposit, bottle deposit, cylinder deposit, etc. The vat auditor should make appropriate disclosure in this regard.

11. Net turnover of sales liable to tax [Sr. No. 1(l)]

After sum total of deductions i.e. 1(d to k) discussed from paragraphs 3 to 10 above are reduced from 1(c), the vat auditor will get this figure. The material difference, if any has to be reported in Part 1 of the report.

12. Computation of tax payable under the MVAT Act [Sr. No. 2]

Even though the word 'sales tax' is missing in the title description, logically vat auditor has to give bifurcation of taxable turnover and calculation of 'sales tax' there on. The vat auditor is required to verify the computation of tax payable by the dealer and report the gross sales tax liability for the year. This involves interpretation. The vat auditor may refer earlier discussions in this regard. Some of the verification points are discussed below.

12.1 Classification of sales under various categories including tax rate wise classification [General guidance irrespective of schedules]

12.1.1 The vat auditor has to verify the method followed by the dealer for classifying the sales into various categories of sales e.g. works contracts, right to use, hire purchase, etc. This classification is necessary as different deductions are permissible for different types of transactions. For example, on sale of printed material, tax is payable on the entire price but

in the case of contract of printing, tax is payable only on the materials used by the contractor after deductions towards labour and services. Similarly, in the case of lease transactions, tax is payable on the entire lease rental whereas in the case of a hire-purchase transactions, no tax is payable on the interest included in the hire purchase price / instalments. The classification of the nature of the transactions will have to be undertaken by reviewing the contracts, documents, terms and conditions of the transaction, conduct of the parties as well as accounting treatment in the books.

12.1.2 As discussed earlier, the rate-wise classification of the commodities / goods will be based on schedule entries under the MVAT Act, Excise, Customs and HSN Classification, Rules of Interpretation and Classification and judicial pronouncements.

12.2 The vat auditor should classify the turnover according to applicable rates. It is possible that the goods dealt in by the dealer may be covered in more than one category, e.g. Departmental stores or petrol pump where goods sold may fall in more than three categories, Gold & Silver jewellery (taxable @1%), IT products (taxable @ 4%), General goods (taxable @12.5%), and Liquor (taxable @20 & 25 %). The commodity wise classification details are to be obtained from the dealer. The vat auditor, thereafter, should verify the description of goods sold with schedule entries and keep all these details as part of his working paper. In case of doubt about classifications of commodities he may take expert's opinion and may make appropriate disclosure.

13. Sales tax collected in excess of amount of tax payable [Sr. no. 2A]

If the dealer has identified excess tax collection transaction wise, the same has to be disclosed. If the dealer has expressed inability to work out transaction wise excess tax collection, the vat auditor will have to consider provisions of section 60(2) and explanation given there under and report accordingly.

VERIFICATION OF PURCHASES

14. Computation of purchases eligible for set off [Sr. No. 3]

Entire exercise of this part leads to calculation of amount of set off to which dealer is entitled to, under the MVAT Act.

15. Total turnover of purchases [Sr. No. 3(a)]

Total value of turnover of purchases, branch and consignment transfer, labour/ job work charges needs to be given here.

The turnover of purchases will include all purchases i.e. raw materials, packing materials, consumables, capital assets, purchases debited to Profit and Loss Account under various expenses, etc. Branch transfers received is to be added to said amount. The vat auditor has to verify the classification of purchases under various categories. For the purpose, he has to examine the system for booking purchases through various sources and accounting entry passed for the same in books of account. The books of account would include Purchase Register, Expenses Register, Journal, etc. The "Purchase Account" in the ledger is debited with the purchases booked through registers which includes the purchases in the course of main business, such as raw materials, packing materials, etc. In order to arrive at total purchases, the vat auditor has to consolidate all other incidental purchases too. He has to dissect each and every expense account in order to segregate purchase of goods debited to such account and other expenses. The exercise is necessary since the dealers can claim set-off in respect of such purchases as well, subject to restrictions imposed under rules 53 & 54 of MVAT Rules. It is advisable to have the inbuilt system to segregate them in the accounting method itself. As explained earlier, the purchases are normally recorded as per AS. Therefore, it is possible that refundable duties and taxes may not have been booked to purchase account and cost of other expenses might have been booked. This is also required to be taken into account for determination of purchases. Some of the dealers first debit the purchases to "Stock Account" and thereafter transfer to "Consumption Account" when materials are issued for production. The set-off can be claimed as soon as purchases are effected without waiting for use. For the purpose of reporting in this schedule, the gross turnover of purchases so determined is required to be added with turnover of non purchase transactions like value of

branch transfers, consignment transfers & job work charges. An illustrative check list for determination of gross turnover is given in **Appendix-8.**

16. If the dealer has to fill up, additional schedule II,III,IV, or V, then he has to reduce the turnover of purchases covered by these schedules at sr. no. 3(b) & work out balance turnover at 3(c).

17. Value of goods return [Sr. No. 3(d)]

Refer to Para 3 above for this discussion. The vat auditor has to consider details furnished by the dealer for Annexure J, Sections 2 and 4.

18. Imports (Direct imports) [Sr. No. 3(e)]

These include direct imports from foreign countries, where as high seas purchases (covered under section 5(2) of the CST Act) are to be shown separately. The vat auditor has to verify the purchase invoices and other supporting documents. The expenses directly related to imports such as customs duty, clearing and forwarding charges, etc., are normally debited to import purchase account. If such expenses are included in import purchases, the same may be reported here.

19. Imports (High-Seas purchases) [Sr. No. 3(f)]

The vat auditor has to keep in mind guidelines given in Para 19, while verifying these purchases also. The vat auditor has to check the documents such as bill of lading, bill of entry, airway bill, high seas purchase agreement, custom's intimation etc. to verify the high seas purchases.

20. Inter-State purchases [Sr. No. 3(g)]

These include purchases made in the course of inter-State trade liable under CST Act. The vat auditor has to verify purchase invoices and other supporting documents and satisfy himself with regard to the inter-state purchases.

21. Inter-State branch transfers / consignment transfers received [Sr. No. 3(h)]

These are stock transfers received by the dealer during the period from its' own branch or from his principal or agent, the value of

which has to be verified with books of account as well as entries in stock records, such as Stock Register, Stock Cards, Goods Received Notes, etc. In some cases accounting entries might not have been taken in books of account, then such details will be verified from stock register. Since 'F' form has become compulsory under CST Act, the total amount for which 'F' Forms are issued can also be of help in determining the branch transfers received.

22. Within State branch transfers/consignment transfers received where tax is to be paid by agent [Sr. No. 3(i)]

The issue is explained in detail in Para 5 of this chapter which may be considered while reporting under this cell/field.

23. Within State purchases of taxable goods from un-registered dealers [Sr. No. 3(j)]

Although there is no provision for levy of purchase tax on purchases from unregistered dealers or persons (URD), it is necessary to know the total purchases from URD for statistical purposes. The present clause only quantifies total purchases of taxable goods from URD. The vat auditor is required to identify such purchases under all heads of accounts, e.g. expenses debited to P&L A/c, capital assets, etc. While purchases debited to Profit and Loss account also forms part of turnover of purchases, the Commissioner vide trade circular 26T/2006 dtd. 16-09-2006, the purchases debited to expense head on which set off is not claimed need not be included in the GTO of purchases. In view of this, vat auditor may not have to scrutinize the expenses account so as to verify the details of URD purchases.

Sometimes, dealers have a policy of not buying from URDs under any circumstances which is reflected in the Business Processes/Accounts manual. The vat auditor may rely on such manuals after test checking some actual transactions. To verify URD purchases is a tough job since it may involve detailed scrutiny of the expenses, fixed assets register, etc. The vat auditor should suggest the dealer to have proper accounting methodology commensurate with this requirement for obtaining the information.

24. Purchases of taxable goods from registered dealers under MVAT Act, 2002 & which are not eligible for set off [Sr. No. 3(k)]

24.1 These purchases could be purchases not supported by valid tax invoices or purchases on which set off is not available under rules 54 and/or 55.

24.2 The purchases not supported by valid tax invoices would be purchases from dealers under composition, purchases of goods covered under PSI exemption, or purchases wherein tax element is not shown separately.

24.3 The purchases supported by valid tax invoices are to be verified in the light of rule 54 as discussed in Chapter for Annexure E.

24.4 The system followed for identification of purchases not eligible for set-off needs to be verified. It is generally not possible for a dealer to maintain separate register for non-eligible purchases. However, separate coding can be made by him for non-eligible items. The grouping can be made of such codes aggregating non-eligible purchases. Some dealers may follow the system of segregating such purchases at the end of the period of return so as to exclude them from the eligible purchases for set-off.

25. Purchases of taxable goods fully exempted under section 8 [Sr. No. 3(l)]

The description of this field itself makes it clear that, purchases under section 8(1) are to be excluded while considering these purchases under various sub-sections of section 8. If there are exempt sales under more than one sub-section, the vat auditor has to take aggregate figure for the purpose of this box.

For discussion on these sub-sections, one may refer to Para 8 of this chapter.

26. Within the State purchases of Tax-free Goods specified in Schedule A [Sr. No. 3 (m)]

Refer to Para 7 of this chapter for detailed discussion. Here, total turnover is to be reported without giving any schedule entry-wise breakup of turnover.

27. Other allowable deductions/reductions, if any [Sr. No. 3 (n)]

In this field the items on account of Job work charges or labour charges paid, freight, deduction under rules 57(2) & (4), 58 and 59 etc. which are included in turnover of purchases at Sr. No. 3(a) need to be reported.

28. Within State purchases of taxable goods from registered dealers eligible for set off [Sr. No. 3 (o)]

When all deductions as per Sr. Nos. 3(d to n) from total purchases at Sr. No. 3(c) are made, balance figure would be that of purchases eligible for set off. The vat auditor has to ensure that such purchases eligible for set-off are supported by tax invoices. He may carry out suitable test checks for this purpose.

29. Tax rate-wise break up of purchases

At Sr. No. 4, tax rate wise break up of purchases eligible for set off is to be given. The vat auditor will have to verify this from records maintained for the purpose. Further, figures worked out by the dealer for sections 1 and 2 of Annexure E should match, considering other schedules, if any, to be filled in by the dealer.

30. Computation of set off claim

At Sr. No. 5, computation of set off claimed in returns and worked out at the time of MVAT Audit has to be given. In Annexure E, detailed working is called for. In this field/cell, amount calculated in Annexure E relating to schedule be reported. However, if no separate annexure is prepared for each schedule, then vat auditor should report total admissible set off under any one applicable schedule so that the total amount is consolidated in Table 2 of Part 1.

For detailed discussion on admissibility of set off, refer to Chapter in respect of Annexure E.

The Table for set off computation specifically asks for retention to be made for Rules 53(1) and (2) separately. If retention under any other sub-rules of rule 53 is required to be made, it has to be mentioned under Sr. No. (c) together. However, computation of these retentions has to be worked out separately for the reporting in Annexure E.

31. Computation of tax payable

Sr. No. 6 of this schedule is for 'Computation of Tax Payable'. The vat auditor has to give comparative figures as per returns and as finally worked out by him.

31.1 In sub Sr. No. 6A, aggregate of credit available on following grounds is to be filled in.

i) Set off available as per box 5(d) [Para 31]

ii) Amount already paid. The vat auditor has to show tax and interest figure paid with returns or otherwise. This has to match with Annexure A.

iii) Excess of credit, if any from other Schedules II to V (if applicable)

iv) Adjustment of entry tax paid under the Maharshtra Tax on Entry of Goods into Local Areas Act, 2002/ Motor Vehicles Entry Tax Act, 1987.

As per rule 52 this entry tax paid has to be included in set off claim, but since it is not included in Sr. No. 5 (Set off) above this amount is to be reported separately.

v) Amount credited as per Refund Adjustment orders, if any as detailed in Annexure A.

31.2 In sub Sr. No. 6B, sales tax payable and adjustment of CST/ entry tax payable against available credit is to be given detailed as

i) Sales Tax payable as per Box 2 [Para 13]

ii) Interest payable under section 30(2). The vat auditor will have to co-relate this figure as worked out in Annexure A.

iii) Adjustment of excess credit available made against tax payable in any other Schedules II to V.

iv) Adjustment against CST payable as per Schedule VI.

v) Adjustment of entry tax payable under the Maharashtra Tax on Entry of Goods into Local Areas Act, 2002/ Motor Vehicles Entry Tax Act, 1987.

vi) Excess tax collection as revealed in Box 2A is to be shown here.

31.3 At sub Sr. No. 6C, arithmetic calculation and comparison of sum total of 6A and 6B need to be shown. The vat auditor has to show resultant total amount payable or refundable. The figures need to be worked out to show position as per returns filed and as per vat auditor's working as a result of verification.

❑❑❑

SCHEDULE II

CHAPTER XVII

1 In this chapter, only important features of Schedule II, pertaining to dealers who are required to fill in Form 232 are discussed. Common issues are already discussed in earlier chapter.

Schedule II is for all composition dealers whose entire turnover is under composition excluding works contractors opting for composition and dealers opting for composition only for part of the activity of the business.

1.1 A dealer transferring right to use mandap or tarpaulin and opting for composition under section 42(4) for his entire turnover is also legally required to file this return form. However, for all practical purposes such dealer opting for composition for entire turnover in respect of 'transfer of right to use goods' and there being no provision in Form 232 for disclosure of such turnover are filing the returns in Form 233. The question now, therefore, arises as to which schedule, the vat auditor should fill in. After perusal of Schedules II and III, it becomes clear that Schedule II has asked the particulars only in respect of specific composition schemes which does not include Mandap keeper composition scheme. As pointed out earlier, as such dealers are into 'transfer of right to use goods' (leasing business), the Schedule III is required to be filled in with suitable disclosure.

2. For filling up this schedule, the vat auditor is to verify the records of a dealer, who has opted for a composition scheme, notified by the State Government in accordance with sections 42(1) and 42(2) of the MVAT Act.

2.1 Section 42(1)(a) of MVAT Act authorizes the State Government to provide for a scheme of composition, with such conditions and restrictions, as may be notified in the Official Gazette, in respect of tax payable by such dealers who are engaged in the business of reselling goods and merchandise in retail. It also authorizes the State Government to prescribe, at its discretion, different types of composition schemes for different classes of retailers.

2.2 Section 42(1) (b) of MVAT Act defines the term "retailer" for this purpose. Accordingly, a dealer shall be considered to be engaged in the business of selling at retail if 9/10th of his turnover of sales consists of sales made to persons who are not dealers.

2.3 Section 42(2) of MVAT Act authorizes the State Government to provide for such other schemes of composition, with such conditions and restrictions, as may be notified in the Official Gazette, in respect of tax payable by following dealers:

(a) who are running any eating-house, restaurant, hotel, boarding establishment or refreshment-room;

(b) who are caterers and serve food and non-alcoholic drinks;

(c) who are running bakeries;

(d) who are dealing in second hand motor vehicles whose principal business is buying or selling motor vehicles.

(e) who are specified liquor dealers (for whom no scheme is yet notified)

2.4 In accordance with the powers conferred u/ss 42(1) and 42(2) of the MVAT Act, the State Government, *vide* notification No. VAT-1505/CR-105/Taxation-1, dated 1st April, 2005 notified five different schemes covering the above-referred classes of dealers. However, the above notification was superseded by another notification dated 1st June, 2005. As per the revised notification, dated 1st June, 2005, there are four different composition schemes for the following classes of dealers:

(1) Hotels, Restaurants, Eating Houses, Refreshment Rooms, Factory Canteens and Caterers; (2) Bakers; (3) Second hand Motor Vehicle Dealers and (4) Retailers.

3. The vat auditor is required to go through the entire notification and note down the conditions and restrictions prescribed for each of the above schemes and examine whether a dealer is eligible or not for a particular composition scheme and if eligible, whether he has exercised his option to chose for the scheme. It may be noted that option for a composition scheme entirely depends upon the discretion of the dealer. If a dealer is entitled for a composition scheme, he has the option either to opt for the scheme or to remain a regular vat dealer. However, if the dealer has opted for any of these schemes then it would be necessary

for the vat auditor to verify whether the conditions and restrictions attached to a particular scheme have been complied with or not.

3.1 It may be noted that a dealer may be eligible for more than one composition schemes. A useful reference may be made to Circular No. 8T, issued by the Commissioner of Sales Tax on 21-5-2005.

For period under audit 01-07-2009 onwards, specific position of hotelier joining the composition scheme for first time has to be checked by the vat auditor. He will have to consider amendment with effect from 01-07-2009 and clarification given in Trade Circular 22-T of 2009 dated 06-8-2009.

3.2 Although each of the above schemes has it own peculiar features, there are certain common conditions such as:

(a) The dealer opting for a composition scheme has to apply in the prescribed form, to the prescribed authority, by the prescribed date.

(b) Such a dealer shall not collect tax separately from its purchasers.

(c) Such a dealer shall not issue Tax Invoice in respect of any sales covered by the composition scheme.

(d) Such a dealer is not entitled to claim set-off of taxes paid on any or corresponding purchases covered by the composition scheme.

(e) Once the option is exercised in any year, then it can be changed only at the beginning of next year.

3.3 It may be worth noting that while the composition schemes for Bakers and Second Hand Vehicle Dealers require approval from the Joint Commissioner of Sales Tax, no such approval is necessary in respect of composition schemes for Retailers and Hoteliers etc.

Other features of each of the above scheme are enumerated in the following paras.

4. Composition for retailers (Sr. No. 4)

4.1 The composition scheme for retailers is quite different from other composition schemes. There are several conditions attached to this

scheme and the rate of composition depends upon the composition of different types of goods purchased and sold by the retailer during a particular period. Thus it is possible that for the same dealer, rate of composition is different in first six months than next six months of the same financial year. The amount of composition has to be calculated on the difference between turnover of sales and turnover of purchases.

4.2 This composition scheme is available to only those registered dealers, who are selling goods in retail. A retailer, for the purpose, has been defined as such dealer whose 90% of turnover of sales consist of sales made to persons other than dealers. In order to be eligible for the composition scheme, the retailer should not be a manufacturer or importer. Thus, the Scheme is available only to the traders/resellers in respect of resale of goods purchased within the State. Further, there is a turnover restriction of Rs. 50 lakhs. The retailers, whose turnover of sales in the immediate preceding year has exceeded Rs. 50 lakhs are not eligible for the Scheme. Others, who are eligible, can opt up to the turnover of sales of Rs. 50 lakhs during the year. Moreover, if the total turnover of sales during the year exceeds Rs. 50 lakhs then tax at normal rates, as per Schedule, shall be payable on the balance turnover of sales (after deducting first 50 lakhs of eligible turnover).

4.3 While calculating the total turnover of sales and/or purchases as the case may the turnover of sales of Liquor, and Motor Spirits has to be excluded. The composition scheme is not available in respect of sales of these goods. Thus a dealer (retailer) shall pay tax separately on the turnover of sales of Liquor, and Motor Spirits.

4.4 The composition amount, under this scheme, has to be calculated on the excess of total turnover of sales of goods over the turnover of taxable goods purchased from registered dealers (including tax collected by the vendors on such purchases), and purchases of tax free goods during a six monthly period.

4.5 Thus a dealer, who has opted for composition scheme for retailers, shall file only two six monthly returns during a financial year. The composition amount shall be calculated for each period of six months separately on the basis of the difference between total turnover of sales and total turnover of purchases (as enumerated above) in the respective period of six months.

4.6 Although, "turnover of purchases" has been defined u/s 2(32) of MVAT Act, the same may have to be considered with certain

modifications for the purposes of this composition scheme. The Notification specifically provides that total turnover of purchases, for the purposes of this Scheme, shall include the amount of tax collected by the vendor on such purchases. It further provides that it shall get reduced by all such credits as may have been passed on by the vendor to the purchaser for whatever reasons.

4.7 As the amount of composition, in this scheme, is calculated on the difference of sale price over purchase price, it may be equated to some extent with the Subtraction Method of Value Added Tax. [VAT = (Sale Price – Purchase Price) * rate of tax].

4.8 There are three different rates of composition i.e. 5%, 6% and 8%. The rate of 5% is applicable to such retailers whose total turnover of tax-free goods and taxable goods (liable to tax @ 4%) is more than 50% of the total turnover of sales. The retailers in drugs and medicines (read chemists), if their turnover of such goods (C-29 & 29A) is more than 3/4th of total turnover, required to pay composition @ 6%. [Notification No. VAT-1507/CR-55/Tax.1 dt. 27.11.2008.] This is retroactively effective from 1-10-2008.

The other retailers are required to pay composition @ 8%.

4.9 However, it may be noted that under this scheme the goods, which are otherwise tax-free become liable to tax.

4.10 It may further be noted that a retailer availing the composition scheme is not allowed to effect purchases from URD except tax free goods and goods used for packing of goods resold.

5. Composition for restaurants, hoteliers, caterers, etc. (Sr. No. 5)

5.1 The scheme is applicable to (a) any hotel, restaurant, eating house, refreshment room, club and boarding establishment having gradation of less than four star, (b) factory canteens and (c) caterers, in respect of aggregate sale of food and non-alcoholic drinks (served for human consumption). Although there is no turnover limit, the composition scheme is not applicable in respect of sales/service of liquor and other goods, if any.

5.2 It may be noted that the hotels having gradation of four stars or above are not eligible for this scheme. Others, who are eligible, shall pay the composition amount at the prescribed rate on aggregate sale of food

and non-alcoholic drinks (including tax free goods, if any). There are different rates of composition prescribed for the registered dealers and unregistered dealers.

5.3 It may be noted that in respect of sale of liquor and other goods, if any, such dealers shall pay tax separately, at the normal rates, as per schedule.

6. Composition for bakers (Sr. No. 6)

6.1 A dealer, who is having his own bakery, is eligible, to opt for this scheme provided his total turnover of sales of bakery products, in the immediate previous year, has not exceeded Rs. 30 lakhs. In case of a new dealer or any other dealer covered by someone, composition can be availed for first Rs. 30 lakhs of turnover of sales during the year.

6.2 The scheme is applicable, to such eligible dealer, in respect of first Rs. 30 lakhs of the aggregate sale of bakery products, (including bread in loaf, rolls or in slice), which are manufactured by the baker himself and which are imported in the State for sale by the baker. The composition amount shall be calculated at such different rate/s on entire turnover of sales of eligible goods, for registered dealers and unregistered dealers, as prescribed in the notification.

6.3 On balance turnover, (after deducting first Rs. 30 lakhs of eligible turnover), tax is payable at normal rates, as per schedule.

7. Composition for second hand passenger vehicle dealers (Sr. No. 7)

7.1 A registered dealer, whose main business is that of purchase and sales of passenger vehicles, is eligible to opt for the scheme in respect of turnover of sales of second hand passenger motor vehicles.

7.2 There is no turnover limit and no bar whether the vehicle has been sold in "as it is" condition or after reconditioning, refurbishing, etc. However, the composition scheme is applicable in respect of sales of only those vehicles which are registered within the State of Maharashtra under the Central Motor Vehicles Rules, 1989 or on which entry tax has already been paid in the State.

8. The vat auditor is required to give his observations in respect of non-compliance with the prescribed conditions of respective

schemes and verify the computation of taxable turnover and the amount of composition sum payable by the dealer. Before reporting, the vat auditor must satisfy himself that the dealer is eligible for a particular scheme and has complied with the required procedure such as application in prescribed form in time, approval from the Jt. Commissioner of Sales Tax, wherever necessary. The vat auditor may also have to refer to the sales tax related records of immediate previous year, with regard to total turnover of sales of that year, particularly in case of a retailer and a baker. Some times, in certain circumstances, such as in case of retailers, the vat auditor may not be in a position to ascertain from the available records whether 9/10th of his turnover of sales consist of sales made to persons who are not dealers. In such cases, a suitable declaration may have to be obtained from the dealer. Howsoever, the vat auditor must carefully look into all available records and wherever necessary make enquiries from the dealer to satisfy himself and report accordingly.

8.1 Retailers

8.1.1 The vat auditor has to ascertain and report the category of retailer as per composition scheme and the rate of composition. As stated earlier there are three different rates of composition for the retailers. The vat auditor is expected to verify and report the correct rate applicable. If the rate of composition in the two periods of six months works out differently, the vat auditor should report accordingly.

8.1.2 While computing turnover of taxable value, it would be necessary to first mention the total turnover of sales, during the year, including turnover of sales of non-eligible goods such as Liquor, and Motor Spirit. Thereafter this turnover of sales of non-eligible goods has to be deducted from the total turnover of sales so as to arrive at the balance turnover of sales eligible for composition. The taxable value shall be worked out by deducting the turnover of eligible purchases (as discussed above). The amount of composition payable shall be worked out by applying the rate of composition to the taxable value.

8.1.3 It may be noted that it is possible to show taxable value attracting different rates of composition. It would be necessary to disclose appropriately the figures of taxable value and the amount of composition payable for both the periods of six months separately and thereafter the combined amount of composition payable.

8.2 Restaurants etc.

8.2.1 The vat auditor shall find out the nature of business of the dealer and tick the appropriate box in Part 2 of Form 704. The vat auditor should verify the eligibility of the dealer to pay tax under the composition scheme, reconcile the total turnover of sales with books of account, verify the eligible amount of turnover of sales for composition and give his observations in the respective columns.

8.2.2 The turnover of sales of liquor and other goods, other than food and non-alcoholic drinks are not eligible for composition. The vat auditor will have to fill up Schedule III instead of Schedule II.

8.2.3 The rates of tax, as discussed above, are different for registered dealers and unregistered dealers. The amount of composition payable shall be calculated at the appropriate rate. If the same dealer is unregistered for a part of the year then the turnover of sales during the unregistered period and during the registered period should be disclosed separately and also the amount of composition payable computed accordingly.

8.3 Bakers

8.3.1 The vat auditor shall verify the eligibility of the dealer, to pay tax under the composition scheme and give his observations in the respective columns. The vat auditor should reconcile the total turnover of sales with books of account and verify the eligible amount of turnover of sales for the composition scheme.

8.3.2 The rates of tax, as discussed above, are different for registered dealers and unregistered dealers. The amount of composition payable shall be worked out at the appropriate rate. If the same dealer is unregistered for a part of the year then the turnover of sales during the unregistered period and during the registered

period should be disclosed separately and also the amount of composition payable accordingly.

8.3.3 In case of baker whose turnover of sales exceeds Rs. 30 lakhs during the year under audit, the vat auditor will have to fill up Schedule III instead of Schedule II.

8.4 Second hand motor vehicle dealers

8.4.1 The vat auditor shall first verify the eligibility of the dealer to pay tax under composition option and give his observations in the respective columns. The vat auditor shall also reconcile the turnover of sales of eligible goods, i.e. second hand motor vehicles and verify the amount of composition payable at the prescribed rates on the taxable value as determined in accordance with the notification.

8.4.2 As mentioned earlier, if the dealer has got any other business or normal sale of new cars, then Schedule III is required to be filled up.

9. Set off provisions

Entire discussion of purchases and eligible set off as discussed in earlier chapters is to be considered by vat auditor. As the schedule requires separate working of set off, special provisions/restrictions if any, applicable to composition dealers are discussed below. In the Schedule at Sr. No. 11 tax rate wise break up is called for. The rates mentioned therein are 4%, 5%, 6% and 8%. Of this 5% and 6% are the rates applicable on sales side. These rates cannot appear in set off working on purchase side. The vat auditor will have to add lines for rate of tax actually eligible for set off, if required.

9.1 Retailers

Such dealer shall not be entitled to claim any set off under the Maharashtra Value Added Tax Rules, 2005 in respect of purchases corresponding to any goods which are sold or resold or used in packing of goods referred in column 3 of the said notification (i.e., goods excluding foreign liquor, country liquor, IMFL, Motor spirit).

9.2 Restaurants, etc.

Such dealer shall not be entitled to claim any set off under the Maharashtra Value Added Tax Rules, 2005 in respect of purchases corresponding to any goods which are sold or resold or used in the

packing of goods referred in column 3 of this notification i.e. food & non-alcoholic drinks.

Provisions of rule 54(k) may also be referred to.

9.3 **Bakers**

Such dealer shall not be entitled to claim any set off under the Maharashtra Value Added Tax Rules, 2005 in respect of purchases corresponding to any goods which are sold or resold or used in the packing of goods referred in column 3 of this notification i.e. bakery products which are manufactured by the baker himself.

9.4 **Second hand motor vehicle dealers**

Such dealer shall not be entitled to claim set off of tax paid or payable or, and of entry tax paid or payable, if any, on purchases of secondhand motor vehicle covered under column 3 of this notification. This implies that set off on material, if any, used for reconditioning or refurbishing of said vehicle would be available.

❑❑❑

SCHEDULE III

CHAPTER XVIII

In this chapter, only important features of Schedule III, pertaining to dealers who are required to fill in Form 233 are discussed. Common issues are already discussed in earlier chapter. Form 233 is required to be filed by dealers who are in the business of executing works contract, leasing and dealers opting for composition only for part of the activity of the business. As discussed in earlier chapter, the dealers opting for composition for entire business relating to mandap or tarpaulin would also be covered under this schedule.

1 Turnover of sales under composition scheme: Sr. No. 1(f)

This field requires report of the turnover of sales under the composition scheme(s), other than works contract under the composition option.

If dealer is covered under composition schemes under section 42(1), (2) and/or (4), turnover of sales on which composition amount is to be paid has to be calculated. This figure and working of composition on the same has to appear in Part B of the Schedule.

If Part B is perused, then row/box for composition under section 41(4) for leasing of Mandap is not provided for. For all practical purposes, as it would be difficult to show tax working at 1.5% of such turnover in e- format/template, vat auditor may not take this turnover in this field and it would be reflected at Sr. No. 1(s) i.e. figure after all reductions specified therein. This will enable vat auditor to show taxable turnover at composition rate of 1.5% in Part 5 of the Schedule.

2. On going works contract: Sr. No. 1(g)

Turnover of sales relating to on – going works contracts, excluding tax element is to be shown in this clause. Computation of tax of this turnover is to appear in Part C of this schedule.

2.1 **Amount of tax payable under the MVAT Act on works contracts entered into prior to 31.3.2005**

Under section 96(1)(g) of the MVAT Act it is provided that in the case of works contracts entered into prior to 1.4.2005 where the execution has continued thereafter, the liability for payment of tax under the

MVAT Act shall be in accordance with provisions of the Maharashtra Sales Tax on the Transfer of Property in Goods Involved in the Execution of Works Contract (Re-enacted) Act, 1989 (MWCT Act), without however claiming set off on the purchases corresponding to such contracts. In this background, the vat auditor is required to report departure if any, in the method followed for discharging the tax liability under the MVAT Act, in respect of such ongoing contracts during the period of review.

3. On going leasing contract: Sr. No. 1(h)

Turnover of sales relating to on – going leasing contracts, excluding tax element is to be shown in this clause. Computation of tax of this turnover is to appear in Part D of the schedule.

3.1 Amount of tax payable under the MVAT Act on leasing contracts entered into prior to 31-3-2005

3.1.1 In case of lease transactions entered into before 31.3.2005, under proviso to section 96(1)(f), it is provided that the liability for payment of tax on the rentals received or receivable on or after 1-4-2005 in respect of ongoing transactions which had been entered into prior to 1-4-2005, would not exceed the liability under the earlier the Maharashtra Sales Tax on Transfer of Right to Use any Goods for any Purpose Act, 1985 (MLT Act). Rentals or instalments in respect of transactions entered into prior to 1-4-2005 would be taxed at the rate applicable under the MVAT Act, subject to above restriction. In this background, the vat auditor will have to verify the transactions entered into prior to 1-4-2005, determine the liability the MLT Act and MVAT Act and report the tax liability at lower of the two in respect of the rentals received or receivable after 1-4-2005.

3.1.2 Section 96(1)(f) of MVAT Act provides that in respect of lease sales transactions, if full tax has already been admitted or paid under earlier laws, then on such turnover the dealer shall not be liable to pay tax under MVAT Law.

3.1.3 Under the MLT Act, all transactions entered into on or after 1-5-2001 were always taxable irrespective of the source of purchase subject to availability of set-off. However, resale or second sale claim was available in respect of transactions entered into during the period 1.5.1994 to 30.4.2001.

4. Sales of goods exempted under section 8, other than sales covered under section 8(1): Clause 1(m)

All sales which are exempt under section 8 including sales exempted under section 8(3C) e.g., works contracts of dyeing and bleaching by textile processors, is to be reported here.

5. Labour and other charges: Sr. No. 1(n)

This clause is for non taxable labour and other charges/expenses for execution of works contract.

5.1 In the context of determination of sale price it was discussed that deductions u/r. 58 of MVAT Rules do not form part of turnover of sales. However, they may form part of gross turnover of sales. In the case of entire and indivisible works contracts, since tax is payable on the materials used in the execution of the contract in which property passes to the client / contractee, deductions are provided under rule 58.

Under rule 58(1)deduction is provided in respect of cost of labour and services and profit thereon. These are:

(a) labour and service charges for the execution of the works

(b) amounts paid by way of price for sub-contract, if any, to sub-contractors;

(c) charges for planning, designing and architect's fees;

(d) charges for obtaining on hire or otherwise, machinery and tools for the execution of the works contract;

(e) cost of consumables such as water, electricity, fuel used in the execution of works contract, the property in which is not transferred in the course of execution of the works contract;

(f) cost of establishment of the contractor to the extent to which it is relatable to supply of the said labour and services;

(g) other similar expenses relatable to the said supply of labour and services, where the labour and services are subsequent to the said transfer of property;

(h) profit earned by the contractor to the extent it is relatable to the supply of the said labour and services.

Where the accounts of the contractor – dealer do not enable proper evaluation of the different deductions, under proviso to rule 58(1), adhoc deductions towards labour and services have been provided from 10% to 40% of the contract price.

Another method of ascertaining the taxable turnover may be by adding the Gross Profit Margin of the contract to the cost of the materials used in the contract, the balance being the amount of deduction or non-taxable charges.

5.2 Rule 58(1A) inserted retrospectively w.e.f. 20-6-2006. It provides for deduction of cost of land in a case of works contract involving transfer of property in goods along with land or interest in land underlying the immovable property conveyed.

6. Sub-contract: Sr. No. 1(o)

In this clause amount paid by way of price for sub-contract is to be given.

Amount paid or payable towards works contract executed by sub-contractor

In the case of a works contract executed by the sub-contractor, where the sub-contractor has discharged the liability for payment of tax on the work sub-contracted to him, the principal contractor will be entitled to deduct from his turnover, the turnover in respect of the work undertaken by the sub-contractor [section 45(4)(c)]. However, the principal contractor will have to obtain from the sub-contractor, declaration in Form 408 and certificate in Form 407 for the purpose [sections 45(4)(e) and (f), rule 50]. The vat auditor is required to verify the declarations and certificates for the purpose of this deduction.

7. Other allowable deductions: Sr. No. 1(r)

Refer to detailed discussion at Para 10 of Chapter relating to Schedule I. In addition to these, there may be one more additional reduction as below.

Amount paid or payable by the principal contractor towards works contract executed by the dealer

In the case of sub-contracted work in the execution of a works contract, the principal contractor may undertake to discharge the

liability for tax on the work undertaken by the sub-contractor. In such circumstances, the sub-contractor will be entitled to deduct the turnover of such work from the total turnover provided he has obtained a declaration in Form 409 and certificate in Form 406 from the principal contractor [sections 45(4)(c), (e), (g); rule 50]. The vat auditor is required to verify the declarations and certificates for the purpose of this deduction.

8. Set off computation: Sr. No. 8

Your attention is drawn to detailed discussion in Para of Chapter XXIV In addition to same, in this schedule vat auditor may have to consider reduction with reference to works contracts for which contractor has opted for composition.

8.1 Reduction of set-off on goods used in execution of works contract for which the contractor has opted for composition in lieu of tax payable [Rule 53(4)].

8.1.1 The works contractors, opting for composition scheme, can claim set-off subject to certain restrictions. These provisions are contained in section 42 (3) and rule 53(4). Section 42(3) grants an option to the works contractor to pay lump sum tax by way of composition. The composition rate is 5% on notified construction contracts and 8% of the total contract value of other than construction contracts.

The only deduction possible is the amount paid to a sub-contractor who has carried out a part of the work. This provision needs to be read along with section 45(4). The deduction towards sub-contract is available only when such sub-contractor is a registered dealer and has discharged the liability of tax on his part of the turnover and a declaration in Form No. 408 and certificate in Form No. 407 is issued to the principal contractor.

Explanation has been added to rule 53(4) to state that 'claimant dealer' shall also include a sub-contractor if the principal contractor has awarded the contract or part of contract to a sub contractor and the principal contractor has opted in respect of the said contract for the composition of tax under section 42(3).

8.1.2 This reduction is required to be done only if the dealer executing works contract has opted for a composition u/s. 42 (3). If the works contractor opts to pay tax as per the other provisions of the Act including rule 58 then this need not be worked out. This is for a simple reason that set-off is liable to be reduced in accordance with rule 53(4) only when dealer opts for a composition.

8.1.3 The vat auditor is required to verify the identification of gross set-off admissible on purchases relating to such category of deemed sales and method followed for working out reduction of set-off. Therefore, the vat auditor has to ascertain the system for identifying the purchases used in the execution of works contract for which composition is opted. If such identification is not possible, a proportionate method will have to be applied. In some situations, apportionment of purchases based upon appropriate method may be advisable since inputs used are common and identification is not possible, e.g.,

(i) Where only certain contracts are selected for composition scheme since sec. 42(3) allows the option in relation to the turnover of individual works contract and inputs are common.

(ii) where a dealer has mixed activity of works contract as well as manufacturing e.g., in case of a printer, ink is a common input for manufactured printed materials as well as job work undertaken by him where paper is supplied by the customer.

8.1.4 The purchases utilized only for the works contract under composition scheme have to be bifurcated. If the stock records are maintained in that manner, it is possible to identify purchases. In other cases, the inputs will have to be apportioned in the ratio of value of works carried out in respect of various works contracts under composition and otherwise. In case of mixed activity, the value of manufactured goods and value of works carried out in respect of works contract under composition can provide a basis for apportionment. The content of the said inputs in the manufactured product and the works contract also can provide a basis.

8.1.5 As per rule 53(4), a dealer (works contractor) opting for composition u/s. 42 (3) for contracts other than construction contracts can avail of the set-off on the corresponding purchases only to the extent of 16/25 i.e., 64%. The vat auditor has to specify the amount of reduction i.e., at 36%.

As regards construction contracts under composition, set off is to be calculated by reducing from the amount of set off a sum equal to 4% of the purchase price on which set off is calculated.

8.2 **Reduction of set off in the case of textile processor**

Rule 53(10) provides that if the dealer has executed a contract, at any time after 1-4-2005, of processing of textiles, then set off on the goods purchased on or after the said date, shall be allowed to the extent of tax paid on purchases in excess of the amount calculated at the rate notified from time to time, by the Central Government for section 8(1) of the Central Sales Tax Act, 1956 on the purchase price as regards the goods in respect of which property is transferred during the processing and as regards packing material used for packing of the said textiles. As regards other purchases including that of capital assets, set off has to be calculated as permissible under other rules.

8.3 **No set off in case of composition under section 42(4)**

If the purchasing dealer of mandap, tarpaulin, pandal, shamiana, decoration of such mandap, pandal or shamiana, and furniture, lights and light fittings, floor coverings, utensils and other articles ordinarily used along with a mandap, pandal or shamiana opts for composition of tax under section 42(4), then no set off is admissible to him as per rule 54(j). The vat auditor will have to consider this provision.

9 Works contract TDS: Sr. Nos. 9A(f) & (g)

The details of TDS certificates available is to be reported in Annexure C. The total of which will be auto picked up here in clause (f). The claim of TDS for which certificates are pending, need to be filled in at clause (g).

❑❑❑

SCHEDULE IV

CHAPTER XIX

In this chapter, only important features of Schedule IV pertaining to dealers who are required to fill in Form 234 are discussed. Common issues are already discussed in earlier chapter.

1.1 Schedule IV is applicable to the dealer who enjoys benefits under the Package Scheme of Incentives (PSI) as discussed earlier. These units hold Certificate of Entitlement issued by the Sales Tax department.

1.2 If an eligible unit desires to avail incentives under exemption mode under the MVAT Act then it is not liable to pay tax on its sales (under MVAT Act or CST Act) in view of Notification No. VAT-1505/ CR-122/Taxation-1 dtd. 1-4-2005 issued u/s. 8(4) of the MVAT Act and Notification issued u/s. 8(5) of the CST Act. Accordingly, the eligible unit does not collect tax on its sales. However, such eligible unit has to make purchases on payment of tax.

1.3 In case of deferment mode, the eligible unit is allowed to collect VAT in the invoice but the liability to pay the tax is deferred for a period of 12/10 years. Thereafter, it is required to be paid in six/five instalments. The unit also has option to pay such tax at Net Present Value calculated as per rule 84 of MVAT Rules, at any time before it becomes due.

2. Eligibility/Entitlement Certificate Number (Sr. No. 1)

2.1 The details of Eligibility Certificates and Entitlement Certificates are also required to be given at Sr. Nos. 10 and 11 in Part 2 – General Information. The Eligibility Certificate is issued by the 'Implementing Agencies' giving there under the products which are eligible, the period and the monetary ceiling for which the certificate is valid. In some cases, an eligible unit may have been issued more than one such eligibility certificates. This normally happens in case of 'expansion' of the unit. In such a situation, vat auditor would give certificate numbers of all such certificates at Sr. No. 1.

2.2 Based on the Eligibility Certificate issued by the implementing agency, the Sales Tax department issues the Entitlement Certificate (EC) to the eligible unit. The EC like the Eligibility Certificate also lists out the products, the monetary ceiling and the period of validity. The vat auditor has to mention EC number. As mentioned earlier, in case of multiple issuance of EC, the vat auditor should mention all such certificates.

3. Mode of incentive being availed under PSI (Sr. No. 2)

The option in respect of exemption from tax or deferment of tax being availed by the EC holder is to be mentioned here. In a case where the eligible unit has changed its option during the year from the deferment of tax to exemption or vice-a-versa, vat auditor will have to examine the appropriate permission obtained by the dealer and also make appropriate disclosure in Part 2 at Sr. 2F(v) while reporting regarding the major changes effected during the period under review.

4. Type of unit (Sr. No.3)

Vat auditor is supposed to verify whether unit is new one or is claiming benefit with respect to expansion unit.

5. The vat auditor will have to consider following points before he actually starts audit of such unit.

5.1 Whether the eligible unit is a mega project

A mega project is one in which the capital investment in the project exceeds particular limit depending upon the location of the unit. If the eligible unit is a mega unit and is been accordingly recognized in the EC issued in favour of such unit by the sales tax department/ implementing agency then the vat auditor has to keep a note of this. The status of mega project is given only to a unit covered under PSI 1993.

5.2 Validity of the Eligibility Certificate

The validity period of Eligibility Certificate can be verified from the certificate and the same should be mentioned at paras 10, 11 & 12 appropriately.

6. Provisions of Set-off/Refund under MVAT Law in relation to PSI units

6.1 The eligible unit, in view of rule 54(e) of MVAT Rules is not permitted to claim any set-off in respect of purchases of "raw materials" which are used by such eligible unit in the manufacture of goods or packing of such manufactured goods covered by the Entitlement Certificate (except entitlement certificate under the New PSI for Tourism projects-1999).

6.2 Rule 80(a) of the MVAT Rules has defined the expression "raw materials" as under:

"80. Raw materials and manufacture *— For the purposes of the rules relating to the Package Schemes of Incentives, —*

(a) the expression "raw materials" shall mean components, intermediate goods, consumables, stores, lubricants, fuels of all types, news print, which are used in the process of manufacture and packing materials which are used in the packing of manufactured products and in respect of the units dealing in iron and steel as described in section 14 of the Central Sales Tax Act, 1956 shall include natural gas used both as fuel and raw materials".

Accordingly, the expression "raw materials" will not only include inputs like components, intermediate goods, consumables but also lubricants and fuel used in the process of manufacture or packing material which are used to pack the manufactured goods. In respect of eligible units dealing in iron and steel as described in section 14 of the CST Act, the expression "raw materials" would also include natural gas used both as fuel and as raw materials.

6.3 Rules 80(b) & 80(c) also define expression "manufacture" used in respect of units enjoying PSI benefits.

Rule 80(b) reads as under:

"(b) The expression "manufacture" or its cognate expression when used in respect of units certified by the State Industrial and Investment Corporation of Maharashtra Limited (SICOM) or, as the case may be, the Directorate of Industries (but not in respect of units certified by any other implementing agency) shall include the following processes,—

(i) conversion of hot rolled sheets/strips into cold rolled sheets/strips,

(ii) conversion of steel sheets/strips into galvanised sheets/strips,

(iii) conversion of thicker gauges of iron and steel sheets into thinner gauge of iron and steel sheet,

(iv) drawing wire from wire rods or galvanising wire,

(v) giving heat treatment, threading and casing of seamless pipes,

(vi) processing of un-wrought, semi manufactured or concentrated forms of gold and silver into refined bullion."

Rule 80(c) reads as under:

"(c) The expression "manufacture" or its cognate expression when used in respect of units certified by SICOM, or the Directorate of Industries, or as the case may be, the District Industries Centre shall include the following processes,—

(i) Ginning of seed cotton in order to separate seed and cotton lint;

(ii) conversion of ginned cotton to baled cotton;

(iii) preparing butter from cream;

(iv) preparing ghee from butter."

Therefore, as per rules 80(b)/(c), the above enumerated processes would be taken as "manufacture" and would be eligible for benefits under PSI.

6.4 Reading rules 53, 80(a) and 79 together, the eligible unit under both the options would not be entitled to claim set-off but will be entitled to refund of taxes paid on purchases of "raw materials" equivalent to set-off, which it would have been entitled to under the MVAT Law. Such dealers will have to file an application for refund in Form 501.

In addition to above, these units shall also be entitled to claim refund of tax equal to amount calculated as per CST rate under section 8(1) of purchase price.

i. of any taxable goods used by it as fuel.

ii. of any taxable goods (other than fuel) used in manufacture of tax free goods.

iii. of any taxable goods other than to which clause (i) or (ii) applies, and used in manufacture of taxable goods when such manufactured goods are branch transferred. It has also been provided that if goods purchased are covered by schedule B then refund of tax shall be calculated at 1%.

It may be noted that this additional refund u/r. 79(2) shall be allowed only if such unit reduces an amount equal to amount of refund so calculated from the balance monetary ceiling.

7. Monetary ceiling of incentives to PSI units

The incentives to PSI units are subject to monetary ceiling as stated in Certificate of Eligibility and Certificate of Entitlement. In order to monitor availment of incentives, Cumulative Quantum of Benefit (CQB) availed in each return period is required to be calculated. Rule 78 of the MVAT Rules provides for the calculation of CQB. Sr. No. 10 of schedule IV requires the vat auditor to compute the CQB availed by the eligible unit. Details are to be given by vat auditor separately for each EC.

Here also vat auditor is supposed to mention EC number (referred in schedule as COE number), eligibility period and location of the unit.

8. Calculation of Cumulative Quantum of Benefits (CQB)

8.1 Rule 78 of MVAT Rules which provides for calculation of CQB reads as under:

"78. Calculation of cumulative quantum of benefits. — (1) The cumulative quantum of benefits, availed of by a dealer (hereinafter referred to as "the said dealer"), who holds a valid Certificate of Entitlement granted by the Commissioner for the purpose of exemption from payment of tax shall be calculated in respect of any period commencing on or after the appointed day in the manner specified below:—

(2) The cumulative quantum of benefits received by the said dealer shall be the aggregate of the following sums that is to say:—

(a) a sum equal to the amount of sales tax which would have been payable to the Government on the turnover of sales of the goods manufactured by the said dealer in the eligible unit and specified in the Eligibility Certificate effected by the said dealer if the said dealer was not holding the said Certificate of Entitlement,

(b) a sum equal to the amount of Central Sales Tax that would have been payable to the Government by the

said dealer on his turnover of inter-State sales of goods manufactured by the said dealer in the eligible unit and specified in the Eligibility Certificate, if the said dealer was not holding the said Certificate of Entitlement.

(c) in respect of periods starting on or after the 1st April 2005, a sum equal to the refund claimed or, as the case may be, granted under sub-rule (2) of rule 79.

Explanation I — For the purposes of all the Package Schemes except the 1979 and 1983 Package Schemes, the expression "goods manufactured in the said unit" shall include by-products and scrap products generated during the process of manufacture.

Explanation II — In the case of a Mega Project, in respect of the turnover of inter-State sales of goods by the said dealer, covered by sub-section (1) of section 8 of the Central Sales Tax Act, 1956 and specified in the Eligibility Certificate, the sum for the purpose of clause (b) shall be calculated @1%.

Explanation III — For the purposes of the New Package Scheme of Incentives for Tourism Projects, 1999, the expression "goods manufactured" shall include liquor served for consumption in the premises of the said dealer outside the Mumbai Municipal Corporation limits.

Explanation IV — In this rule the expression "sale" includes the sale by a depot, head office or selling agent of the dealer of products manufactured by the said dealer in the said unit.

Explanation V — For the purpose of calculation of CQB under the 1988 PSI and the 1993 PSI, the expression " goods manufactured" shall be deemed to include Credit of Duty Entitlement of Pass Book which is earned by the said dealer by exporting out of territory of India, the goods manufactured in the Eligible unit."

8.2 Thus, the CQB shall be the aggregate of the following sums.

(a) A sum equal to the amount of sales tax which would have been payable to the Government on the turnover of sales of the goods manufactured by the eligible unit and specified in the Eligibility Certificate.

(b) A sum equal to Central Sales Tax payable on the turnover of the inter-State sales of goods manufactured by the said eligible unit and specified in the Eligibility Certificate effected by the said unit. However, as per Explanation II to rule 78, in case of Mega Project, in respect of inter-State sales covered by section 8(1) of the CST Act supported by declaration in Form C, CQB will be calculated at the rate of 1% only.

(c) Additional refund as per rule 79(2).

9. Products entitled for benefits

9.1 The eligibility of exemption or deferment of tax in respect of products, by-products and scrap etc. is different under the different PSI schemes. As per Explanation I to rule 78, for the purposes of all PSI schemes except the PSI 1979 and PSI 1983, the "goods manufactured in the said unit" shall include by-products and scrap products generated during the process of manufacture. As per Explanation III, for the units covered by new PSI Tourism Projects, 1999, the expression "goods manufactured" shall include liquor served for consumption in the premises of the said dealer outside the Mumbai Municipal Corporation limits. However, total exemption from payment of taxes on the sale of liquor in any year shall not exceed 25 per cent of the total exemption from payment of taxes under the MVAT Act.

9.2 As per Explanation VI to entry (1) of the Order No. VAT-1505/CR-122/Taxation-I dated 1-4-2005 which grants exemption to the units covered by PSI 1979, PSI 1983, PSI 1988 and PSI 1993, the term "goods manufactured" and "finished products" shall include Credit of Duty Entitlement Passbook (DEPB), which is earned by exporting the goods manufactured in the eligible unit. This benefit is not available under any other schemes other than stated above.

9.3 Eligible units may also effect sales through depot, head office or his selling agents of the products manufactured by the said dealers in the said unit. Sales effected in such cases would also be included for the purposes of calculation of CQB.

9.4 Keeping this background in mind, the vat auditor has to report under various columns in Sr. No. 10-12 A & 10-12 B of Schedule IV. Considering the possibility that there may be more than one unit, in the said schedule similar tables are provided at Sr. No. 11 and 12.

The vat auditor is advised to inquire and ascertain from the dealer some basic facts beforehand to enable him to appropriately calculate the CQB and fill in other information required under the said Sr. Numbers.

10 Calculation of deferment of Benefits under rule 81 (Sr. Nos. 10D-12D)

10.1 Sr. No. 10D is in respect of computation of benefits by unit enjoying deferment of tax. Sub-clauses (a) & (b) require the vat auditor to compute the taxable turnover and the amount of tax in respect of turnover of sales under the MVAT Act and the CST Act, respectively. Incidentally, the vat auditor is not required to give the schedule entry and the description of goods sold in Sr. No. 10D. However, the eligible unit is entitled to defer tax only in respect of products covered by the EC and accordingly, in Sr. No. 10D only turnover of such products be included.

In the notified form clause (b) in paras 11D-12D seems to be erroneously written as 'MVAT payable' instead of 'CST payable'.

10.2 Section 94(2) of MVAT Act enables an eligible unit enjoying deferment option to pay the tax prematurely based on the Net Present Value (NPV) of the tax deferred. If the dealer has opted for payment of tax for the year under review on the basis of NPV then amount paid, Challan No. and date be given in Annexure A. In this Schedule, the vat auditor is not required to report about the payment of deferred tax at NPV.

Even if deferred tax is paid on NPV, the tax deferred would have to be reduced from the monetary ceiling.

11. Status of CQB u/r. 78/Tax deferment u/r. 81 (Sr. Nos. 10E -12E)

11.1 **Sanctioned monetary limit**

Here the monetary ceiling for which the EC is issued is to be mentioned. Sometimes, monetary ceiling is revised by implementing agency by issuing addenda. The vat auditor should take into account such addenda.

11.2 **CQB availed / monetary ceiling utilized up to the end of previous year**

Vat auditor is not supposed to report the CQB availed up to the end of the previous year. But he will have to take call on this as he has to

report opening balance of monetary ceiling, the vat auditor may refer to the balance of the benefit available to the eligible unit as per the last return/last audit report in form 704 filed by the dealer for the immediately preceeding year. It is possible that CQB determined by the assessing officer in any earlier year may not have been given effect in the return. Similarly, the assessing authorities might not have given effect of any order passed in any assessment year, appeals, rectifications, revisions, review proceedings or administrative relief proceedings. Thus, vat auditor should verify the correct amount of CQB availed by the dealer since the date of Entitlement Certificate up to the previous period. This amount of CQB determined be considered here. The vat auditor should make appropriate disclosures thereof. Thus the opening CQB balance would be after the necessary adjustments for any assessment or other orders or amendment in law and report the figure.

11.3 Opening balance of CQB / monetary ceiling available for current year (Sr. Nos. 10E-12 E (b))

Here, the balance CQB / monetary ceiling available to the unit for the current year is to be calculated by reducing the amount of CQB availed till previous year as discussed in earlier Para from the amount of sanctioned monetary ceiling as per Sr. No. 10E- 12E (a). This is very crucial as claim of exemption of sales during the year is dependent upon the available opening balance of CQB.

12. Amount of CQB / monetary ceiling utilized during the period under audit (Sr. Nos. 10E - 12 E (c))

Under this Sr. No. amount of CQB/ tax deferred as per box 10-12 C or 10-12 D (c) is to be reported here. .

13. The vat auditor has to give amount of refund claimed under rule 79(2) at Sr. No. 10 - 12 E (d) and benefit of luxury tax claimed for TIS-1999 Scheme under Luxury Tax Act, 1987 for this period at Sr. No. 10 - 12E (e). The benefit of Luxury tax claimed under the TIS 99 is to be reported even though the same is not part of MVAT Law. The said figure of 'claim' may be obtained from the dealer and reported here.

14. Closing balance of monetary ceiling ((Sr. Nos. 10 - 12 E (f))

The vat auditor is required to compute and arrive at the balance of CQB / monetary ceiling carried over to next period. This amount is auto calculated in the e-template.

15. a) Methodology followed for identification of sales of goods eligible for sales tax incentives and classification of goods and rate of tax adopted for computation of CQB

b) Treatment given to set-off on purchases of goods other than raw materials against which refund cannot be claimed

15.1 Vat auditor has to verify the methodology followed by the EC holder for identification of sales of goods eligible for sales tax incentives and classification of such goods for calculation of CQB. As discussed earlier, an eligible unit can claim benefits only in respect of products which are covered by the EC. Further, in view of rule 82 of MVAT Rules, the eligible unit will be entitled to claim benefits under the PSI to the extent of annual production capacity except for units covered by PSI 1993. Thus, the vat auditor may also go through the production records to ascertain the availability of benefits.

15.2 In case of units enjoying expansion, modernization and / or proportionate benefits in view of conditions mentioned under the EC issued to it, the vat auditor will have to verify the method employed by the eligible unit to ascertain the goods / the proportionate benefit available for sales tax incentives.

15.3 The eligible unit is entitled to refund of tax paid in respect of purchases of "raw materials" used in the process of the manufacture and packing of the goods manufactured. Therefore, the set-off in respect of other purchases like purchases of capital goods, other raw materials (which are not eligible for refund), purchases debited to Profit & Loss A/c., etc. is to be claimed as per rules 52 to 55 of the MVAT Rules and accordingly, vat auditor should verify the system employed to ascertain such refund or set-off, as the case may be. The set-off will have to be reported only at the appropriate places.

❑❑❑

SCHEDULE V

CHAPTER XX

In this chapter, only important features of Schedule V, pertaining to dealers who are required to fill in Form 235 are discussed. Common issues are already discussed in earlier chapter.

1. It has been mentioned in rule 17, that Form 235 is to be filed by (i) notified Oil Companies and (ii) from 1-7-2009 any other dealer effecting sales of motor spirits. Therefore, in case of a dealer effecting the sales of motor spirits for the year 2008-09 and during the year 2009-10 up to 30-06-2009 this schedule is not applicable.

2. If the instructions as given in Form 235 are perused, it can be seen that the heading mentions that "This return form is for all notified oil companies. Transactions by Oil Companies relating to the business of execution of works contracts, leasing and composition only for part of the activity of the business to be included in a separate return in Form 233."

3. In view of this, the vat auditor will have to consider types of returns filed by such dealers.

4. Notified oil companies means the companies which are notified under section 41(4) in Official Gazette. The Government has issued notification dated 30-11-2006 and named some oil companies. Therefore this schedule will apply only in relation to those oil companies.

5. Discussion in Chapter XVI in respect of Schedule I is applicable for verification of turnover of sales and purchases in these cases also.

6. Table 2 of this schedule is detailed one; specific as to mainly sub-entries of Schedule D.

6.1 Section 41(4) provides full or partial exemption from payment of tax for transaction of sales notified by the State Government in the Official Gazette. Notification dated 30-11-06 provides for concessional rate of tax at 4% on the notified inter–oil companies sales of motor spirits and petroleum products. Along with such sales, other sales of goods covered by Schedule D are to be shown in Part A.

6.2 In Part B of this table, it also calls for details of turnover of certain C schedule goods., i.e. C-8(Aviation Turbine Fuel sold to Turbo-prop

aircraft, C-27 (Crude Oil—as explained in the entry) and C-58 (Kerosene oil sold through the Public Distribution System).

6.3 In Part C of this table sales of 'other goods' liable at different rates is to be reported. This part, however, do not require to entry-wise sales details.

7. Under section 8(2) of the MVAT Act, certain sales are exempted on fulfilment of necessary conditions specified in the section. Vat auditor will have to report this sale under clause 1(i). There appears to be typographical error in 1(i) while giving reference of section 8(1), since the said deduction is already covered in 1(g).

8. It may also be noted that as per section 5(5) of the CST Act, sales of aviation Turbine fuel made to designated notified Indian carriers, are treated as 'sales in course of export' when they are so purchased for the purposes of its international flights. The same is to be clubbed together with other inter-State sales etc. covered by section 8(1) of the MVAT Act.

❑❑❑

SCHEDULE VI

CHAPTER XXI

1. This schedule requires that vat auditor should verify sales under CST Act and compute the tax liability for the year. CST Act covers transactions taking place in the course of inter-State trade or commerce (section 3) and in the course of imports and exports (section 5). It lays down the principles for determining when a sale takes place within the State and outside all other States (section 4). Section 6 of the CST Act is the charging section whereas section 6(2) provides for exemption on second and subsequent sales taking place by transfer of documents of title to the goods during the movement from one State to another. Section 6A casts the burden of proof on the dealer in the case of inter-State transfer of goods to own place of business or to the agent or principal, otherwise than by way of sale and for production of Form F certificates. Section 8 prescribes the rates of tax under different circumstances and the provision for issue of declaration in Form C. Under section 9(1), tax in the case of inter-State sales is payable to the State from where inter-State movement of the goods commences and in the case of disallowance of second and subsequent sales by transfer of documents of title to the goods during their movement from one State to another, to the State whose declaration in Form C has been issued or could have been issued at the time of purchase.

1.1 In case of only branch transfers/exports, a dealer may not have filed returns under the CST Act following the Trade Circular No. 52T/2007 dated 31-7-07 **(Appendix 10(a))** issued by the Commissioner of Sales Tax. In such a case, the vat auditor to fill Schedule VI with 'zero' under the column head 'as per returns' in the relevant field.

2. The vat auditor is required to verify the following:

(i) Exports, inter-State sales and stock transfers to other States as covered by CST Act.

(ii) Sales in the course of exports i.e. penultimate sale under section 5(3) of CST Act supported by Form H are to be verified. The vat auditor shall verify the documents in terms of CST Act and various judicial decisions. The customer's order, sales invoice, proof of export, reference of foreign buyer's pre-existing order, Form H, etc. shall be verified to see whether

such sales are allowable as exempt u/s. 5(3) of the CST Act. As per section 5(4), production of Form H is mandatory.

(iii) Sales in transit as provided u/s. 6(2) of the CST Act, generally known as LR sales or transit sales shall be verified with purchase invoice, sales invoice, proof of dispatch, Form C issued and Forms C & E-I/E-II received.

(iv) Taxable inter-State sales have to be reported. The vat auditor, for this purpose has to verify description of goods sold and schedule entry, sales of goods against Form C, CST rate, net turnover of sales and CST payable. If the sales are not supported by Form C then full CST at local rate is payable. In case of inter-State sales of tax free goods (Schedule A goods) without Form 'C', the CST rate is NIL.

3. Gross turnover of sales including branch transfers [Sr. No. 1]

The gross turnover will be the same as reported in Schedule I at Sr. No. 1(g) and similar field position in other applicable schedules, if any.

4. Turnover of sales under the MVAT Act, 2002 [Sr. No. 1(b)]

The local sale as determined applying principles of section 4 of the CST Act is to be deducted. By and large this figure will be determined from Schedule I and similar field position in other applicable schedules, if any.

5. Turnover of inter-State sales u/s 6(3) [Sr. No. 1 (c)]

Turnover of sales effected to any official, personnel, consular or diplomatic agent of any foreign diplomatic mission or consulate in India or to United Nations or any other similar international body is to be shown here. Form J prescribed for this purpose, received by the dealer, has to be verified.

6. Turnover of sales of goods outside the State [Sr. No. 1(e)]

The vat auditor should verify the deduction claimed in respect of sales outside the State (out and out sale), if the turnover of such sales has been included in the Gross Turnover. The situs of the sale is required to be determined by applying the principles of section 4 of the CST Act.

7. Sales of the goods in the course of Export out of India [Sr. No. 1(f)]

7.1 Direct exports by the dealer

7.1.1 Direct exports are transactions covered by section 5(1) of the CST Act, where the seller, pursuant to an order or contract of sales, exports the goods to the customer in a foreign country. The vat auditor will be required to verify such transactions of exports with proof of dispatch of the goods to a foreign destination. Documents in respect of clearance from the customs prior to export may be examined in this regard. The following may be noted in respect of transactions of direct exports –

(i) The goods should be dispatched to a foreign destination. Sales of fuel, stores, food, water, etc. to foreign bound ships, aircrafts, etc. [except as covered by section 5(5)] for consumption en-route are not transactions of exports, there being no foreign destination of the goods.

(ii) The transaction would be exempt from payment of tax only if the goods are exported out of the country. Concept of "Deemed Exports" transactions prevailing under the Income Tax, Excise and other enactments, where the goods are sold to a foreign customer but delivered within the country do not apply under CST Act/MVAT Law.

(iii) The transaction will be an export if the goods move out of the country irrespective of the location of the customer, placing of purchase order, billing address on the invoice or the settlement of the price or the currency in which the price is received.

7.1.2 The vat auditor will also verify and report the transactions covered under second limb of section 5(1), where the sale is effected by transfer of documents of title to the goods after the goods have crossed the customs frontiers of India.

7.1.3 **Sales in the course of exports under section 5(3): Sales against Form H**

Section 5(3) of the CST Act provides for exemption from CST to the last sale or purchase of goods preceding the sale or

purchase occasioning export of the goods out of India, provided such last sale or purchase was for the purpose of complying with an order for export. Such sales, called "penultimate sales", are exempt from payment of tax, only when the buyer purchases them to comply with a pre-existing purchase order from the foreign customer. The goods purchased should be exported in the same form without any manufacture or fabrication, save for packing or repacking. In support of such purchases, the buyer is required to furnish to the seller, a declaration in Form H. This declaration may be given for purchases in the course of inter-State trade as well as for local purchases in Maharashtra as clarified by the department vide Trade Circular No. 11T of 2005 dated 30-5-2005 **(Appendix 10(b))**. The circular further clarifies that even local penultimate sales u/s 5(3) be shown in returns under CST Act therefore, such sales will have to be shown here only. Along with the declaration in Form H, the purchaser is required to furnish to the seller, proof of export of the goods. In the case of incomplete documentation or denial of the claim for exemption, the liability will be on the seller and not on the buyer. After due verification, sales against Form H are to be reported here.

7.1.4 As per section 5(5) of the CST Act, sales of aviation turbine fuel made to designated notified Indian carriers, are treated as 'sales in course of export' when they are so purchased for the purposes of its international flights. The same is to be clubbed together with other export sales discussed above.

8. Sales of the goods in the course of Import into India [Sr. No. 1 (g)]

8.1 Sales occasioning import

Sales occasioning import of the goods is covered under first limb of section 5(2). In order to be eligible for exemption, a sale should occasion import of the goods and the import thereof should be integrally connected with the transaction of sale. The actual sale of the goods may take place prior to commencement of the import movement or even after completion of the movement. Such transactions can be verified with reference to the documents related thereto, namely tender documents, offer, purchase orders from the

customer or contract, purchase orders or requisition from the suppliers, packing list, special terms in the agreement e.g. inspection of goods, invoice of the supplier, dispatch documents (bill of lading or airway bill), import licence of the customer used for clearance of the goods or clearance of goods under concessional notifications for specific uses, bill of entry, etc. The vat auditor will have to verify the documentation in regard to such sales/transactions considering the judicial pronouncements.

8.2 **High Seas Sales**

High seas sales as popularly called are sales covered under section 5(2) of the CST Act. The vat auditor is required to verify the documentation in respect of high seas sales taking place by transfer of documents of title to the goods before the goods cross the customs frontiers of India [covered under second limb of section 5(2)]. In case of such sales, normally the following is the sequence of events:

(i) The sale is effected by transfer of documents of title to the goods. Section 2(4) of the Sale of Goods Act, 1930 defines 'documents of title to the goods' which includes a bill of lading, dock-warrant, warehouse-keeper's certificate, wharfingers' certificate, railway receipt, multi-nodal transport document, warrant or order for the delivery of the goods and any other document used in the ordinary course of business as proof of possession or control of goods, etc.

(ii) Normally, the seller and the buyer execute a high sea sales agreement evidencing the sale.

(iii) The property in the goods is passed by transfer of document of title to the goods either by endorsement or by delivery before the goods cross the customs frontiers of India (which is defined as the customs station where goods are ordinarily kept before clearance).

(iv) The customs authorities are intimated regarding the high sea sales enabling the buyer to clear the goods from the customs.

(v) The goods are cleared from the customs by the buyer and all formalities including payment of customs duty, clearing and forwarding expenses, etc. are completed by the buyer or his agent.

The vat auditor will have to examine the operating procedure

especially the roles, responsibilities and conduct of the parties as well as the documentation thereof and determined when risk and rewards are transferred which will help the vat auditor while arriving at any conclusion in respect of admissibility of the claim.

9 Value of goods transferred u/s 6A(1) of the CST Act [Sr. No. 1(h]

9.1 **Branch or consignment transfers:** Whatever figure of inter-State branch transfers is considered for arriving the figure at Sr. No. 1 (as per Sr. No. 1(g) of Schedule I or from applicable Schedules) will appear here. The vat auditor is not required to report on the method followed for valuation of branch transfers but in his working papers he should keep notes on this method and verification of the amounts with the books of account.

9.2 The method of valuation of branch transfers will impact the comparison between sales and branch transfers for the purpose of reduction/retention of set-off. In cases where one-to-one co-relation of the inputs/purchases and the branch transfers of manufactured or trading goods is not available, the reduction or retention under rule 53 is computed in the ratio of sales to branch transfer or any other basis. This ratio would be lopsided where the branch transfers are valued at cost.

9.3 The branch transfers figure is required to be verified with the books of account as discussed earlier. The figure may be co-related with the stock transfer register, stock records as well as the certificates in Form F received from branches, depots or agents. Requirements of section 6A of the CST Act will necessitate verification of the stock transfer notes/documents as well as proof of dispatch.

10 Turnover of sale of goods fully exempted from tax under section 8(2) of CST Act read with section 8(4) of the MVAT Act [Sr. No.1 (i)]

Section 8(2) of the CST Act provides for the rate of tax payable on inter-State sale of goods not covered by section 8(1) i.e. without the support of declaration in Form C. In such a case the rate of CST is the rate applicable to the sale or purchase of goods under the Local Act.

Under section 8(4) of the MVAT Act, sales of eligible goods in the hands of PSI unit is exempt. Under this clause inter-State sales by such dealer is to be reported.

11. Balance inter-State sales:

After reducing all fields from (b) to (i) from Sr. No. 1(a), vat auditor will report, Inter-State sales on which tax is leviable in Maharashtra State. This figure is auto calculated in the e-template.

12. From this figure, three deductions have been provided for. They are discussed as under:

12.1 **Cost of freight, delivery or installation, if separately charged**: In respect of sales taking place in the course of inter-State trade or commerce, the "sale price" and the "turnover of sales" will be determined in accordance with the definitions under the CST Act. The vat auditor will have to consider the description of the non-taxable charges and admissibility of the deductions, namely freight, installation charges, cash discount and other contractual discounts.

12.2 **Turnover of Inter–State on which no tax is payable**

12.2.1 Tax free sales: Inter-State sales of tax free goods under section 5 of the MVAT Act, if any, be reported in this field.

12.2.2 Works contract-labour element: With regards to inter-State Works Contract, deductions allowable from total turnover to arrive at taxable turnover also may be clubbed in this field. the rules for determination of deduction under the MVAT Act are also applicable for this determination. The issue is discussed in Chapter XVIII.

12.2.3 Turnover of inter-State sales on which no tax is leviable under section 8(6): These include sales for the purpose of setting up, operation, maintenance, manufacture, trading, production, processing, reconditioning, reengineering, packaging in any SEZ unit or for development, operation and maintenance of SEZ unit. The vat auditor will have to verify Form I received from such SEZ unit or developer thereof.

12.2.4 Any other sales on which no tax is payable to be reported here.

13. Turnover of inter-State sales u/s 6(2): Popularly known as Sales-in-transit u/s 6(2)

13.1 Under section 3(b) of the CST Act, an inter-State can also take place by transfer of document of title to the goods during their movement

from one State to another. Section 6(2) provides that in the case of a sale taking place in the course of inter-State trade or commerce [either under section 3(a) or 3(b)] which is subject to tax, any second or subsequent sales of such goods by transfer of document of title to the goods during their movement is exempt from payment of tax. Such sales are popularly called "L.R. Sale" "Sale in transit" or "E-I / E-II Sales".

13.2 For the purpose, the dealer making the first 'Sale in transit' by transfer of document of title (that is, the second inter-State sale) is required to obtain a certificate in Form E-I from the supplier and a corresponding Form C from the purchaser. On any subsequent transactions by transfer of documents during the same movement, the seller is required to obtain E-II from his supplier (who had sold the goods to him while in transit) and a corresponding Form C from the purchaser.

13.3 The vat auditor will have to verify the following documents in order to ascertain a claim u/s 6(2) of CST Act:

(i) Whether sale is by transfer of document of title to the goods. Such documents may be the lorry receipt, railway receipt, etc. as discussed earlier.

(ii) The sale invoices raised for the sale effected, in normal course such invoice will have particulars of L. R. No./R.R. No., etc. and the corresponding purchase documents.

(iii) Declaration in Form C obtained from the purchaser and certificates in Form E-I or E-II obtained from the supplier of the goods.

Though such sales are exempt under section 6(2) of the CST Act, in case of disallowance of the exemption, as per section 9(1) of CST Act, tax is payable in the State from where the C form is obtained or could have been obtained and in the case of an unregistered dealer, in the State from which the subsequent sale has been effected.

The vat auditor is required to examine the claim and report accordingly.

14. When from figure arrived at Sr. No. 2, deductions as discussed in Paras 11 to 13 above are made, balance remaining would be "Total Taxable Inter-State Sales". In the e-template, it is auto calculated.

15. Deduction under section 8A(1): Sr. No. 4

Tax amount, whether shown separately or computed as per provisions of section 8A of the CST Act, 1956 is to be reported here.

The vat auditor will have to verify the collection of taxes on the sales by the dealer. Where taxes are not collected separately, the tax element will be deducted from the turnover by applying the formula (R * SP) / (100 + R) [SP = Sale Price; R = Rate of Tax] as per section 8A of the CST Act.

16. Computation of Central Sales Tax payable [Sr. Nos. 6A, 6D]

The vat auditor is required to compute the liability for payment of CST on the turnover of sales verified and determined by him, considering the sales against declarations in Form C (Sr. No. 6A),sales without declarations (Sr. No. 6B) and sales taxable under section 8(5) (Sr. No. 6C). This computation is to be verified in the manner in which tax liability under MVAT Act is verified. Further excess tax collected, if any is noticed on comparison with tax payable has to be mentioned in Sr. No. 6D.

17. Other observations, if any, not specifically covered herein before [Sr. No. 11]

This section seems to be drafting error as specific space is provided for such reporting and observations at Para No. 3 in Part 1. Despite , if vat auditor has to observe something very specific to Schedule VI, he may use this space.

❑❑❑

ANNEXURES A & B

CHAPTER XXII

DETAILS OF AMOUNT PAID ALONG WITH RETURNS AND OR CHALLAN

1. ANNEXURES A & B

1.1 Instruction 11 clarifies that Annexures A and B is about details of returns filed and amount of tax paid as per returns or paid by challans under the MVAT Act and CST Act respectively, while the title of these annexure requires vat auditor to report only details of amount paid with returns or challans. Taking into account the instruction 11 it appears that reporting requirement of both the annexure is about factual position of returns filed and payments made in relation to Audit period including payment made by separate challans.

The various details required include period for which payment is made, due date of payment for that period, type of return submitted, actual date of filing, amount of tax paid, date of payment, amount of interest payable on delayed payment and the amount of interest paid. Thus a vat auditor is not required to give the details about filing of returns if there is no payment along with the returns.

1.2 These annexure require the details of only the amount paid, either with returns or by challans. Hence, the returns resulting in refund or having 'nil' payments need not be reported. In column 6, the tax paid amount is to be reported and in column 9 the interest paid be reported. In column 8, the vat auditor is required to work out the interest payable.

1.3 The schedules of Form 704 are as per type of return applicable to the dealer. Therefore, all the payments pertaining to applicable schedule(s) are to be reported. If more than one schedule is applicable to dealer then payment bifurcation may be difficult unless payments are made in such manner or such identification is available. In such a case, as per Instruction No. 11, only one Annexure will serve the purpose. However, details of tax payment in various Schedules must match with the Annexure. To enable vat auditor to complete these Annexure the relevant provisions are also discussed in the following paras of this chapter.

The vat auditor is expected to determine the correct periodicity of the returns of the dealer. If the same is not followed by the dealer then the vat auditor will still report returns filed and the taxes paid by the

dealer. However, while calculating the interest, the due date as per correct periodicity has to be taken into account. E.g. if the dealer is required to file quarterly returns but has filed monthly returns, to calculate the interest due date applicable to quarterly returns be taken into account. In contrast, if dealer is required to file a monthly return but has filed quarterly/ six monthly returns then the payment would not be considered as per return and will be treated as *ad hoc* payment. In such case, if it is not possible for a vat auditor to bifurcate the tax liability on monthly basis, no interest under section 30(2) would attract and vat auditor need not calculate the said interest.

2. RETURNS AND DUE DATES

2.1 Original Returns

Rules 17 and 18 of MVAT Rules provides for periodicity of returns. Since, as per section 9(2) of the CST Act all machinery provisions of local Act are applicable to CST Act, depending upon the periodicity of returns under MVAT Act, the CST Returns are required to be filed. However, it may be noted that in certain circumstances a dealer may not file return under the CST Act [(Refer No. 52T of 2007 dated 31-07-2007, **Appendix 10(a)**].

For ready reference, due dates and periodicity applicable for filing of returns w.e.f. 1-3-2008 are summarized in the chart given below.

[The tax liability = MVAT add CST less Set off]

Monthly		**Quarterly**		**Half yearly**	
1) If tax liability during previous year **exceeded Rs. 10,00,000/- or** **2) Refund during** previous year **exceeded Rs. 1,00,00,000. (excluding PSI Units)**		**1) Tax liability during** previous year **exceeded Rs. 1,00,000/- but did not exceed Rs. 10,00,000/-or** **2) Refund during** previous year **exceeded Rs. 10,00,000 but did not exceed Rs. 1,00,00,000** **3) PSI Units**		**1) Tax liability during** previous year **up to Rs. 1,00,000/- or Refund during** previous year **upto Rs. 10,00,000** **2) Retailers who opted for Composition** **3) Newly registered dealers**	
Months	Due Date	Quarters	Due Date	Half year	Due Date
April	21st May				
May	21st June				
June	21st July	1st Quarter	21st July		
July	21st Aug.				
August	21st Sept.				
September	21st Oct.	2nd Quarter	21st Oct.	1st half	21st Oct.
October	21st Nov.				
November	21st Dec.				
December	21st Jan.	3rd Quarter	21st Jan.		
January	21st Feb.				
February	21st Mar.				
March	21st April	4th Quarter	21st April	2nd half	21st April

If the due date falls on a State Holiday or Sunday, the immediate next working day will be the due date.

A reference of Trade Circular No 26T/2009 dt. 1-10-09 be made for periodicily of returns

2.2 **Annual Return (Special Provision)**

As per amendment in Rule 17(4)(a)(ii) dated 14-03-2008, a registered dealer to whom the Explanation to clause (8) of section 2 applies (i.e., deemed dealers) and if his tax liability during the previous year was rupees one crore or less, he can file an annual return within twenty-one days from the end of the year to which such return relates, instead of filing monthly, quarterly or six monthly returns. However, an advance application to the Joint Commissioner is required for the same.

2.3 **Revised Return [Section 20(4)]**

Any person or dealer who, having furnished an original return can file revised return as under:—

(a) After furnishing the original return, the dealer can file revised return or if revised return is already filed, can file further revised return on his own, to correct any mistakes committed in the same. Such revised return is to be filed within 9 months from the end of the year in which the period of revised return is covered or before the notice for assessment is issued, whichever is earlier;

(b) If as a consequence to VAT Audit, a revised return is required to be filed, it can be filed within 30 days from due date of filing audit report;

(c) Dealer can file revised return upon issue of intimation by Business audit officer, if he agrees to the proposal in the said intimation, within 30 days from receipt of such intimation.

2.4 **Fresh Return [Section 20(1)(b)]**

If after filing original return, the department issues defect notice mentioning the defect remained in such return, the dealer is required to file fresh return within one month from the date of receipt of defect notice.

2.5 **Return Forms**

The dealer is required to file returns in different forms for different business transactions. It is possible that all such returns would not have been filed on same date. The vat auditor will have to take note of this and fill up the annexure accordingly.

2.6 **Electronic Filing of Returns**

For the periods starting on or after 1st February, 2008, the dealers were gradually directed to file returns electronically. It is mandatory for all dealers to file returns electronically for the period starting from 1st October, 2008. Now the Annual Returns, Fresh Returns or Revised Returns are also required to be filed electronically. As per Trade Circular No. 11 of 2009 dated 12-01-2009 if the E Return is uploaded within 10 days from the due date it will not be treated as late return provided payment of tax as per return is made on or before the prescribed due date.

3. Due Dates

The due dates for filing original returns are given in the para 2.1.

3.1 There is extended time for filing revised return/fresh return. Thus under column due date, applicable due date be stated. When these returns are electronically uploaded grace period of 10 days is allowed. This is not an extension of due date but it is a concession granted under which, the returns filed will not be considered as late. Thus due date for all types of returns is as stated above. The due date is again dependent upon the periodicity of return in individual dealer case. Therefore, correct due date is to be given. E.g. if the dealer is required to file quarterly return but the returns are filed on monthly basis, the due date would be as applicable for quarterly return, with proper disclosure.

4. Type of Returns

In column 4, information about the type of return like, original or revised is required to be mentioned. In the E template, the choice for fresh return and challan in Form 210 is also made available.

5. Date of Filing

For the period, when e-returns filing was not mandatory, date of physical filing of the return either with Sales Tax Department or with bank be given. If the return is filed along with payment which is through bank clearing, there are two dates on the return acknowledgment. First date is the date of presentation of the cheque (also called as date of tender) and second is the actual date of clearing. In such a case date of tender is the date of filing.

In case if return is filed electronically then date of uploading be stated.

6. Amount of Tax Paid

The amount of tax paid will be the amount paid either as per the return or as per the challans. This is again a statement of facts. It may however, be noted that in some cases the dealer might have paid the interest also along with the tax. In such case, the amount of interest should be excluded while filling this column.

7. Date of Payment

The date of payment is to be ascertained from the challan/return itself. As discussed in para 5 as above, date of tender of cheque with the banker is the date of payment. In case of payment of deposit by demand draft/pay order for the purposes of voluntary registration, the dealer has to handover the said instrument along with application. In this case such an instrument is encashed by the department at a later date. However, as the registration is granted subject to payment of deposit, the date to be reported in this column would be the date of registration.

9. Amount of Interest on Delayed Payment

9.1 This column of annexure is about calculation of interest. This additional information is called for from the vat auditor as compared to earlier audit report. The reference to interest in this column is for delayed payments as per return. This interest is leviable as per section 30(2) of MVAT Act. So far as calculation of interest on delayed payment is concerned, as per original return, the due date will be as stated in para 3 above. In case of payment as per revised return/fresh return also, the due date for payment of tax as per original return is to be considered and delay in tax paid under revised return/fresh return is to be considered from such date and accordingly for that period interest is to be calculated.

9.2 The rate of interest is specified in Rule 88 of MVAT Rules and the said rate at present is 1.25% p.m.. Interest is to be calculated at above rate for actual delayed period counted in days and not on completed month basis.

9.3 In this respect it will be important to see the correctness of amount paid with return for calculation of interest. The interest can be attracted on the amount legally due in the return. For example, by chance the dealer has shown excess liability in returns (than actual as per law), the interest is required to be calculated on the actual liability (if lesser) and not on wrong excess amount shown in return. Therefore, this aspect should also be examined in the audit. It may be noted that if liability for a period is shown less in the return then actual liability the interest on differential liability will attract u/s 30(3) and not u/s 30(2). Thus the same may not be considered.

9.4 If any amount shown in the return remains payable as on the date of audit, then the said interest cannot be ascertained. The column requires amount of interest on delayed payments and hence it can be ascertained only after the payment of tax is made. Therefore, the said working is to be done as per the actual payments made till date of audit.

9.5 **Unregistered Dealer (URD)** – It is needless to add that if the audit is of unregistered dealer, then the question of reporting of interest does not arise. An unregistered dealer is not liable to file return; neither due date can be ascertained in such case, nor interest u/s. 30(2) be calculated.

9.6 It may be mentioned here that in Table 2 of Part I in row (xii), (also in row (viii) in case of Table 3) the details of interest are required to be given. The interest calculated in Annexure A is required to be reported in column (4) i.e. "amount determined after audit and against row, interest u/s. 30(2)". In the said Table, column (5) is about difference. This amount will be differential interest, if any, worked out u/s. 30(2) by dealer and auditor as per Annexure A/B. If the dealer has not shown any interest by himself in returns, then the entire interest worked out by the vat auditor will be the 'amount of difference'.

10. Amount of Interest Paid

This column requires mention of interest already paid by the dealer. While ascertaining the payment made with returns, any payment made specifically for interest should be reported in this column. In case revised returns are filed for any period, the position of payment of tax and/or interest mentioned there in should be considered

11. Details of RAO (Refund Adjustment Order)

At the end of of the Annexures A and B, the vat auditor is required to mention the details of RAO which is adjusted in the returns.

While giving details of payment and RAO adjustments, the auditor should verify the challans/RAO and report factual information.

❑❑❑

ANNEXURES C & D

CHAPTER XXIII

DETAILS OF TAX DEDUCTION AT SOURCE FROM/BY DEALER

1. REQUIREMENTS OF ANNEXURES C & D:-

1.1 Annexure C is about details of tax deducted at source (TDS) certificates received by the dealer. Thus, this annexure calls for factual information about name and address of the employer deducing the tax, TIN No. of the employer (if any), date of TDS Certificate and amount of TDS as per certificate. This will apply only in case of a dealer in whose case TDS is made, who usually will be a works contractor. Total amount of TDS as per this annexure is reflected item (vi)(c) of Table 2 of Part I.

1.2 Annexure D is about details of tax deducted at source by the dealer and certificates issued by him. Except at column 5, other details called for are factual information made available by the dealer. The vat auditor is required to give name of the dealer,TIN of the dealer, if any, from whom the tax is deducted, Turnover on which TDS is made, amount of tax to be deducted, actual amount of tax deducted, interest payable (if any) and amount paid.

1.3 Under both the Annexures, the vat auditor is expected to give the factual information about TDS under MVAT Act.

TDS/TCS made under any other Act should not be confused with this requirement. The provisions relating to TDS under MVAT Act are discussed in brief in the following paras.

2. What is Tax Deduction at Source?

As the name suggests, it is tax deducted at source from the transaction amount. A person making payment for transaction is required to deduct tax while making payment etc. Under Section 31 of the MVAT Act, the Commissioner of Sales Tax is authorised to bring suitable TDS Scheme in respect of any purchase transaction. The scheme so framed is required to be notified in the official gazette. This will apply only to the notified employers. Such notified employers, subject to provisions of the notification and Section 31, are required to deduct the tax at source on the amounts payable in

respect of any purchase transaction. Exercising these powers, the Commissioner of Sales Tax has framed the scheme under which at present the TDS is required to be made by notified employers in respect of payments made by them to works contractors for executing Works Contracts for them. In this regard, the Commissioner has issued a notification dated 01-04-2005 which has been substituted by another notification dated 29-08-2005. The provisions of TDS can be briefly summarized as under:-

(i) The TDS Scheme is made applicable in respect of Works Contract transactions only. The works contract transactions will be those in which there is supply of goods along with supply of labour. If only labour or service contracts are executed, no TDS is applicable as it will not be 'works contract sale' for sales tax purpose.

(ii) By Notification dated 29.8.2005, the Commissioner of Sales Tax has specified the list of employers liable to TDS and the rates of TDS.

SCHEDULE

Sr. No. **(1)**	**Classes of Employers** **(2)**	**Amount to be deducted** **(3)**
(1)	The Central Government and any State Government,	Two per cent of the amount payable as above in the case of a contractor who is a registered dealer and four per cent in any other case.
(2)	All Industrial, Commercial or Trading undertakings, Companies or Corporations of the Central Government or of any State Government, whether set up under any special law or not, and a Port Trust set up under the Major Ports Act, 1963,	— do —

(1)	(2)	(3)
(3)	A Company registered under the Companies Act, 1956,	— do —
(4)	A local authority, including a Municipal Corporation, Municipal Council, Zilla Parishad, and Cantonment Board,	— do —
(5)	A Co-operative Society excluding a Co-operative Housing Society registered under the Maharashtra Co-operative Societies Act, 1960,	— do —
(6)	A registered dealer under the Maharashtra Value Added Tax Act, 2002.	— do —
(7)	Insurance or Financial Corporation or Company; and any Bank included in the Second Schedule to the Reserve Bank of India Act, 1934, and any Scheduled Bank recognised by the Reserve Bank of India.	— do —
(8)	Trusts, whether public or private	— do —
(9)	A Co-operative Housing Society registered under the Maharashtra Co-operative Societies Act, 1960 which has awarded contracts of value aggregating to rupees 10 lakhs or more in the previous year or as the case may be, in the current year.	— do —

3. Therefore, under the scheme:

i. The rates of TDS are prescribed at 2% if the contractor is registered dealer under MVAT Act and 4% if the contractor is unregistered dealer under MVAT Act.

ii. The TDS is not to be made when the payment or aggregate of payment to the contractor in a year is less than Rs. 5 lakhs. In other words it will apply only when the aggregate of payments during the Financial Year exceeds Rs. 5 lakhs.

iii. The TDS is to be made from net amount and no TDS is required on the amount of tax such as sales tax or service tax, separately charged by the contractor.

iv. TDS should not exceed the tax payable by such contractor.

v. TDS should not apply to contracts taking place in course of inter-State trade or in course of import/exports.

vi. No TDS is required when principal contractor is making payment to sub-contractor.

vii. In relation to advance payment, the TDS will apply as and when the advance payment is adjusted towards the actual amount payable to the contractor.

viii. There are provisions for obtaining certificates for no deduction. The application is to be made in Form No. 410. If contractor submits such certificate issued by his Assessing Officer, the employer is expected to make deduction of tax in accordance with said certificate.

ix. As per Section 31(9) the contractor can not be called upon to pay the tax deducted by employer. Therefore, the contractor can take credit of TDS once it is deducted by employer. As per Section 31(4) credit for TDS can be taken when TDS certificate is received. Thus there is option for contractor to take credit, either on making TDS by employer or when TDS certificate is received by the contractor.

x. The employer failing to deduct or after deduction failing to pay to Government will be considered to be dealer in arrears and other provisions of Act including payment of interest/penalty will apply to him accordingly.

xi. Every employers who has make TDS amount should pay the amount within 21 days from end of the month in which TDS is deducted, irrespective of the amount of TDS along with TDS return in Form No. 405. However, the system may create

problems in case of un-registered employers as in absence of TIN number it will becomes difficult for the department to account for the payment. Therefore, un-registered employers who have deducted tax at source, on payments made to the contractors, are required to file return cum challan Form 405 (earlier such payment in Challan No. 210 were also accepted), alongwith demand draft / pay order and photocopy of his PAN card before the Deputy Commissioner of Sales Tax (E-810), Business Audit (2), Vikrikar Bhavan, Mazgaon for Mumbai location and concerned Sales Tax Officer, Returns Branch for rest of the Maharashtra locations. For Mumbai location, the employers should draw demand draft/pay order in favour **of the Bank of Maharashtra, A/c. MVAT payable at Mumbai.** For rest of the Maharashtra, the employers should draw demand draft/ pay order in favour of **the S.B.I., A/c. MVAT payable at respective locations.** The employees who are registered under MVAT Act should file return and make payment in respective treasures. They can also make payment in Challan 210 but return is to be filed on monthly basis. **(Refer Circular No. 42T of 2008 dt. 26-12-2008).**

xii. Challan No. 210 is to be used for depositing the tax deducted. Prior to 1.7.2009 payment was required to be made in return cum challan in Form 405. After above date the Rule 40 has been amended as now it is provided that the payment should be made in Form 210 and return should be filed in Form 405. The return in Form 405 will be annually. The position be seen accordingly as per period of audit.

xiii. The TDS amount should be paid within 21 days from end of the month in which TDS is deducted.

xiv. Annual TDS return in Form No. 405 is required to be filed before the Joint Commissioner (Returns) in Mumbai and with Joint Commissioner (VAT Administration) in the rest of the State, within three months from the end of relevant accounting year.

xv. Unregistered employers who have deducted tax at source, on payments made to the contractors, are required to file Challan No. 210 alongwith demand draft / pay order and photocopy of his PAN card before the Deputy Commissioner of Sales Tax

(E-810), Business Audit(2), Vikrikar Bhavan, Mazgaon for Mumbai location and concerned Sales Tax Officer, Returns Branch for rest of the Maharashtra locations. For Mumbai location, the employers should draw demand draft / pay order in favour **of the Bank of Maharashtra, A/c. MVAT payable at Mumbai.** For rest of the Maharashtra, the employers should draw demand draft / pay order in favour of **the S.B.I., A/c MVAT payable at respective locations. (Refer Circular No. 42T of 2008 dt. 26-12-2008).**

The following is illustrative list of some works contracts where Tax Deduction at Source may be required:

i) Construction of Civil structures, Roads, Buildings, etc.

ii) Contracts for Supply, Erection and Commissioning of Plant and Machinery.

iii) Repairs and Maintenance Contracts including comprehensive annual Maintenance Contracts.

iv) Tailoring contracts for staff uniforms, dresses, garments made out of cloth supplied by the employer.

v) Customised printing contracts treated as works contract.

vi) Cyclostyling, typing, Xeroxing, photostating, micro-filming or block making jobs, sculpture and similar jobs.

vii) Electroplating work / engraving jobs.

viii) Powder painting / coating contracts, painting contracts.

ix) Rewinding and repairing of electric motors and generators.

x) Packing contracts involving transfer of packing material.

xi) Waterproofing contracts.

xii) Welding jobs.

4. Annexure C

4.1 If the dealer is executing a Works Contract, the contractee (the employer) may have deducted tax from his bill. The employer is duty bound to issue a TDS Certificate in Form 402 to the contractor. The dealer is entitled to adjust the amount of TDS as per his option

against his tax liability in the return to be filed for the period in which the TDS is made or in the period in which certificate for payment is furnished to him by the employer irrespective of the return period in which turnover of contract is disclosed.

4.2 This annexure is relating to final computation of tax payable/ refundable after the audit. Therefore, the amount determined by vat auditor in table 2 of part I should match with total amount of TDS as per certificates listed in Annexure 'C'. The auditor is expected to verify the TDS Certificate and give the details as per actual certificate available. There could be cases where the credit might have been taken without having physically received original copy of TDS Certificate. The fact may be shown in sr. no.(vi-d) in Table 2 and also be reported in para 5 of Part I.

5. Annexure D

5.1 The dealer may be awarder of Works Contract and may require deducting tax from payments made to contractor. Annexure 'D' requires only to give the details of TDS Certificates issued by the dealer to his contractors. The vat auditor is not expected to detail the cases where tax was deductible but no deduction was made, as was case in old Form 704.

5.2 In columns 2 & 3 of the Annexure the name of the dealer and TIN No. if any, is to be given. The fourth column relates to turnover on which TDS is made. Thus, in Column No. 2 to 4 the vat auditor is required to give only factual information. There is no need to verify the correctness of the turnover on which tax is deductible. The turnover disclosed by the dealer in TDS Certificate may be accepted and stated here.

5.3 The 5th column of the Annexure requires to state the amount of tax to be deducted on the turnover given in column 4 at applicable rate. This amount needs to be verified and be worked out applying the applicable rate. If the TIN is not available in column 3 the amount of TDS be worked out @4% as the auditor can reasonably assume that the contractor is un-registered. Where TIN is available, rate is 2%. Next column requires giving the factual information about actual amount of tax deducted. This may or may not be the same as column 5. The auditor is not required to calculate and report difference.

5.4 The last column is about actual amount paid against tax deducted from each contractor. The dealer might not have paid the amount dealer-wise. In one challan, he might have paid the amount in relation to various contractors. Similarly, from one contractor TDS might have been made in several months and so also payment of the same. The dealer is required to maintain register in form 404 and issue certificate in 402, the desired information may be verified from such records.

5.5 In this table contractor-wise summary is required to be given. Thus, the auditor will have to examine TDS and the payment details and state here the total amount paid for an individual contractor dealer. Needless to say, total of amount of TDS paid as per books must be reconciled with the amount of TDS paid in respect of all contractors. It is also possible that in some cases the interest payable on the delayed payment of amount of TDS would have also been paid. Care be taken to report only the amount of tax paid in column 8. It is suggested that the report may be drawn in suitable chronological order.

5.6 As pointed out earlier, if the amount of tax deducted is not paid in the time then the interest is payable. The due date for the payment of TDS is 21 days from the end of the month in which tax deduction is made. The payment made after such date will amount to delayed payment and the interest on such delayed payments is attracted u/s. 30(2). The table 2 of Form 704 requires vat auditor to state the amount of Interest payable u/s. 30(2). The interest payable for late payment of TDS is also Interest u/s. 30(2). Therefore, interest be calculated in relation to TDS payment already made. If there is any balance difference between TDS payment made and TDS to be deducted, the auditor is not required to calculate interest in respect of such TDS amount, as date of payment to calculate delayed period would not be available in such case. The interest on such differential TDS amount can be ascertained only after actual payment made and hence cannot be mentioned in the audit report. However, if there is excess payment the interest be calculated on actual liability. It is suggested that this interest may also be reported separately in Table 2 if it is not possible then the same be reported under para 5 of Part 1 of Form 704.

5.7 It may further be noted that the details of TDS Certificate issued are not asked for even though the title of annexure suggests so.

❑❑❑

ANNEXURE E

CHAPTER XXIV

Computation of set-off claimed on the basis of Tax Paid Purchases effected from registered dealers

In Annexure E vat auditor has to give the details of purchases on which the set off is claimed by the dealer and reduction of set-off according to various Rules. At the end of Annexure in section 6 amount of total set-off available to the dealer is determined. **Instruction No. 11** given at beginning of Form 704 provides that if more than one Schedule is required to be filled up, then Auditor may attach **as far as possible** a separate Annexure to each Schedule. **However, a common Annexure can be filled up for all such Schedules.** As such, all the figures including that of set-off in all Schedules need to be synchronized with Annexure. Therefore, it is expected that admissible set-off to dealer should be calculated Schedule wise and thus qua each Schedule separate Annexure E is to be prepared. However, if it is not possible then one Annexure can also be prepared for all such Schedule. In that case, the set-off figure reported in Annexure E shall be matched with the set-off figure reported in Table 2 & Table 5 of part 1 of the Report and various Schedules of Part 3 of the Report.

1. In the E template provided by the website, it is not possible to prepare separate annexure for each of the applicable schedule.

It appears from the Instruction No. 11 given at the beginning of Vat Audit Report in Form 704 in relation to Annexure E that in a case where there is no claim of set-off, there is no need to fill up any data in Annexure E. In a case where a dealer does not want to claim set-off in respect of Capital Asset purchases or purchases effected while incurring business expenditure, then the details of such purchases need not form part of data reporting in Annexure E. The Auditor has to compute the set-off considering the negative Rules, retention Rules & other provisions of the Maharashtra Vat Law.

2. The basic purpose behind quantifying the purchases is to ascertain the set-off claim. The Vat Auditor is not only required to verify the purchases but also required to verify & compute the set-off admissible to the dealer. The Auditor may apply Test Check Method for verification of purchases eligible for set-off. The set-off will be computed in terms of Section 48 of the MVAT Act & Rules 51 to 56 of the MVAT Rules. The provisions of set-off in brief are given in the following Paras:

2.1 Set-off is allowed of the tax paid by the dealer on the following purchases or Entry Tax paid on imports of goods:

1. Tax paid on purchase of goods, under the MVAT Act, on or after 1.4.05 no matter in which year same is purchased, the set-off will be allowed only in the year in which same is accounted.

2. Entry Tax paid on Entry of motor vehicles in the State under the Maharashtra Tax on Entry of Motor Vehicles into Local Areas Act, 1987.

3. Entry Tax paid on Entry of specified goods under the Maharashtra Entry of Goods into Local Areas Act, 2002.

2.2 The set-off is available subject to the following basic conditions:

1. The dealer produces Tax Invoice in respect of purchases on or after 1-4-05, containing the prescribed particulars & certificates.The dealer is registered under the MVAT Act on the date of purchase. W.e.f. 8-09-2006, the dealer is entitled to set-off on purchases made prior to the date of registration (in the same financial year) as per rule 55(1).

2. The dealer has to maintain chronological account of purchases with details of date of purchase, name, address & registration number (TIN) of the suppliers, tax invoice number, purchase price, & amount of sales tax, if any, charged separately by the supplier.

2.3 The set-off available & the reduction/retention thereto is subject to the following:

1. Set-off is available immediately in the month of purchase of eligible goods, when they are accounted for.

2. In case of the use of goods, in the contingencies specified in Rule 53, the reduction/retention is to be made in the month in which the contingencies occur & the balance set-off should be claimed.

3. Where the dealer is unable to identify the purchases with use of the goods, the same shall be presumed to have been used or consumed on FIFO basis.

4. Where the set-off available exceeds the liability for payment of tax, such excess is to be adjusted against the tax liability under the CST Act & the balance, if any, is to be carried forward to the subsequent periods till the end of the financial year.

Annexure E contains tables referred as sections 1 to 6 which are discussed hereunder:

3. Section 1: Total tax paid purchases effected from the Local Supplier during the period under Audit:

3.1 As per Section 48 of the MVAT Act, production of 'Tax Invoice' is a must for claiming set-off. Tax Invoice necessarily means that 'tax' is shown separately in the invoice. The auditor is required to verify the adequacy of set-off registers/record maintained by the dealer for computing admissible set-off. However, MVAT Act or Rules do not prescribe any such register. Rule 55 prescribes that a registered dealer has to maintain a true account of all the purchases of goods in a chronological order made by him on or after the appointed day, showing the details viz.—

(a) Date on which the goods were purchased.

(b) The name of the selling dealer and his registration certificate number (TIN) from whom the goods are purchased and the description of the goods.

(c) Number of the tax invoice under which they were purchased.,

(d) The purchase price of the goods.

(e) The amount of sales tax, if any, recovered from him by the selling dealer.

Thus, the purchase register/record has to give all the details mentioned above. It nowhere requires the dealer to compute set-off against each transaction. The sufficiency of the register / records means booking of the purchases in the manner described above so that amount of VAT paid on the purchases is readily available. The incidental purchases of goods which are debited to expenses accounts shall also give such information. Some dealers, in order to record only eligible purchases, maintain a separate set-off register in addition to the purchase register. Vat auditor has to verify such a register/ record.

3.2 Entry Tax (ET) for entry of motor vehicles or specified goods is not a tax paid to registered dealer. Therefore, technically it will not be included in the amount to be reported here in Annexure E but will be shown as an Adjustment of ET paid under Maharashtra Tax on Entry

of Goods into Local Areas Act, 2002 / Motor Vehicle Entry Tax Act, 1987 in Schedule I to V of the Audit Report, as may be applicable to the dealer.

3.3 Section 1 contains the details of local lat paid lurchases effected from local registered suppliers from which the computation of set-off begins. The purchases consist of goods for trading / manufacturing/ works contract, packing materials, Capital Assets, Business expenditure purchases, etc.

3.4 This section requires sum paid as tax at different rates shall be reported giving net purchase value, Tax amount & Gross Total amount. The net purchase value for this purpose is a value on which tax is charged. The invoice may contain various other charges such as freight, insurance etc. It may not form part of net purchase value.

4. Section 2: Details of Tax paid on purchases which is not eligible for Set-off u/r. 54 out of section 1 above

Out of the total tax paid purchases reported at section 1 above, the purchases which are not eligible for set-off are to be reported at section 2. Even such data is to be reported tax-rate wise giving net purchase value, Tax amount & Gross Total amount. The auditor has to verify this aspect in the light of provisions under Rule 54. The following purchases are not eligible for set-off u/r 54:

(a) Purchases of motor vehicles, being passenger vehicles, which are treated as capital assets and their parts, components and accessories thereof unless the claimant dealer is engaged in the business of transferring the right to use the said vehicles, for any period, for any purpose.

(b) Purchases of motor spirits not meant for resale or stock transfers.

(c) Purchases of crude oil when used by an oil refinery for refining.

(d) Purchases of consumables or capital assets in case of a dealer who is principally engaged in doing job work or labour work & is not engaged in business of manufacturing of goods for sale by him and who sells only waste or scrap goods generated out of such job work or labour work.

(e) Purchases of 'raw materials' as defined in Rule 80 by an eligible unit holding, entitlement certificate claiming incentives either under exemption or deferment mode however, such dealer is entitled for refund u/r 79. The said Rule does not apply to the holder of EC under the new package scheme of incentives for Tourism Projects-1999.

(f) Purchases of goods of incorporeal or intangible nature **other than-** import licences, export permit or licence or quota, DEPB Credit, DFRC, SIM Cards, softwares for trading & Copyright which is resold within 1 year of the date of purchase.

(g) Purchases effected by way of works contract where contract results in immovable property other than plant & machinery.

(h) Purchases of any goods by a dealer, the property in which is not transferred to any other person but is used in the erection of immovable property other than plant & machinery.

(i) Purchases of Indian Made Foreign Liquor or of country liquor, if the dealer has opted for composition u/s. 42(2).

(j) Purchase effected on or after 20-6-06, of mandap, tarpaulin, pandal, shamiana, their decoration, furniture, fixtures, light fittings, floor coverings, utensils & other articles ordinarily used alongwith the mandap, pandal or shamiana, if the claimant dealer has opted for composition of tax u/s. 42(4).

(k) Purchases made by a hotelier which are treated as capital assets & which do not pertain to the supply by way of or as part of service of any goods being food or any other article of human consumption or any drink, where such supply or service is made for any valuable consideration. Purchases of Office equipment, furniture, fixture & electrical installation till 7-9-06 (not applicable if the dealer is engaged in the business of leasing). The VAT auditor has to verify the system followed for identification of purchases not eligible for set-off. It is generally not possible for a dealer to maintain separate register for non-eligible purchases. However, separate coding can be made by him for non-eligible items. The grouping can be made of such codes aggregating non-eligible purchases. Some dealers may follow the system of segregating such purchases at the end of the period of return such as month or quarter so as to exclude them from the eligible purchases for set-off.

In section 2 of Annexure E in e-template, the details of tax paid purchases on which setoff is not admissible u/r 54 is asked to give rule-wise. The vat auditor has to give purchase data rule-wise from rule 54(a) to rule 54(k) in different rows instead of tax rate-wise.

5. Section 3 : Details of Tax paid on purchases of Capital Assets on which full set-off is available out of section 1:

The dealer is eligible for full set-off on certain Capital Assets such as Plant & Machinery, Tools & Equipments used for manufacturing goods, Delivery Vans, etc., without any retention/reduction of set-off. Such purchases are already included in total purchases reported at section 1 above. However, the details of Tax paid on purchases of such Capital Assets eligible for full set-off are to be reported at this section 3. The Capital Assets on which full set-off is not available, such as office equipment/furniture and fixture/air conditioner etc., will not be shown here but will be included in section 4. The data is to be reported tax-rate wise giving net purchase value, Tax amount & Gross Total amount.

6. Section 4: Details of Tax paid purchases on which set-off is admissible after reduction / retention under Rule 53. (Note: For each Sub-rule a separate Table is to be used)

6.1 On certain purchases, the dealer is not eligible for full set-off but is eligible for reduced set-off after retaining certain percentage of purchase price, depending upon prescribed eventuality/contingency as provided under Rule 53 of MVAT Rules. The retention provision is applicable to the period in which the prescribed contingencies/event occur [Rule 53(8)]. If on some purchases, the set-off is not available/ claimed, then even the retention provision doesn't apply to such purchases & set-off is not to be reduced for such purchases. Section 1 contains gross purchases on which Tax is paid separately to local RD suppliers. Out of such gross purchases, the purchases which are hit by set-off retention under Rule 53, are to be reported here in section 4. The data is to be reported referring the Sub-rule of Rule 53 giving tax-rate, net purchase value, Tax amount, Gross Total amount, reduction amount & balance amount of available set-off. **The percentage of retention differs under different Sub-rules as well for the different periods under the same sub-rule of Rule 53.**

6.2 The gist of set-off retention Rule 53 is given hereunder:

Rule 53 : Retention/Reduction in set-off—% of Purchase Price (PP)

Sr. No.	Rule	Situation	Retention from 1-4-05 to 31-3-07	Retention 1-4-07 to 31-5-08	Retention w.e.f 1-6-08
1	53(1)	Any taxable goods used as fuel. For this sub-rule, the term 'corresponding goods' shall not include consumable, stores, capital assets & their component parts & accessories as per Rule 53(9)(a) inserted on 10-11-08 but effective from 1-4-05.	4%	3%	3% [No Change]
2	53(2)(a)	Manufactured any taxfree goods, then on corresponding taxable goods (Not on Capital Assets & Fuel) Explanation: Retention will not apply to any manufactured taxfree (Sch. A) goods, if they are exported u/s 5 of CST Act, w.e.f. 1-11-08. (from 1-4-05 till 31-10-08 this benefit was only for Sugar/Fabrics covered u/e A-45). The term 'corresponding goods' shall not include consumable, stores, capital assets	4%	3%	**@ Rate notified u/s 8(1) of CST Act i.e. 2%**

Sr. No.	Rule	Situation	Retention from 1-4-05 to 31-3-07	Retention 1-4-07 to 31-5-08	Retention w.e.f 1-6-08
		& their component parts & accessories as per Rule 53(9)(a) inserted on 10-11-08 but effective from 1-4-05. Rule 53(9)(b)(i) inserted on 10-11-08 made effective from 1-11-08 which provides that where it is not possible to ascertain corresponding purchase price from books of account then the ratio of sale price/ value of taxable goods & tax free goods shall be applied.			
3	53(2((b)	Resells any tax free goods and said goods are packed in any material, then retention on such packing materials. W.e.f. 1-7-09, no such reduction if the goods packed are exported u/s. 5 of CST Act. Rule	4%	3%	**@ Rate notified u/s 8(1) of CST Act i.e 2%**

Sr. No.	Rule	Situation	Retention from 1-4-05 to 31-3-07	Retention 1-4-07 to 31-5-08	Retention w.e.f 1-6-08
		53(9)(b)(i) inserted on 10-11-08 made effective from 1-11-08 which provides that where it is not possible to ascertain corresponding purchase price from books of account then the ratio of sale price/ value of taxable goods & tax free goods shall be applied.			
4	53(3)	Dispatch of any Taxable goods to Other State to own place or agent then retention on purchase price of corresponding taxable goods (not on capital assets & fuel). No such retention if goods are brought back in Maharashtra within 6 months, of dispatch date, whether after processing or	4% (For Sch.- B goods, retention @1% continues)	3% (For Sch.- B goods, retention @1% continues)	**@ Rate notified u/s 8(1) of CST Act i.e. 2%** (For Sch.-B goods, retention @1% continues)

Sr. No.	Rule	Situation	Retention from 1-4-05 to 31-3-07	Retention 1-4-07 to 31-5-08	Retention w.e.f 1-6-08
		otherwise. The term 'corresponding goods' shall not include consumable, stores, capital assets & their component parts & accessories as per Rule 53(9)(a) inserted on 10-11-08 but effective from 1-4-05. Rule 53(9)(b)(ii) inserted on 10-11-08 made effective from 1-11-08 which provides that the corresponding purchase price will include excise duty as per books of account while calculating the ratio of value of goods stock transferred to other state and sale price of goods sold.			

Sr. No.	Rule	Situation	Retention from 1-4-05 to 31-3-07	Retention 1-4-07 to 31-5-08	Retention w.e.f 1-6-08
5	53(4)	(i) Notified Construction Contracts (w.e.f. 20.6.2006) opted for Composition @5%	4%	4%	4% [No Change]
		(ii) Other Works Contracts opted for Composition @8% **<u>Explanation added on 10-11-08, retrospectively effective from 1.4.05</u> :" "for the purpose of this Sub-rule, the expression "claimant dealer" shall also include a sub-contractor, if the Principal Contractor had opted for Composition of tax u/s 42(3), in respect of said contract and either the full/part of the said contract is awarded to sub-contractor".**	36% of setoff	36% of setoff	36% of setoff [No Change]
6	53(5)	If the business is discontinued & is not transferred then set-off on purchases of goods which are held in stock at the time of discontinuance shall	Set-off involved on stock is disallowed.	Set-off involved on stock is disallowed.	Set-off involved on stock is disallowed.

Sr. No.	Rule	Situation	Retention from 1-4-05 to 31-3-07	Retention 1-4-07 to 31-5-08	Retention w.e.f 1-6-08
		be disallowed. On capital asset the said disallowance does not apply.			
7	53(7A)	From 8-9-2006, Office Equipment, Furniture or Fixtures treated as Capital Assets. Said retention does not apply if the dealer is engaged in the business of transferring the right to use such goods.	4%	3%	3%

Following are some sub-rules (other than tabulated) discussed in brief:

8) **Rule 53(6) : Substituted on 10-11-08, effective retrospectively from 8-9-06 as under :**

If out of the gross receipts of a dealer in any year, receipts on account of sales are less than 50% of the total receipts –

(a) then a hotel / club, not being covered under Composition Scheme, shall be entitled to claim setoff only –

i) on purchases corresponding to the food / drinks (whether alcoholic or not), which are served, supplied, resold or sold, and

ii) on purchases of Capital Assets & Consumables pertaining to the kitchens and sale, service or supply of the said food / drinks;

(b) then Other dealers shall be entitled to claim setoff only on those purchases effected in that year where the corresponding goods are sold or resold within 6 months of purchase or consigned to other State within 6 months or purchases of packing materials used for packing of such goods sold, resold or consigned.

Provided that for clause (b), manufacturer (not principally engaged in Job work or Labour work) shall be entitled to claim setoff on purchases of Plant & Machinery & their parts, components & accessories and on purchases of consumables, stores & packing materials, in respect of a period of 3 years from the date of effect of Registration Certificate. The underlined phrase was amended on 18-6-09 but was made effective retrospectively from 8-9-06.

'Explanation' added on 18-6-09 but made effective retrospectively from 8-9-06: For this Sub-rule 'receipts' means the receipts pertaining to all activities carried out in Maharashtra and does not include inter-State stock transfers.

9) **Rule 53(7):** In case of Liquor Vendor holding licence in Form FL II or CL III or CL/FL/TOD III and where Actual Sale Price (ASP) is less than the Maximum Retail Price (MRP), the setoff is granted as per Formula : Set-off X ASP / MRP.

As per 1st proviso, the setoff under this Sub-rule shall not exceed the amount of tax payable by the claimant dealer on sale of such goods.

2nd proviso, inserted on 10-11-08 effective retrospectively from 1-4-05, that to Indian Naval Canteen Service (INCS) & Canteen Stores Department (CSD) the said sub-rule shall not apply.

Further the Explanation was substituted on 10-11-08 effective retrospectively from 4-7-2008, viz. 'Explanation': for the purpose of this sub-rule, the expression "Actual Sale Price" (ASP) shall mean the aggregate of SP & tax charged separately, if any, & in any other case the SP inclusive of tax."

10) **Rule 53(7B):** For Electricity Company, Sub-rule substituted on 10-11-08 effective retrospectively from 1-4-2005:

If the claimant dealer is holding a licence for transmission or distribution or generation of electricity, then w.e.f. 1-4-05 [save as otherwise provided under sub-rule (i)] an amount equal to CST rate, notified from time to time u/s 8(1) of CST Act, of the purchase price of the goods including Capital Assets, for use in generation, transmission or distribution of electricity, shall be reduced from the setoff otherwise available in respect of said purchases.

11) **Rule 53(10) inserted on 10-11-08 but made effective from 1-4-05 for Textile Processors**

If the dealer has executed a contract, at any time after the 1st April, 2005, of processing of textiles, then set-off on the goods purchased on or after the said date, shall be allowed to the extent of tax paid on purchases in excess of the amount calculated at the rate notified from time to time, by the Central Government for the purposes of Sub-section (*1*) of section 8 of the Central Sales Tax Act, 1956 on the purchase price,—

(a) as regards the goods in respect of which property is transferred during the said processing;

(b) as regards packing materials used for packing of the said textiles; and

(c) as regards other purchases including purchases of capital assets shall be calculated as permissible under other Rules.

6.3 **Separate Table for each sub-rule**

In the Head Note to section 4, the 'note' appears to mention that for each sub-rule, a separate table is to be used. In all sections 1 to 6 of Annexure E, except for section 4, the purchase and set-off details are asked specifically to be given 'tax-rate wise'. Thus when the goods are purchased attracting different tax rates & when retention under rule 53 is applicable, then for each sub-rule, as applicable in a given case, the set-off working shall be made separately for each tax rate & reported at this section 4 of Annexure E. As such, we can conclude that for each sub-rule a separate row be used qua different tax-rates.

6.4 In section 4 of Annexure E in e-template, the details of tax paid purchases on which setoff is to be retained/reduced u/r 53 is asked to give rule-wise. The vat auditor has to give purchase data & reduction, rule-wise from rule 53(1) to rule 53(10) in different rows instead of tax rate-wise.

7. Section 5: Details of total tax paid purchases effected from registered dealers on which full set-off is calculated and allowed as per Rule 52. (Section 1 less sections 2 to 4)

The section contains the data of tax paid purchases from local registered dealers on which full set-off is allowable. In other words, from the gross purchases as reported in section 1, the data reported in

section 2 (negative Rule 54), section 3 (Capital Assets eligible for full set-off) and section 4 (data on which retention Rule 53 applies) shall be deducted and balance amount is to be reported in section 5. The data is to be reported tax rate wise giving net purchase value, Tax amount & Gross Total amount.

8. Section 6: Amount of Total Set-off Available to Dealer

The section contains the data of set-off available to the dealer. It means that the set-off amount calculated and reported at section 3, section 4 and section 5 above shall be summed up and reported at section 6 giving the tax rate wise data of set-off. Total tax amount in sections 3 and 5 plus tax amount eligible for set-off in section 4 will have to be matched with the total set-off determined by the vat auditor in this section. The section further requires comparison of the tax rate wise set-off claimed in the returns which is not apparently available from the present formats of return Forms 231 to 235. Such tax rate-wise data, if possible, may be gathered from the dealer and be verified from the working papers for return and may be reported in the column for set-off as per return. If it is not possible, then the total amount of set-off claimed in the return be reported there. Finally, the difference between the set-off claimed in the returns and the set-off determined by the Auditor shall be reported.

9. Reason for excess or short claim of set-off

At the end of Annexure E, the Auditor has to give reasons for the difference in the set-off finally computed and claimed in Return. There can be excess set-off available to the dealer or lesser set off. The difference in set-off may be due to various reasons like set off not claimed on certain purchases or claimed wrongly on purchases not supported by tax invoice, goods returns, effect of discounts; rebates, effect of negation/retention under rule 54/53, effect of certain retrospective amendments etc. The auditor shall consider the major reasons for material differences in the set-off amount and report the same.

10. Certain issues in relation to reduction of set-off as per Rule 53

10.1 **Goods used as fuel (Rule 53(1))**

Tax paid on the purchases of fuel, For example, coal, CNG, LPG, LDO, LSHS, furnace oil, kerosene, etc. is available as set-off subject to

reduction. If the aforesaid goods are used as raw materials, and not as fuel, the reduction will not apply. It must be borne in mind that motor spirits specified in Schedule D, such as petrol, diesel even if used as fuel or raw materials, etc., are not at all eligible for set-off. Therefore, purchases of motor spirits covered by Schedule D should not be mixed with other fuel purchases.

10.2 **Inputs used in manufacture of tax free goods [Rule 53(2)(a)]**

The vat auditor is required to verify the method followed for computation of reduction of set-off and reasonableness of the ratios adopted for reduction of set-off. The dealer manufacturing tax free goods may adopt the system to identify the inputs used in such tax free goods. For example, a printer may keep a separate record of paper and ink used in manufacture of books which is a tax free commodity. In such a case, it is easier to bifurcate the inputs used in tax free goods and apply reduction. However, in a case where such identification is not possible, the value of the inputs attributable to tax free output can be arrived at by proportionate method prescribed in rule 53(9)(b-i). There could be issues for determination of value of tax free goods where there is no sale price. Then again the proportionate method be followed. This method is also approved by several Courts and also by the sales tax department. Therefore, the method can be applied by the vat auditor with disclosure. It is also possible that some inputs are exclusively used for tax free products then the reduction can be made straightway on such inputs or if certain inputs are exclusively used for taxable products then no reduction is called for. Another method of proportion can be on the basis of actual content of the common inputs in taxable and tax free products. This proportion can be based on chemical or technical analysis of the products in question. E.g. if the common input content in taxable and tax free products is say 20% and 30% respectively, the purchases of such common ingredient can be subjected to reduction to the extent of $3/5^{th}$ of them.

10.3 **Packing materials used in packing of tax free goods resold [Rule 53(2)(b)]**

The set-off on the packing materials which are used in the packing or re-packing of tax free goods is required to be reduced. The reduction discussed in earlier para covers the inputs which are used for manufacturing of tax free goods. Packing material are also inputs.

Therefore, reduction in relation to packing materials used in manufacturing of tax free be given separately and reduction in respect of packing material used in relation to activity other than manufacturing of tax free commodity For example, trading, etc. be given separately. Here too, the vat auditor has to verify the method followed for computation of reduction of set-off and reasonableness of the ratios adopted for reduction of set-off.

If the packing materials are exclusively used for packing tax free goods, then it is easier to subject them to reduction of set-off. However, if there are common packing materials used for taxable goods, either manufactured or traded, and tax free goods, then the question of apportionment arises. As stated earlier, a suitable method can be adopted. In case of packing materials, they do not become integral part of the product like raw materials. Therefore, one of the besis for apportionment can be the quantity of final products packed (i.e., consumption) for taxable and tax free goods. If the packing materials are printed with the brand name and description of the product, then it is easier to segregate them. The term 'packing material' will also cover packing accessories like printed labels, thread. Vat auditor should examine the method adopted.

10.4 **Goods as purchased transferred outside the State [Rule 53(3)]**

1. Rule 53(3) provides that there will be a reduction for calculation of set-off on the purchases which are transferred outside the State either to the dealer's own branch or to his agent or to his principal if he himself is an agent. This clause contemplates such transfers of goods in the same form i.e. without being used in any processing or manufacturing. Such branch transfers can be that of raw materials which are sent to the processing unit outside the State or trading goods dispatched to C & F agents or distributors outside the State or other consumables such as sale promotion, stationery items, etc. purchased centrally and distributed all over country.

2. Rule 53(3) excludes capital assets and fuel as well as tax free goods from its purview. Looking to the provisions of MVAT Law, vat auditor need not consider any reduction on account of branch transfers of capital assets, fuel and tax-free goods.

3. A strict interpretation of section 6A of the CST Act leads to an inference that 'F' Forms are required when any goods are

dispatched to a branch of a dealer or his agent outside the State otherwise than by way of a sale. Otherwise such transfer will be held as sale and will be subjected to CST. Therefore, stock transfers of even consumables, such as sales promotion items, stationery, etc. and capital assets also have to be supported with 'F' form in addition to the stock transfers of finished goods or raw materials. On the basis of such 'F' forms received/ recoverable, it may be easier to ascertain the goods sent outside the State. However, it is suggested that the vat auditor should advise the dealer to devise a system to ascertain the value of transfers of various goods and maintain necessary registers, such as stock movement register, stock transfer invoices, etc.

4. It may be difficult to exactly quantify the dispatches of goods outside the State by way of branch transfers in case of items, such as sales promotion items, gifts, stationery, etc. in absence of proper recording system. In such a case, the secondary evidence, For example, courier bills, octroi receipts, confirmations from the branches, etc. may be relied upon and appropriate disclosure be made.

5. In case of difficulty in identification of purchase value of goods transferred outside the State for reduction, the dealer may use proportionate method as prescribed in rule 53(9). The vat auditor should verify the method and give appropriate disclosure.

10.5 **Inputs used in manufacture of goods transferred outside the State [Rule 53(3)]**

1. No reduction on fuel used as input in manufacture of goods transferred outside the State is required to be made since that reduction comes u/r 53(1).

2. The reduction for total inputs used in manufacture of total tax-free goods is required to be made u/r 53(2). Therefore, under this head, amount of reduction of set-off of the purchase price used in manufacturing of taxable goods transferred outside the State only needs to be given. Rule 53(3) contemplates reduction of set-off, in case manufactured goods are dispatched by the dealer to his own branch or agent. Here, the reduction of set-off will have to be made in respect of inputs used in manufacture of taxable goods.

3. Since the clause requirement to Rule 53(3), the inputs used in manufacture of taxable goods dispatched outside the State otherwise than by way of a sale are to be segregated. The vat auditor is required to verify the method followed for computation of reduction of set-off and reasonableness of the ratios adopted for reduction of set-off taking into account rule 53(9).

10.6 **Reduction of set-off on goods used in execution of works contract for which the contractor has opted for composition in lieu of tax payable [Rule 53(4)]**

This issue is discussed in Chapter XVIII at Para 8.

10.7 **Reduction of set-off on computer and office equipments**

Normally computer systems etc. are office equipments. However, in some cases such systems are used in manufacturing processes also, such as designing of various products etc. It is possible in such cases to consider such purchases as plant and machinery and not as Office Equipment. It is normally noticed that in order to claim higher depreciation under Income-tax Act such systems are classified independently and not as plant and machinery. On facts the vat auditor may take appropriate view.

11. Calculation of Refund in case of PSI Dealers

As pointed out earlier, Rule 54 of the MVAT Rules prohibits grant of set-off on the raw material to the unit holding a Certificate of Entitlement. This restriction applies only to raw material which is to be used for eligible unit. However, such unit is entitled to get a refund of tax paid on purchases u/r. 79. Similarly, retention applicable under sub-rules (1), (2) and (3) of Rule 53 are also not applicable for claiming the refund. However, the amount of retention, that would have been made if the dealer would not have been holding a Certificate of Entitlement, is required to be calculated as CQB. This aspect is discussed in detail in the other chapter relating to calculation of CQBA. The question therefore, arises is to how and where to quantify the refund u/r. 79. Needless to say that even such dealer is entitled to set-off on other purchases i.e. other than raw materials. Besides in some cases there is an expansion either in terms of capacity or in terms of investments. The newly introduced sections 93 and 93A of the MVAT Act provides that if separate books of

account are not maintained, then the incentives will be available either in proportion of expansion capacity or in proportion of new investment depending upon the facts of each case. The question therefore, as to where to calculate the refund u/r. 79. No doubt for set-off in all such cases also Annexure E is required to be prepared. In case separate books are maintained then for refund as per Schedule IV separate annexure will be necessary so also if refund is to be calculated applying section 93 of the MVAT Act. It is therefore recommended that in such cases the vat auditor should prepare a separate Annexure E one for set-off and other for refund so as to enable him to quantify the claim of refund.

❑❑❑

ANNEXURE F

CHAPTER XXV

FINANCIAL RATIO AND OTHER INFORMATION

1. GENERAL

1.1 In Annexure F, the vat auditor is required to give financial ratios for the year under audit and some other information. The annexure is divided into two parts. One as per Profit and Loss Account and other information to be furnished in relation to sales effected within/from Maharashtra State. Under both the parts, ratios and other information is to be given for the current year as well as for the previous year.

1.2 The instruction No. 11 requires vat auditor to prepare separate Annexure for each Schedule. However, this Annexure may not be possible for each Schedule. Thus, a common annexure may be prepared. As per instruction No. 11(h), it is specified that ratios of Gross Profit and Net Profit may be given as per Profit and Loss Account for the entire business of the entity (having multi-State activity) and other ratios are to be given in respect of sales effected within or from the Maharashtra State.

A. RATIOS AS PER PROFIT AND LOSS ACCOUNT

2.1 In Clause (a) of the Annexure F, the vat auditor is required to give two ratios. First, Gross Profit to Gross Sales and second, Net Profit to Gross Sales. Instructions at Sr. No. 11(h) directs vat auditor to adopt these ratios for entire business of the entity if the dealer has multi-State activities and in other case, it would be on State level. Title (a) of annexure suggests that these ratios should be given as per Profit and Loss A/c.

Wherever the dealer is subjected to tax audit under the Income-tax Act, 1961, both these ratios are available in Form 3CD. The vat auditor may adopt the same ratio in Vat audit report with appropriate disclosure under column 'method of computation and observations, if any'.

It may be noted that the terms 'Gross Profit', 'Gross Sales' and 'Net Profit before tax' are not defined either in the MVAT Act or MVAT Rules. Therefore, its meaning as per Generally Accepted Accounting Principles (GAAP) i.e. as per Guidance Note on tax audit u/s 44AB shall apply. Therefore, ratios as calculated by the tax auditor can be

considered for reporting. In case where income tax audit is not conducted then vat auditor may compute these ratios as per GAAP.

2.2 Para 56 of the Guidance Note on Tax Audit u/s 44AB of the Income Tax Act, 1961 (Revised 2005 Edition) reproduced below :

"56. Accounting ratios with calculations as follows:—

(a) Gross profit/Turnover;

(b) Net profit/Turnover;

(c) Stock-in-trade/Turnover;

(d) Material consumed/Finished goods produced.

56.1 These ratios have to be calculated only for assessees who are engaged in manufacturing or trading activities. This clause is not applicable to assessees carrying on profession. Moreover, the ratios have to be given for the business as a whole and need to be given product wise. Further, the ratio mentioned in sub-clause (d) need not be given for trading concern.

56.2 While calculating these ratios, the tax auditor should assign a meaning to the terms used in the above ratios having due regard to the generally accepted accounting principles. All the ratios mentioned in this clause are to be calculated in terms of value only.

56.3 The following definitions given by the ICAI in its Guidance Note on the Terms Used in Financial Statements may be noted.

(a) ***Gross Profit**: The excess of the proceeds of goods sold and services rendered during a period over their cost, before taking into account administration, selling, distribution and financing expenses. When the result of this computation is negative it is referred to as gross loss.*

(b) ***Turnover**: The aggregate amount for which sales are effected or services rendered by an enterprise. The terms gross turnover and net turnover (or gross sales and net sales) are sometimes used to distinguish the sales aggregate before and after deduction of returns and trade discounts.*

(c) ***Net Profit****: The excess or revenue over expenses during a particular accounting period. When the result of this computation is negative, it is referred to as net loss. The net profit to be shown here is net profit before tax."*

3. Gross Sales vs. Turnover

3.1 The term "Gross Sales" is again not defined in the MVAT Act or MVAT Rules. As per instruction 7, the instruction for filing information in the returns remain applicable for respective items of the Schedule. In the 'instructions to filing the forms', it is clarified that Gross turnover of Sales should be inclusive of tax collection as well as certain non-sale items like labour charges, job charges, branch transfer /consignment transfers etc. These instructions are also applicable for determination of Gross Turnover of Sales as per Schedule.

3.2 The Statement on 'the Companies (Auditor's Report) Order, 2003' issued by the Institute in April 2004, while discussing the term 'turnover' in paragraph 23 states as follows —

"The term, 'turnover' has not been defined by the Order. Part II of Schedule VI to the Act, however, defines the term 'turnover' as the aggregate amount for which sales are effected by the company. It may be noted that the 'sales effected' would include sales of goods as well as services rendered by the company. In an agency relationship, turnover is the amount of commission earned by the agent and not the aggregate amount for which sales are effected or services are rendered. The term 'turnover' is a commercial term and it should be construed in accordance with the method of accounting regularly employed by the company."

3.3 Thus, the term 'turnover' for the purposes of reporting ratios under Income-tax Act are considered to mean the aggregate amount for which sales are effected or services rendered by an enterprise. If Sales Tax and Excise Duty are included in the sales price, no adjustment in respect thereof should be made for considering the quantum of turnover. Trade discounts can be deducted from sales but not the commission allowed to third parties. If, however, the Excise Duty and/ or Sales Tax recovered are credited separately to Excise Duty or Sales Tax Account (being separate accounts) and payments to the authority

are debited in the same account, they would not be included in the turnover. However, sales of scrap shown separately under the heading 'Miscellaneous income' will have to be included in turnover.

3.4 In the final accounts, the amount of Total Sales may be exclusive of goods Returns; Discounts; Tax collected separately; Branch Transfer/ Consignment Transfer, etc. At the same time turnover of non-sale items, like job work, labour charges etc. may be shown separately in final accounts. Similarly in the books of a commission agent, sales on behalf of the principal may not be included in total sales but only commission might have included.

4. Gross Profit to Gross Sales

Considering the above, the vat auditor may not be justified in considering figures of turnover determined under tax audit as gross sales. Therefore, he may have to compute Gross Sales for this purpose separately, which shall include all sales and non sales items, tax collections, etc. and it should be before Goods Returns. However, the discounts given to the customers which do not form part of sales price and also not receivable from the dealer, the same may be excluded from the Gross Sales. Similarly sales of fixed assets etc. be excluded, since these are not items of Profit and Loss A/c. If a dealer does not have multi-State activity then there may not be much difficulty in calculation of Gross Sales. A Gross Turnover reported in Table 2 of Part I can be taken as base for calculation of Gross Sales. However, in case of a dealer having multi-State activities, the details of tax collections, Goods Return, Branch Transfer, etc. in relation to entity as a whole may not be made available to the vat auditor.

It is therefore suggested that in such a case, the vat auditor may consider Gross Sales as disclosed in tax audit and may make further computation, if warranted, from any available data and compute Gross Turnover of Sales and make appropriate disclosures under the column 'Method of computation and observations, if any'.

5. Net Profit Before Tax to Gross Sales

The vat auditor is required to give ratio of Net Profit before Tax to Gross Sales. Here, the amount of "Net Profit" is to be taken as per Profit and Loss Account by adding amount of income tax and/or any other direct tax like dividend distribution tax/fringe benefit tax, etc. debited to Profit and Loss Account, if any. In other words below the

line items be added to arrive at Net Profit. In case of partnership firm the Net Profit in final accounts may be after deducting interest and salary paid or payable to partners. In such a case, the Net Profit should be taken after considering admissible interest and salary paid or payable to partners and debited to Profit and Loss Account.

6. Ratio

The annexure further requires comparative ratios for the previous year. It is suggested that from the tax audit report and accounts of previous year, this ratio may also be determined, as discussed above.

However, in some cases where it may not be possible to calculate previous year's ratio, e.g. first year of business etc, the fact be disclosed.

7. Method of computation

Under this clause, method of computation of the ratios as adopted by vat auditor is to be stated.

8. Observations

If vat auditor has any observation in relation to these ratios such as, ratios are calculated based upon the audited statements of entity as whole etc., may be given here.

B. INFORMATION TO BE FURNISHED IN RELATION TO THE SALES EFFECTED WITHIN/FROM MAHARASHTRA.

9. Under clause (b), the vat auditor is required to compute various ratios in respect of sales effected within and from the State of Maharashtra.

In sales tax returns and in Form 704, the total sales are to be given in respect of places of business in Maharashtra State. These ratios are to be determined by the vat auditor and given therein.

Like clause (a), these ratios are to be given for current year as well as previous year and with a remark or note for method of computation and observation, if any.

The information relating to these ratios may not be available in final accounts. The vat auditor is required to obtain various information from the dealer and to determine such ratios. If any information is not

made available then the vat auditor may make appropriate disclosure under column 'Method of computation and observations, if any'.

10. Ratio of Net Local Sales in Maharashtra State to Total Sales (Excluding tax under VAT and CST Act)

10.1 The vat auditor is required to give ratio of Net Local Sales to Total Sales. The amount of local and total sales is to be taken excluding tax collection under VAT and CST Acts. The ratio is required to be calculated with total sales and not with Gross Turnover of sales. Thus, total sales will have to be calculated in accordance with provision of VAT Act which may include sales of assets, scrap, works contracts, leasing transaction but exclude non-sale transactions like labour, branch/ consignment transfer etc.

10.2 Net Local Sales do not include Export, Inter-State Sales, Stock/ consignment transfers etc. It shall include all local sales including tax free and exempt sales. In the sales tax returns as per Trade Circular No. 11T dated 30-05-2005 the Commissioner of Sales Tax has clarified that turnover of Sales covered by Form H, whether inter-State or intra-State must be shown in CST Returns and not in the State Vat Return. Therefore, the dealer as well as vat auditor might have included Local Sales on H form in CST Return. The vat auditor may exclude Local Sales on Form H from Net Local Sales with appropriate disclosure under column "Method of computation and observation, if any".

10.3 The term 'Net Local Sales' shall also exclude amount of non sale items like labour charges, job work, etc. In case of a works contract deduction as provided under Rule 58 and claimed in return shall not be included in Local Sales. However, in case of a dealer opting to pay tax by way of composition, the amount of labour u/r 58 may not be available. In such a case, the amount of Net Local Sales may be taken inclusive of total works contract value with an appropriate disclosure under the column "Method of computation and observation, it any".

11. Ratio of Inter-State Stock Transfer from Maharashtra State to Total Sales

The vat auditor is required to give ratio of Inter-State Stock Transfer from Maharashtra State to Total Sales. The total amount of Inter-State

stock transfer, whether or not Form F is received, is required to be taken. The amount of Total Sales would be the same as determined for the purposes of reporting in Row 1.

12. Ratio of Non-Sales receipts to Total Sales

Under Row 3, Ratio of non-sales receipts to Total Sales is to be given. The non-sales transactions, as can be understood from item 1(a) of all Schedules, include labour charges, service charges, etc.; which are not regarded as sales, under item 4 a separate ratio of net sales to inter-State Branch Transfer is to be given. Therefore, Branch Transfers may be excluded from non-sales receipts for calculation of this ratio.

13. Ratio of Net Local Sales from row 1 to inter State Stock Transfer

Under Row 4, the ratio of Net Local Sales as determined in Row 1 to Inter-State stock Transfer is to be given. In Row 2 ratio of Inter-State Stock Transfer to Total Sales is required to be given whereas in Row 4 ratio of Net Local Sales to Inter-State Stock Transfer is to be given.

14. Ratio of Net Local Sales of Taxable Goods to Net Sales from Row 1

Here, the vat auditor is required to give ratio of Net Local sales of Taxable Goods to Net Local Sales as determined in Row 1.

15. Ratio of Net Local Sales of Tax free goods to Net Sales from Row 1

In this Row, ratio of net Local Sales of Tax Free Goods to Net Sales from Row 1 is to be given. In some cases, the dealer may have shown inter-State Tax Free sales under Section 5 in Vat return. The vat auditor is required to give ratio of local Tax Free Sales only and should exclude amount of Inter-State Tax Free Sales, if any.

16. Percentage of Net Inter-State Sales excluding Export to Net Sales from Row 1

Here, the vat auditor is required to compute percentage of net inter-State sales excluding export to net sales determined in Row 1. The amount of Net Inter-State Sales shall be excluding export as well as sales on form H. However, it shall be inclusive of any inter-State tax

free sales, transit sales i.e., against Form E-1 / E-II, form C, Form I, Form J etc. In other words all inter-State sales excluding CST and export would be the Net Inter-State Sales.

17. Ratio of Export Sales to Net Sales from Row 1

The ratio of Export Sales to Net Sales from Row 1 is to be given here. The amount of export sales shall include sales on Form H also. The Net Local Sales determined and given in Row 1 is to be taken here.

18. Ratio of Gross Receipts to Gross Turnover of Sales

The vat auditor is required to give here ratio of Gross Receipts to Gross Turnover of Sales. The term 'Gross Receipts' is not defined in the Act. However, for the purposes of rule 53(6) the term is defined to include all receipts pertaining to all activities including business activities of the dealer carried out in the state of Maharashtra. Therefore, the vat auditor may take guidance from this and may include receipts from any non – sale activities of the dealer during the year under audit while working out this ratio. Some example of such receipts that may be included are: the amount of labour charges, service charges, job charges, sale of flat and shops by builder, financial charges, room rent in case of hotelier, transport charges in case of transport, advertisement receipts in case of news paper publication, etc.

In sales tax returns these amount may not be included by the dealer. The vat auditor is required to determine the amount of Gross Receipt as discussed in earlier para .

The term "Gross Turnover of Sales" would be inclusive of turnover of all sale of goods including inter-State, Export but excluding inter-State Branch Transfer.

19. Ratio of Set-off claimed to Net Sales from Row 1

The vat auditor is required to give ratio of set-off claimed to net total sales as disclosed in row 1. The amount of set-off determined by the vat auditor (after deducting retention, if any,) as appearing in section 6 of annexure E is to be taken.

20. Ratio of Gross Tax (MVAT + CST) to total turnover of Net Sales form Row 1

Here, the ratio of Gross Tax (MVAT + CST) to total Net Sales from row 1 is to be given. In case of any sales effected against any form, the vat auditor may take amount of tax payable as per law against such forms, irrespective of actual availability of forms at the time of vat audit. In other words, for sales against pending forms, tax is to be calculated as disclosed in return and a differential amount of tax disclosed in Annexure H and I may not be included in amount of Gross Tax.

21. Ratio of Closing Stock of Finished Goods to Net Sales from Row 1

Here, ratio of closing Stock of finished Goods to total Net Sales shown in Row 1 is to be given. The vat auditor is required to obtain closing stock of finished goods in Maharashtra from the dealer and to work out this ratio. Obviously, the Stock of finished goods should be excluding amount of closing WIP. There may be an issue in case of works contractor. Some work which is completed but is pending certification, etc. Such goods are includes in WIP. Thus, may not be included for calculation of ratio. However, necessary disclosures may be given.

22. Opening Stock of Finished Goods including WIP (in Maharashtra)

In this row, instead of computation of ratio, the vat auditor is required to give amount of opening stock of finished goods (including WIP) in the State of Maharashtra.

23. Closing Stock of finished goods including WIP (in Maharashtra)

Like in row 13, in row 14 also, the vat auditor is required to state amount of closingstock of finished goods including WIP in Maharashtra only.

❑❑❑

ANNEXURE G

CHAPTER XXVI

DETAILS OF PURCHASES EXCEEDING RS. FIVE LAKH FROM NEW SUPPLIERS ON WHICH SET-OFF IS CLAIMED

1. In Annexure G, the vat auditor is required to give details of purchases exceeding Rs. 5 Lakhs from each new local supplier on which Set-off is claimed during the year. The term "New Local Supplier" is defined in the heading of Annexure itself to mean a supplier from whom no purchases were effected in the immediately preceding year.

   For this purpose, vat auditor may have to verify records of previous year. If records of previous year are not made available or the vat auditor is unable to verify it, then he may obtain letter from the dealer and give the required information with appropriate disclosure.

   It may be noted that for the purpose of identifying new supplier, it is not necessary that in the previous year, on purchase of goods from such supplier, set-off should have been claimed. If the goods are purchased from any supplier in the previous year, whether set-off is claimed or not, such supplier would not be a new supplier for the purpose of this annexure.

   In many cases, it may so happen that goods are purchased from a particular supplier regularly but in the previous year there may not be any purchase of goods from that particular supplier. Even in such cases, the supplier would be regarded as a new supplier and details of purchase from such supplier is required to be given here.

   The vat auditor is also required to give details of purchase of fixed Assets from new Supplier exceeding Rs. 5 lakhs in a year on which set-off is claimed.

   In case of a first year of any dealer, the details of all purchase of goods on which set-off is claimed from all suppliers exceeding Rs. 5 lakhs will have to be given in this Annexure.

2. It may be noted that in Annexure 'J' also, details of supplier wise purchases are to be given. There seems to be repetition of details, as Annexure J will cover details of all suppliers, whether new or not who have charged vat separately, whether or not, set-off is claimed irrespective of amount of supplier.

   Even though the Trade Circular No. 27T/2009 dated 1.10.09 mentions that annexure G is to be filled in, the e-template does not provide for this annexure considering the duplication of the information as noted above.

❑❑❑

ANNEXURE H

CHAPTER XXVII

DETAILS OF DECLARATIONS OR CERTIFICATES IN FORM H NOT RECEIVED

In Annexure H, the vat auditor is required to give details of declarations or certificates in Form H claimed by the dealer for the year under audit but not received.

The information is to be given customer-wise as well as invoice-wise showing name of the dealer who has to issue forms, type of declaration/ certificate (This column is not necessary when entire annexure is only for Form H), Invoice No., Date of Invoice., Taxable Amount, Net Tax Amount, Rate of tax applicable under the MVAT Act, amount of tax payable at local rate on amount of sales and differential tax liability.

However, as per Trade Circular No. 27T of 2009 dtd. 01.10.09, in para 3(vi), it is clarified that the turnover which pertains to sales against Form H made within the State only are to be reported in annexure H and inter-State sales against Form H, if not received, are to be reported in annexure I only. This is contrary to the instructions contained in Form 704. It may however be noted that if declaration in Form H are not received for local sales differential tax liability will appear in Table 2. This total differential tax liability will be auto picked in e-704 at item No. (xiv) of Table 2. The differential tax liability for wanting 'H' Forms in relation to inter-State sales will appear in Annexure I. Since Annexure I is for all declaration under CST Act it is suggested that while reporting details in relation to Form H in Annexure I the vat auditor should make separate section for each type of declaration.

As per Trade Circular No. 11T of 2005 dated 30-05-2005 [Appendix 10(b)], it is clarified that even local sales under section 5(3) of the CST Act (i.e. sales against Form H), be shown in CST Return. Thus sales claimed u/s. 5(3) of the CST Act could be divided in two parts first local sales against Form H and second inter-State sales against Form H. Going by the instruction contained in Form 704 and by title of the Annexure it appears that all sales against Form H are to be reported in this annexure only. However, only local sales against Form H which are pending are to be reported here.

❑❑❑

ANNEXURE I

CHAPTER XXVIII

DETAILS OF CERTIFICATES NOT RECEIVED UNDER THE CENTRAL SALES TAX ACT, 1956 (OTHER THAN FORM H)

1. Under this Annexure, the vat auditor is required to report the transactions for which certificates/declaration under Central Sales Tax Act, 1956 are not received. However, for sales against Form H a separate annexure is prescribed. Thus, going by instructions even inter-State sales against Form H should not appear in this annexure. However, the Commissioner as per Trade Circular No. 27T dated 01.10.2009 has clarified that inter-State sales on Form 'H' are to be included under the annexure I. This clarification is contrary to instruction and the heading of the annexure. However, only inter sales against Form H which are pending and to be reported here.

2. There are two types of transactions in the course of inter-State for which declaration/certificates under Central Sales Tax Act, 1956 are required. Firstly the transaction of the inter-State sales against declarations in Forms C, E-I, E-II, I or J or sales in the course of exports against Form H and secondly, branch/stock/consignment transfers against Form F.

3. As per the amendment in Rule 12 of the Central Sales Tax (Registration and Turnover) Rule 1957 which is effective from 01-10-2005, all these forms under CST Act except Form F are required to be collected within 3 months from the end of quarter (from the end of calendar month in case of Form F) in which transaction took place, from the customer and to be submitted to the Sales Tax Department. In this regards attention is invited to Trade Circular No. 28T dated 24-10-05 issued by the Commissioner of Sales Tax, which clarifies that in Maharashtra, the dealers need not submit the declarations to Assessing Officer but shall furnish a list of declaration, which are not received till due date, in the format provided in the circular. This information, if submitted by dealer, will be of help to vat auditor for verification of wanting declaration.

4. The annexure requires that invoice-wise details of all transactions, where forms are not received be given. The vat auditor is also required to compute the differential tax liability in relation to such transactions. Since information in relation to all declaration is to be given in this schedule only, it is suggested that in annexure separate

section be made for the information against each type of declaration/ certificate so as to worked out and match the differential tax liability properly. The differential tax liability arising on account of non-availability of all forms, has to be reported under item No. (xi) of Table 3 of Part I. Based on this information the authority may select the case for assessment and demand the unpaid tax.

4. Sales in transit i.e., sales exempted as per the provisions of Section 6(2) of the CST Act, needs to be supported by two declaration i.e., form C in respect of the transaction of sale and Form E-I/E-II for corresponding purchases. If the purchase transaction is supported by necessary Form E- I or E-II, but sale is not supported by Form C, then the rate of tax would be local vat rate. However, for sales of tax-free goods, declaration in Form C is not required. If sale transaction is supported by Form C, but the corresponding purchase transaction is not supported by Form E-I / E-II then rate of tax on such sales would be the rate at which the transaction is taxable against the declaration in Form C. Therefore, while reporting such transactions, special care be taken to see that liability is not calculated twice [once for pending Form C and again for pending Form E-I /E-II]. Since. Such sales require two declarations, in absence of any of the declarations, tax liability should be calculated on sale with reference to position of declarations in Form 'C' only.

5. While reporting the details of sales not supported by the sales tax declaration forms, the vat auditor may consider the declarations produced before him, till the time of finalization of his report. The vat auditor may check the declarations received against list of declarations / certificates received and pending. The vat auditor is also required to give a certificate that all such declarations are checked by him and they are in conformity with the provisions. Some clarifications are given by the Commissioner in this regard by Trade Circular No. 70T/2007 dated 06-12-2007. These clarifications be considered to come to a conclusion about the Form. Thus, if vat auditor forms any opinion that declaration is not in conformity, then he may consider that such declaration is not received and report accordingly.

6. Consignment / Branch Transfers not supported by Form F

6.1 Under Section 6A of the CST Act, transfer of goods to branches or agents in other States otherwise by way of sales, should be supported

by a certificates in Form F issued by the branch or agent. In the absence of such certificates, the transfers will be deemed to be inter-State sales and taxed accordingly.

6.2 The vat auditor is required to report the consignment/branch transfers in respect of which certificates in Form F have not been received from branches or agents. Stock transfer note / invoice / document-wise details are required to be reported. The differential tax liability is also to be computed for such branch transfers.

6.3 Single F Form is required for all transactions during a calendar month. As discussed earlier, with effect from 1-10-2005, F Forms are also required to be submitted within 3 months from the end of the month to which they relate. The vat auditor therefore, may take into account such list filed with authorities for his verification. Circular No. 70T dated 06-12-2007 gives clarification about Form 'F' also.

❑❑❑

ANNEXURE J

CHAPTER XXIX

DETAILS OF CUSTOMER/SUPPLIER WISE SALES/PURCHASES

1 Requirement

1.1 This annexure is divided in Four Sections. Under Section 1 list of customer wise sales, during the year, on which Vat is charged separately is to be given. In Section 2 supplier wise list of purchase, during the year, on which Vat is charged separately, is to be given. In section 3 list of customer-wise debit notes/credit notes on which Vat is charged separately and in Section 4 list of supplier-wise credit notes/debit notes on which Vat is charged separately is to be given. In other words Section 1 and 3 are related to sales and Section 2 & 4 related to purchases. Since the details are to be given only in respect of transaction where Vat is charged separately, the details relating to Vat payable on sales may not match with schedules. However, details relating to purchases must match with the Section I of Annexure 'E'. The objective of these annexure appears to be to cross check the claim of input tax credit of various dealers. That means, from details of purchases, the department can trace and find out from records of suppliers about the claim. The details sought are very bulky. It virtually amounts to uploading entire local sales and purchases. These details are required based upon the transaction in which Vat is charged separately. The details are to be given on the basis of customer/supplier wise. All four sections are divided in two parts i.e., A and B. Part A in all section contains two common information i.e., TIN of claimant dealer and period covered under audit. This information is also available in Part I of Form 704. Thus, it is repetition which could have been avoided and Part B is related to details.

1.2 The Commissioner vide notification No. VAT/AMD-1009/IB/Adm 6 dated 1st September, 2009 under powers conferred by sub-rule 2 of Rule 17A of MVAT Rules, without there being principal rule to be notified by Government, has notified Form 801. Looking Form 801 and the format and contents of this annexure, it seems that it is a duplication. In fact Form 801 is an independent requirement. This requirement is neither directly connected with any of the certificates in Part –1, nor any of the Schedules in Part –3 of the audit report nor there is any presentation for maintenance of accounts in such an manner. Thus, it appears that it should not have been made as part of

Form 704. This annexure basically requires some extract to be taken from books of account in respect of all purchases and all sales affected by the dealer during the entire financial year in the desired manner. While dealer is supposed to maintain books of account and records in such annexures so as to enable the Assessing Officer to determin correct tax liability, the dealer may not be in a position, to copy, extract, compile or rearrange his books of account in such a manner so as to provide the information in the manner so required.

Supplying of this information depend upon the system of maintenance of books and records as to whether the dealer is able to provide complete party wise information in respect of all such purchases as well as sales. Even if records are computerized, the software system should support generation of report in the manner in which it is required. In case of manual record also this amounts to rewriting of records. The Vat auditor should note that the information has to be correct and complete in all respect. Looking into the normal practices of book-keeping, it may not be possible for an auditor, in his capacity as vat Auditor, to provide and certify the information in the format of Annexure J. However, if the dealer has maintained the data or able to generate the reports, in the manner so required, the vat Auditor should report the same in Annexure 'J' after due verification and satisfaction. If vat Auditor is unable to certify such information then he should make suitable qualification/disclosures that "Required information is Not Available". It may be noted that non-submission of this information may not have any impact on tax liability or on the certification in para 2B of Part-I. However, since form wants the information, for want of information fact may be disclosed.

2. Customer wise VAT Sales (Section I)

2.1 In Section I of Annexure J, the vat auditor is required to give details of customer wise Vat Sales on which Vat is charged separately. This voluminous information is to be given customer's TIN wise, showing TIN of customer, Net Taxable Amount, Output VAT Amount and Gross Total.

2.2 Foot note to Section I clarifies terms used in the section as under :

'The Net Taxable Amount' means amount of sales on which Vat is charged separately.

'Gross Amount' Means total value of sales charged to customer including Vat, insurance, freight and any other charges, etc. shown separately in invoices. In other words, it is final amount as per invoice and not a total of column 2 and 3.

The 'Other Local Taxable Sales' means the sales which are inclusive of tax i.e., the taxable sales where the taxes are not collected separately.

2.3 In section 'A', figures of other local taxable sales is to be given. It may be noted that 'other local tax free or exempt sales' is not to be included in 'other local Taxable sales' and no information is required to be given in this respect. In Section B information about local sales in which tax is charged separately is to be complied and certified by the Vat auditor. This information is to be given in relation to TIN held by each customer. Thus, qua each customer only one figure for the entire period covered by the Audit Report will have to be complied.

2.4 Technically total of other taxable sales in Section 'A' and customer wise Sales on which Vat is charged separately in Section 'B' should match with the local taxable sale as determined by the Vat Auditor and shown in applicable Schedule. However, since details are to be given in respect of customers whose TIN, there could be number of instances where, in invoices tax is charged separately but invoices are cash invoices. Even in respect of tax invoices also customer wise TIN may not be available. It is not obligatory on the seller to incorporate and keep record of purchaser's TIN. Therefore, in most of the cases TIN would not be available. Therefore, the details of sales of goods to customers, for whom TIN is not available cannot be complied and given in the Annexure. If Vat auditor comes across a situation wherein in sales invoices tax is charged separately but TIN of the purchaser is not available, then the information be given to the extent possible with suitable disclosures expressing inability to give information about non-availability of TIN number. It may also be noted that keeping a record of customers TIN is not prescribed either under Act or Rule. Thus, no comments about maintenance of sales Tax related record in this regard are called for.

2.5 The information is to be given before deduction of any claim on account of goods returns, rejection, and discount given by way of Credit Note, etc. since information for such claim is to be given

separately in Section 3. Similarly, sales value need not be increased for Debit Notes, etc. issued for sales as that information is also called for separately. The discounts given in the bill so as to arrive at net sales value for charging vat would be net taxable value. Thus, in respect of such discounts, no adjustment be made.

3. Supplier wise Vat Purchases (Section 2)

3.1 In section 2, information is to be given in respect of purchases of goods on which Vat is charged separately. The discussion above in respect of customer wise Vat sales may be taken into consideration while reporting the requirement. Foot notes to this section and foot notes to section 1 are same. The information is to be given TIN wise showing TIN of supplier, Net Taxable Amount, Input Vat amount charged in bill separately and Gross Amount. These terms are defined similarly on the line of sales.

3.2 It may be noted that the information for purchases of goods is to be given not only of purchases on which set-off is claimed but also of those on which tax is charged separately and not eligible for set-off or no set-off is claimed or determined by the vat auditor. Thus, the vat auditor is required to obtain TIN wise details for all purchase of goods on which tax is charged separately. Therefore, the total amount of net purchases and input Vat amount in this part of annexure should match with total of Section 1 of Annexure E. It is quite possible that the dealer may not have kept any records showing TIN wise details of purchases on which set off is not eligible or not claimed, as the case may be, e.g., expense purchases. Where it is not possible to obtain such details from the dealer or the dealer has not provided such information on which set-off is not claimed or determined, then the Vat Auditor may give details of purchases on which set-off is claimed or determined with appropriate discloser as called for in circular No. 26T dated 18-9-2006. **(Appendix 11)**

3.3 In any case, the Vat Auditor is required to give TIN wise details in section 2 of all purchase of goods on which set off is claimed or determined by him. The total amount of purchases and amount of tax eligible for set-off, mentioned in Schedule, may not be the same as given in section 2, as the details is to be given in this section is for all purchase of goods where tax is charged separately and includes other purchase of goods on which set off is not eligible or not determined by the Vat Auditor, for any reason.

4. Debit Notes/Credit Notes

4.1 In section 3 of the annexure the information is to be given in respect of Debit Note / Credit Notes only when there is a variation in Sale Price of the goods sold, and in Section 4, information is to be given in respect of Credit Note or Debit Note only when there is a variation in purchase price of goods purchased. This information is called where alongwith price there is also variation in tax and such tax is shown separately. As per Section 63(6) (a) of the MVAT Act, where any sale or purchase price varies and the dealer is required to issue credit note or debit note, such credit or debit note should state component of sale or purchase price, as the case may be, and amount of tax, separately.

4.2 The Sale Price/Purchase Price of goods sold/purchased may vary in case of any claim of Price rebate, Discounts, etc. available on the date of sale but not given in sale bills but given by passing Credit Note/ Debit Note subsequently. The information in respect of such Credit Note / Debit Note is to be given in section 3 for sales and in section 4 for purchases. This information is also to be given with TIN of customer/supplier.

4.3 It may be noted that sales price/purchase price may vary not only by debit notes / credit notes issued by the dealer, it is a common practice to make an entry in the books on the basis of debit notes/credit notes issued by the customer/supplier. Some time these entries are also taken without any formal debit/credit notes issue either by the dealer or by the customer / supplier but with other supporting documents in which the impact of Vat is known separately for example a letter, communication/accepting deduction alongwith Vat details. Therefore, vat auditor will have to give this information also.

4.4 In order to avoid overlapping of information, it is suggested that in section 3 the information be given under following heading.

(1) Debit notes issued by the dealer to customer.

(2) Credit notes issued by the dealer to customer.

(3) Debit notes issued by the customer to the dealer for which no corresponding credit notes are issued by the dealer.

(4) Credit notes issued by the customer to the dealer for which no corresponding debit notes are issued by the dealer.

(5) Adjustment without any formal debit notes/credit notes issued by the dealer but based upon other documentary evidence sent and acknowledged by the customer / suppliers.

(6) Adjustment without any formal debit notes/credit notes issued by the dealer but based upon other documentary evidence received from the customer/supplier.

Same method can be adopted while reporting information in Section 4.

❑❑❑

ANNEXURE K

CHAPTER XXX

Reconciliation of Gross Turnover of Sales and Purchases

1. In Annexure K, the Vat Auditor is required to give Gross Turnover of Sales and Purchases along with reconciliation with amount of sales and purchases as per Profit and Loss Account, Trial Balance, Sales and Purchase Register.

2. The total turnover of sales and purchases as per sales tax law and final accounts is different. In final accounts sales may be shown exclusive of taxes, net of goods return and discounts etc. The sale of misc. goods may be shown under the head of Misc. income or sundry receipts. The amount of purchases of goods may be shown in final accounts net of sale of raw material, if any and excluding duties and taxes.

3. The total sales and purchases under the sales tax law is inclusive of all taxes and duties and before deducting goods return. Not only that, any sale or purchase of any goods credited to or debited to profit and loss account including sale/purchase of fixed assets is also required to be included in Gross Turnover of sales and purchases. In earlier chapters it is explained as to how to determined Gross Turnover of sales and purchases with starting point of Profit and Loss A/c. The illustrative and not an exhaustive check list for determination of total sales and purchases and it's reconciliation with final accounts is given for guidance to the vat auditor in appendix 8 please note. The vat auditor may take help from the checklist. This check list itself will be a reconciliation and can be reproduced as Annexure A. However, vat audit may adopt any other format.

4. In case of final accounts includes sales and purchases of goods for other places of business outside the State of Maharashtra, the trial balance for business in Maharashtra is required to attach with Vat Audit report. In such a case the gross sales and purchases as determined in Vat Audit report is to be reconciled with such Trial Balance. If sales and purchase registers are maintained then it should be reconciled with such sales and purchase register also. It is also an experience, in case of multi-State operators, that it is not possible to draw a separate trial balance for Maharashtra but it is possible to note total sales/purchases as per sales and purchase register. In total sales, reconciliation be done with various registers and same be given with proper disclosures.

❑❑❑

APPENDICES

Appendix 1

VAT AUDIT REPORT FORM 704

COMMISSIONER OF SALES TAX, MAHARASHTRA STATE.

Vikrikar Bhavan, Mazgaon, Mumbai-400 010.

Dated: the 26th August, 2009.

NOTIFICATION

MAHARASHTRA VALUE ADDED TAX ACT, 2002.

No. VAT/AMD-1009/IB/Adm-6:- In exercise of the powers conferred by sub-rule (2) of Rule 17A of the Maharashtra Value Added Tax Rules, 2005 (hereinafter referred to as "principal Rules"), the Commissioner of Sales Tax, Maharashtra State hereby notifies that,-

For the Form-704 appended to the principal Rules the following Form shall be substituted, namely:-

[1]"FORM-704"

(See rule 65 and sub-rule (1) and (2) of Rule 17A)

The Audit Report under the Maharashtra Value Added Tax Act, 2002.

INSTRUCTIONS

(Please read the instructions carefully before preparing the report)

1. This form is to be used in respect of all accounting periods starting on or after 1st April 2008.

2. The Audit Report is to be submitted by all the dealers to whom the provisions of Section 61 of the MVAT Act, 2002 apply. Non-filing of Audit Report within prescribed time is an offence.

3. Only those documents which are required under the Audit report should be enclosed with this report.

4. Do not leave any field or box blank. In case any field or box is not applicable, enter '0' (zero) in numerical fields and write 'N.A' for 'Not Applicable'.

5. This Audit report is divided in three parts, which are as under:-

Sr. No.	*Part*	*Particulars*
1	**Part-1**	is related to verification and certification, computation of tax liability and recommendations to the dealer.
2	**Part-2**	is related to general information about the dealer under audit.
3	**Part-3**	is about the various Schedules and Annexures.

6. All Parts of this report are mandatory for all the dealers. In the third part, the respective schedules and Annexures applicable to the dealer should be filled up. Third part of the report is linked with the type of return(s) required to be filed by the dealer as shown in following table and be verified accordingly.

1. Substituted by Notification No. VAT/AMD-1009/IB/Adm-6, dated 26th August, 2009.

Relevant Schedules applicable, as per type of return:

Sr. No.	Type of Return filed	*Relevant Schedule*
1	Form 231	Schedule I
2	Form 232	Schedule II
3	Form 233	Schedule III
4	Form 234	Schedule IV
5	Form 235	Schedule V
6	Form III E (CST)	Schedule VI
7	Dealer filing different types of returns (as mentioned in Sr. No. 1 to 5 above)	Different combinations of Schedules as applicable depending upon the types of returns filed

7. Instructions for filling information in the return(s) remain applicable for respective items of the schedules. If, while filing returns, these instructions have not been followed, the auditor should ensure that they are followed while preparing the audit report. In other words the auditor should use required schedule as per the activity of the dealer.

8. If the books of account are audited under the provisions of the Income Tax Act, 1961 then the Auditor should obtain the certified Financial Statement and should strike off certification under Para-1(B) and 1(C) in Part-1. In case books of account are audited under any other Act but not under the Income Tax Act, 1961 then the Auditor should obtain the certified Financial Statement audited under that Act and should strike off certification under Para 1(A) and 1(C). In other cases the Auditor should obtain Financial Statement duly certified by the dealer and should strike of Para 1(A) and 1(B) in Part-1.

9. No part of the certifications in Para 2B of part-1 shall be modified. If auditor has to give negative certification it should be given in Para-3 of Part-1 along with the reasons for the same.

10. Wherever difference is found between amount as per returns and amount as per Audit, same should be shown in respective schedules. Amount of additional tax liability for wanting declarations/certificates should be given in Annexure-H for the Declaration in Form-H and for any other declarations or certificates in Annexure-I. This information should also be given in **row xiv)** of Table No.- 2 and row xi) of Table-3, Para-4 of Part-1. This is essential to make the report complete and transparent. It will also prevent avoidable queries by the Department.

11. If more than one schedule is required to be filled then the auditor may attach as far as possible a separate annexure to each schedule. However a common annexure can be filled for all such Schedules. If so, then all figures in all schedules need to be synchronized with annexure. The different types of annexures attached to the report are as under:—

(a) **Annexure-A** is about the details of returns filed and amount of tax paid as per returns or paid by separate challan under MVAT Act and interest calculation thereon. It also provides details of Refund Adjustment Order issued and amount adjusted against the tax payable for the period under Audit.

(b) **Annexure-B** is about the details of returns filed and amount of tax paid as per returns or by separate challan interest calculation thereon under CST Act corresponding to schedule-VI. It also provides details of Refund Adjustment Order issued and amount adjusted against the tax payable under the period of Audit.

(c) **Annexure-C** is about the tax deducted at source from the dealer by an employer.

(d) **Annexure-D** is about the tax deducted at source by the dealer as an employer.

(g) **Annexure-E** is about the details of purchases on which the set-off is claimed by the dealer. It further provides for determination of reduction of set-off according to various rules.

(h) **Annexure-F** provides for financial ratios for the period under audit and other information. If the dealer has multi state activities, then the ratios related to gross and net profit may be given for entire business of entity and other ratios should be given at state level.

(i) **Annexure-G** The annexure seeks information about the purchases exceeding Rs. 5 Lakhs from the new local supplier on which set-off is claimed.

(j) **Annexure-H** is about the details of declarations or certificates in Form-H not received for the period under Audit under the MVAT Act, 2002.

(k) **Annexure-I** is about declarations and certificates other than Form-H not received under the CST Act, 1956.

(l) **Annexure-J** is about the dealer-wise information of sales and purchases effected during the period under Audit.

(m) **Annexure-K** is about determination of Gross Turnover of Sales and Purchases along with reconciliation with Profit and Loss Account, Trial Balance/Sales and Purchase register. Further, the auditor should give his material remarks at Para 5 of Part-1 and qualifications having the impact on the tax liability in brief, wherever applicable.

12. If the dealer has multi-state activities then Trial Balance in relation to the business Activities in Maharashtra should be attached.

13. Wherever prescribed documents are not made available to the auditor or same are insufficient and incomplete then the tax liability is to be computed as required by law. The differential tax liability on account of non-receipt of declarations/ certificates should be shown in Para-4, Part-1,—

(i) under MVAT Act, in Table No. 2 at serial number-xiii, and

(ii) under CST Act in Table No. 3 at serial number-xi.

14. The auditor should certify the Annexures. Further, the Auditor should also give material reasons for additional Tax liability, if any. The dealer may accept the Auditors finding and discharge the liability if any, worked out by the Auditor either fully or partly.

15. In the certification given in Part-1 at Sr. No. 2(h) the auditor should reasonably satisfy himself about the genuineness of purchases on which set-off is claimed.

16. The Activity Codes are generally used to classify the commodities on the lines of the economic activities. It is published by International Standard Industries Classification. The same activity codes are adopted by the National Industrial Classification. These Activity codes are to be used to fill up the information in Part-2, Table 3. These Activity Codes are available at the Departments Web-site i.e., www.mahavat.gov.in

17. Auditor should put his seal and sign on every page of the Audit Report.

18. It is mandatory for the Auditor to visit the principal place of business or the place where major business activities are carried out.

19. Where dealer is required to maintain the records about the sales, purchases, Imports and Exports under Central Excise Act, 1944, the Customs Act, 1962 or under the State Excise Act in such cases the Auditor should invariably correlate the details of sales, purchases, Imports and Exports disclosed under the said Acts and disclosed under MVAT Act, 2002. Any material difference noticed should be reported at Para 5 of Part-1 accordingly.

FORM – 704

(See rule 65)

Audit report under section 61 of the Maharashtra Value Added Tax Act, 2002.

PART 1
AUDIT REPORT AND CERTIFICATION

PERIOD UNDER AUDIT	FROM							TO						

1. The audit of M/s....., holder of Tax Payer Identification Number ..... under the Maharashtra Value Added Tax Act, 2002 (hereinafter referred to as "the MVAT Act") and Tax Payer Identification Number..... under the Central Sales Tax Act, 1956 (hereinafter referred to as "the CST Act") is conducted by (*) me/us (Chartered accountants/cost accountant) in pursuance of the section 61 of the MVAT Act.

1(A) **(*)** The Tax Audit under the provisions of the Income Tax Act, 1961 was conducted by (*) me/us/M/s. _____ _____ Chartered Accountants. We hereby annex a copy of our/their Tax Audit Report dated _____ alongwith all the annexures to those reports and copies each of:—

(a) the audited (*) Profit And Loss Account/Income And Expenditure Account for the year ended on _____;

(b) The audited balance sheet as at _____;

OR

1B. **(*)** The Tax Audit of the dealer under the provisions of the Income Tax Act, 1961 has not been conducted but the Statutory audit is conducted under _____ Act. Therefore, we have obtained the Audit Report, Balance Sheet as at _____ and the Profit and Loss Account/Income and Expenditure A/c. for the financial year ended on _____ and the same are annexed herewith.

OR

1C. **(*)** The dealers books of account are not audited under any statute.

Therefore, we have obtained the Balance Sheet as at _____ and the Profit and Loss Account/Income and Expenditure A/c. for the financial year ended on _____ duly certified by the dealer and the same are annexed herewith.

Maintenance of books of account, sales tax related records and preparation of financial statements are the responsibilities of the entity's management. Our responsibility is to express an opinion on their sales tax related records based on our audit. We have conducted our audit in accordance with the standard auditing principles generally accepted in India. These standards require that we plan and perform the audit to obtain reasonable assurance about whether the sales tax related records and financial statements are free from material mis-statement(s).

The audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates by management as well as evaluating the overall financial statements presentation. We believe that our audit provides a reasonable basis for our opinion.

2(A). I/we have verified correctness of the tax liability of the dealer in respect of below mentioned sales tax returns.

Table 1

<table>
<tr><th>Sr. No.</th><th colspan="5">Particulars</th></tr>
<tr><td rowspan="2">1</td><td rowspan="2">Dealer is required to file returns (Tick appropriate Box)</td><td>Monthly</td><td>Quarterly</td><td>Six monthly</td><td>Annual For Deemed Dealers</td></tr>
<tr><td></td><td></td><td></td><td></td></tr>
<tr><td>2</td><td>Dealer has filed all the returns as per given frequency.</td><td colspan="4">Yes ☐ No ☐</td></tr>
<tr><td>3</td><td>Dealer has maintained stock register.</td><td colspan="4">Yes ☐ No ☐</td></tr>
<tr><td rowspan="2">4.</td><td rowspan="2">Verification of the Returns for the period under Audit</td><td colspan="2">FROM</td><td colspan="2">TO</td></tr>
<tr><td colspan="2">☐☐☐☐☐☐☐</td><td colspan="2">☐☐☐☐☐☐☐</td></tr>
<tr><td rowspan="4">5</td><td rowspan="4">Returns verified (Please tick the appropriate box)</td><td colspan="4">(a) (i) Returns under the Maharashtra Value Added Tax Act, 2002. ☐</td></tr>
<tr><td colspan="4">(ii) Return in Form 405 ☐</td></tr>
<tr><td colspan="4">(b) Returns under the Central Sales Tax Act, 1956. ☐
(i) The dealer has filed returns only for the period in which there is inter-State sales or sales u/s. 5(2) or 5(3).</td></tr>
<tr><td colspan="4">(ii) Since there are no inter-State sales or sales u/s. 5(2) or 5(3) in other periods, the dealer has/has not filed returns for such periods.</td></tr>
</table>

2(B) Subject to *my/our remarks about non-compliance, shortcomings and deficiencies in the returns filed and tax liability computed and presented in respective schedules and Para-4 of this Part, I/We certify that,—

(a) 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 the audit.

(b) *I/We have read and followed the instructions for preparation of this audit report. Considering the nature of business of the dealer and the Form in which the dealer is expected to file return(s), we give the information as required in Part-3 in Schedule I/II/III/IV/V/VI (score out whichever is not applicable) along with the applicable annexure(s).

(c) The books of account and other sales tax related records and registers maintained by the dealer alongwith sales and purchase invoices as also Cash Memos and other necessary documents are sufficient for computation the tax liability under the MVAT Act and the CST Act.

(d) The gross turnover of sales and purchases, determined by us, includes all the transactions of sales and purchases concluded during the period under audit.

(e) The adjustment to turnover of sales and or purchases is based on entries made in the books of account during the period under Audit and same are supported by necessary documents.

(f) The deductions claimed from the gross turnover of sales and other adjustments thereto including deduction on account of goods return, adjustments on account of discounts as also debit/credit notes issued or received on account of other reasons, are supported by necessary documents and are in conformity with the provisions of the relevant Act.

(g) Considering the schedule and entry wise classification of goods sold, classification of exempted sales, sales at reduced rates are correct. The tax leviable on sales is properly computed by applying applicable rate of tax and/or composition tax.

(h) Computation of set-off admissible in respect of purchases made during the period under Audit and adjustments thereto are correct. While ascertaining the correctness, *I/We have taken into account the factors such as goods returned, adjustments on account of discounts as also debit/credit notes issued or received on account of other reasons and these claims and adjustments are supported by necessary documents. The set-off is worked out only on the basis of tax invoices in respect of the purchases.

(i) Wherever the dealer has claimed sales against the declarations or certificates; except as given in Annexure-H and Annexure-I, all such declarations and certificates are produced before me. I/we have verified the same and they are in conformity of the provisions related thereto.

(j) Computation of Cumulative Quantum of Benefits (CQB), wherever applicable, is in conformity with the provisions of the Act in this regard.

(k) The records related to the receipts and dispatches of goods are correct and properly maintained.

(l) The tax invoices in respect of sales are in conformity with the provisions of law.

(m) The Bank statements have been examined by *me/us and they are fully reflected in the books of account.

(n) *I/we certify that *I/we have visited the principal place of business or a place of business from where major business activity is conducted by the dealer. The dealer is conducting his business from the place/places of business declared by him as his principal place of business/and the additional place of business.

(o) Due professional care has been exercised while auditing the business and based on my observations of the business processes and practices, stock of inventory and books of account maintained by the dealer, I fairly conclude that,—

(i) dealer is dealing in the commodities mentioned in the Part-2 of this report;

(ii) sales tax related records of the dealer reflects true and fair view of the volume and size of the business for period under audit.

(p) I have verified that the purchases effected by the dealer in respect SEZ Unit of the dealer are used in the said Unit.

3. Out of the aforesaid certificates; the following certificates are negative for the reasons given hereunder:-

(a) _____

(b) _____

(c) _____

(d) _____

(e) _____

COMPUTATION OF TAX LIABILITY AND RECOMMENDATIONS

4. Computation of tax liability as per Audit:—

A summary of the additional or reduced tax liability payable by the dealer and/or additional or reduced refund due to the dealer, arising on verification of sales tax returns together with books of account and other related records mentioned herein above, for the period under audit is as follows:

Table 2
UNDER MAHARASHTRA VALUE ADDED TAX ACT, 2002.

Sr. No.	*Particulars*	*Amount as per returns (Rs.)*	*Amount as determined after audit (Rs.)*	*Difference (Rs.)*
1	*2*	*3*	*4*	*5*
i)	Gross Turn-Over of Sales, including taxes as well as Turn-over of Non-Sales Transactions like Value of Branch Transfers/Consignment Transfers and job work charges			
ii)	**Less**:- Total allowable Deductions			
iii)	Balance Net Turn-over liable for Tax			
iv)	Tax leviable under the M.V.A.T. Act, 2002.			
v)	Excess collection under M.V.A.T. Act, 2002.			
vi)	**Less:** Credits available on account of following:			
	(a) Set-off claimed:			
	(b) Amount of tax paid under MVAT Act as per ANNEXURE-A (including interest)			
	(c) Credit of tax as per tax deduction at source certificates (As per ANNEXURE-C).			
	(d) Any other _____ (please specify)			
vii)	**Total credits [(a) to (d) above)] available**			
viii)	**Add/Less:-** Any other _____ _____ (please specify)			
ix)	**Total amount payable/refundable**			
x)	**Total Amount of Tax Deferred**			

Sr. No.	*Particulars*	*Amount as per returns (Rs.)*	*Amount as determined after audit (Rs.)*	*Difference (Rs.)*
1	*2*	*3*	*4*	*5*
xi)	**Less** : Refund adjusted for payment of tax under the Central Sales Tax Act, 1956.			
xii)	**Less** : Refund already granted to dealer			
	Balance Tax Payable/Refundable **Add :**			
	(i) Interest u/s. 30(2)			
	(ii) Interest u/s. 30 (4)			
xiii)	**Total Amount Payable/Refundable.**			
xiv)	**Differential tax liability for non-production of declaration / certificate as per Annexure-H.**			

TABLE 3
UNDER CENTRAL SALES TAX ACT, 1956.

Sr. No.	*Particulars*	*Amount as per returns (Rs.)*	*Amount as determined after audit (Rs.)*	*Difference (Rs.)*
1	*2*	*3*	*4*	*5*
i)	Gross Turn-over of Sales (as per Sch. VI)			
ii)	**Less**:- Total Deductions available			
iii)	Balance Net Turn-over liable for Tax			
iv)	CST leviable under the Central Sales Tax Act, 1956 subject to production of declarations listed in Annexure-I.			

Sr. No.	*Particulars*	*Amount as per returns (Rs.)*	*Amount as determined after audit (Rs.)*	*Difference (Rs.)*
1	*2*	*3*	*4*	*5*
v)	**Less :** Credits available on account of followings:			
	(a) Amount of tax paid under the CST Act ANNEXURE-B (including interest)			
	(b) MVAT refund adjusted (if any)			
vi)	**Add/Less** : Any other (Please specify)			
vii)	Balance of tax payable/Refundable)			
viii)	**Add:**			
	(a) Interest u/s 9(2) read with Section 30(2) of MVAT Act.			
	(b) Interest u/s 9(2) read with Section 30(4) of MVAT Act.			
ix)	**Total Dues Payable/Refundable**			
x)	Excess Central Sales Tax Collection			
xi)	Differential CST liability for want of declaration as worked out in Annexure-I.			

Table 4
CUMULATIVE QUANTUM OF BENEFITS AVAILED

Sr. No.	*Particulars*	*Amount as per returns (Rs.)*	*Amount as determined after audit (Rs.)*	*Difference (Rs.)*
1	*2*	*3*	*4*	*5*
i)	Under the Maharashtra Value Added Tax Act, 2002.			
ii)	Under the Central Sales Tax Act, 1956.			
	TOTAL			

Table 5
The main Reasons for additional Dues or Refund
(Tax and interest thereon)

Sr. No.	*Reasons for additional Dues (Tax)*	*Additional Dues*	
		VAT	*CST*
1.	Difference in Taxable Turn-over		
2.	Disallowance of Branch/Consignment Transfers		
3.	Disallowance of Inter-State sales or sales under section 6(2) of CST Act.		
4.	Disallowance of High-seas Sales		
5.	Additional Tax liability on account of Non-production of Declarations and Certificates.		
6.	Computation of Tax at Wrong rate		
7.	Excess claim of set-off or Refund.		
8.	Disallowance of other Non-admissible claims. (Please Specify)		
	(a) _____		
	(b) _____		
9	**TOTAL DUES PAYABLE**		
10	**Amount of interest payable (To be calculated form due date to the date of Audit)**		
11	**TOTAL AMOUNT PAYABLE**		

5. Qualifications or remarks having impact on the tax liability:-

(a) _____

_____

(b) _____

_____

(c) _____

_____

6. Dealer has been recommended to:-

Sr. No.	*Particulars*	*MVAT (Rs.)*	*CST (Rs.)*
1	*2*	*3*	*4*
i)	Pay additional tax liability of Rs.		
ii)	Pay back excess refund received of Rs.		
iii)	Claim additional refund of Rs.		
iv)	Reduce the claim of refund of Rs.		
v)	Reduce tax liability of Rs.		
vi)	Revise closing balance of CQB of Rs.		
vii)	Pay interest under-section 30(2) of Rs.		
viii)	Pay interest under-section 30(4) of Rs.		

For *Chartered Accountants/Cost Accountants								
Name *(Proprietor/Partner)								
Membership Number								
Address:								

Encl.:-

1. Statutory Audit Report and its Annexures **Yes/No ***
2. Tax Audit Report under the Income Tax Act, 1961. **Yes/No ***
3. Balance Sheet and Profit & Loss Account/Income and Expenditure Account. **Yes/No ***
4. In case dealer is having multi-State activities the Trial Balance for the business activities in Maharashtra. **Yes/No ***

***Strike out whichever is not applicable**

FORM – 704
(See rule 65)
Audit report under section 61 of the Maharashtra Value Added Tax Act, 2002.

PART 2
GENERAL INFORMATION ABOUT THE DEALERS BUSINESS ACTIVITIES

1.	**General informmation:-**		
A.	**(1)**	Period under the Audit	**FROM** | **TO**
	(2)	Tax payers Identification Number under MVAT Act, 2002.	**V**
	(3)	Registration Number under CST Act, 1956.	**C**
	(4)	Permanent Account Number under Income Tax Act, 1961.	
B.	**(1)**	Name of the Dealer as appearing on the Registration Certificate.	M/s._____
	(2)	Trade Name (If any):-	M/s._____
	(3)	Address of the Business (To be given only if there is change in the Address during the period as compared with the Registration Certificate):-	M/s._____
	(4)	Additional place of business:- (To be given only if there is change in the Address during the period as compared with the Registration Certificate):-	M/s._____
	i)		
	ii)		
	iii)		

C.	RELATED INFORMATION UNDER OTHER ACTS	
	(1) R. C. Number under P.T. Act, 1975.	
	(2) Date of Effect of R.C. under PT Act	**D D M M Y Y**
	(a) Profession Tax Returns filed for the period under Audit	**Yes** ☐ **No** ☐
	(b) Payments are made as per Returns (Please Tick appropriate Box).	**Yes** ☐ **No** ☐
	(3) E. C. Number under P.T. Act, 1975	
	(4) Date of Effect of E.C. under PT Act	**D D M M Y Y**
	(5) The Profession Tax under above E.C. has been paid for the period under Audit (Please Tick appropriate Box)	**Yes** ☐ **No** ☐
	(6) R. C. Number under Luxury Tax Act, 1987.	
	(7) (a) Returns are filed under the Luxury Tax Act, 1987 for the period under Audit	**Yes** ☐ **No** ☐
	(b) Payments are made as per Returns (Please Tick appropriate Box).	**Yes** ☐ **No** ☐
	(8) R.C. Number Entry Tax on Goods Act, 2002, if any.	
	(9) R.C. Number under Sugarcane Purchase Tax Act, 1962, if any.	
	(10) Eligibility Certificate Number, if any.	

	(11) Entitlement Certificate Number, if any	
	(12) ECC Number under Central Excise Act, if any.	
	(13) Import Export Code given by DGFT, if any	
	(14) Service Tax Registration Number, if any	
2.	**BUSINESS RELATED INFORMATION**	
A.	(1) Specify the divisions or units for which separate books of account are maintained	_____ _____ _____
	Identity of division or unit	
	i)	
	ii)	
	iii)	
B.	Business Activity in Brief	
C.	Commodity Dealt in (5 major commodities)	
D.	Address of the Place of Business of the dealer where books of account are kept	_____ _____ _____
E.	**[i]** Name and version of accounting software used	
	[ii] Change in accounting software, if any	
F.	The following are the major changes made during the period of review -	Short description of change
	(i) Change in the method of valuation of stock	
	(ii) Changes in the accounting system	
	(iii) Change in product line	

	(iv) New business activity											
	(v) Other changes, if any [please specify]											
G.	Nature of business (Please tick one or more appropriate boxes, as applicable											
	Manufacture		Restaurant		Reseller		Wholesaler					
	Retailer		Bakery		Importer		Liquor Dealer					
	Works contractor		PSI Unit		Job worker							
	Franchisee Agent		Mandap Decorator									
	Motor Vehicle Dealer		Second Hand Motor Vehicle Dealers									
	Other (Please Specify)											
H.	**Constitution of the Business (Please tick the appropriate)**											
	Proprietary	Trust	Partnership	HUF	Pvt. Ltd. Co.							
	Public Ltd. Co.	Co-operative Society	Others (Please specify									
I.	Working capital employed by the entity (Difference between current assets and current liabilities) - as on the last day of the period under audit.	Rs. _____ (in lakhs)										
3.	**ACTIVITY CODE**											
	Activity Code						**Activity Description**	**Turn-over (Rs.)**	**Rate of Tax**	**Tax**		

4.	Particulars of the Bank Account(s) maintained during the period under Audit			
	Sr. No.	**Name of the Bank**	**Branch BSR Number (Give Branch Address, if BSR Code not known)**	**Account Number(s)**

AUDIT REPORT
PART 3
SCHEDULE I

1 Computation of Net Turnover of Sales liable to tax				
Sr. No.	***Particulars***	***As per Returns (Rs.)***	***As per Audit (Rs.)***	***Difference (Rs.)***
1	*2*	*3*	*4*	*5*
a)	Gross Turn-over of Sales, including taxes as well as Turnover of Non-sales Transactions like Value of Branch Transfers/Consignment Transfers and job work charges			
b)	**Less: -** Turn-over of Sales (including taxes thereon) including inter-State Consignment Transfers and Branch Transfers Covered under Schedule II, III, IV or V.			
c)	**Balance**:- Turnover Considered under this Schedule (a-b)			
d)	**Less:-**Value of Goods Return (inclusive of tax), including reduction of sale price on account of rate difference and discount.			
e)	**Less:-** Net Tax amount (Tax included in sales shown in (a) above less Tax included in (b) and (d) above).			
f)	**Less:-**Value of Branch Transfers/ Consignment Transfers within the State if tax is to be paid by an Agent.			
g)	**Less:-**Sales u/s. 8(1) i.e. Inter-State Sales including Central Sales Tax, Sales in the course of Imports, Exports and value of Branch Transfers/Consignment transfers outside the State. **(Turnover covered under Schedule-VI).**			
h)	**Less:-**Sales of tax-free goods specified in Schedule "A" of MVAT Act.			

Sr. No.	*Particulars*	*As per Returns (Rs.)*	*As per Audit (Rs.)*	*Difference (Rs.)*
1	*2*	*3*	*4*	*5*
i)	**Less:-**Sales of taxable goods fully exempted u/s. 8 other than sales under section 8(1) and **covered in Box 1(g) above.**			
j)	**Less:- Job work Charges or Labour charges.**			
k)	**Less:-** Other allowable deductions, if any (Please specify)			
l)	**Balance: - Net Turnover of Sales liable to tax (c) – (d+e+f+g+h+i+j+k)**			

2. Computation of tax payable under the MVAT Act

Sr. No.	*Rate of tax (%)*	*As per Returns*		*As per Audit*		*Difference in Tax Amount*
		Turnover of sales liable to tax (Rs.)	*Tax Amount (Rs.)*	*Turnover of sales liable to tax (Rs.)*	*Tax Amount (Rs.)*	
1	*2*	*3*	*4*	*5*	*6*	*7*
a)	25.00					
b)	20.00					
c)	12.50					
d)	4.00					
e)	1.00					
f)						
g)						
TOTAL						

2A	**Sales Tax collected in Excess of Amount of Tax payable**	*As per Returns (Rs.)*	*As per Audit (Rs.)*	*Difference (Rs.)*

3.	**Computation of Purchases Eligible for Set-off**			
Sr. No.	*Particulars*	*As per Returns (Rs.)*	*As per Audit (Rs.)*	*Difference (Rs.)*
a)	Total Turnover of Purchases including taxes, value of Branch Transfers/ consignment transfers received and Labour/job work charges.			
b)	**Less:-** Turnover of Purchases Covered under Schedule II, III, IV or V			
c)	**Balance:- Turnover of Purchases Considered under this Schedule (a-b)**			
d)	**Less:-**Value of Goods Return (inclusive of tax), including reduction of purchase price on account of rate difference and discount.			
e)	**Less:-**Imports (Direct imports)			
f)	**Less:-**Imports (High seas purchases)			
g)	**Less:-**Inter-State purchases			
h)	**Less:-**Inter-State Branch Transfers/ Consignment Transfers received			
i)	**Less:-**Within the State Branch Transfers/ Consignment Transfers received where tax is to be paid by an Agent			
j)	**Less:-**Within the State purchases of taxable goods from un-registered dealers			
k)	**Less:-**Purchases of the taxable goods from registered dealers under MVAT Act, 2002 and which are not eligible for set-off			
l)	**Less:-**Within the State purchases of taxable goods which are fully exempted from tax u/s. 8 but not covered under section 8(1)			
m)	**Less:-**Within the State purchases of taxfree goods specified in Schedule "A"			
n)	**Less:-**Other allowable deductions/ reductions, if any. **(Please Specify)**			

Sr. No.	*Particulars*	*As per Returns (Rs.)*	*As per Audit (Rs.)*	*Difference (Rs.)*
o)	**Balance: Within the State purchases of taxable goods from registered dealers eligible for set-off (c) – (d+e+f+g+h+i+j+k+l+m+n)**			

4.	**Tax rate wise break-up of Purchases from registered dealers eligible for set-off as per Box 3(o) above**					
Sr. No.	*Rate of tax (%)*	*Net Turn over of Purchases Eligible for Set-Off (Rs.)*	*Tax Amount (Rs.)*	*Net Turn over of Purchases Eligible for Set-Off (Rs.)*	*Tax Amount (Rs.)*	*Difference in Tax Amount*
1	*2*	*3*	*4*	*5*	*6*	*7*
a)	25.00					
b)	20.00					
c)	12.50					
d)	4.00					
e)	1.00					
f)						
g)						
TOTAL						

5)	**Computation of Set-off claimed**					
Sr. No.	*Particulars*	*As per Return*		*As per Audit*		*Difference in Tax Amount (Rs.)*
		Purchase Value Rs.	*Tax Amount*	*Purchase Value Rs.*	*Tax Amount*	
a)	Within the State purchases of taxable goods from registered dealers eligible for set-off as per **Box 4** above					
b)	**Less**: - Reduction in the amount of Set-off u/r. 53(1) of the corresponding purchase price of (Schedule C, D & E) the goods					

Sr. No.	*Particulars*	*As per Return*		*As per Audit*		*Difference in Tax Amount (Rs.)*
		Purchase Value Rs.	*Tax Amount*	*Purchase Value Rs.*	*Tax Amount*	
	Less: - Reduction in the amount of Set-off u/r. 53 (2) of the of the corresponding purchase price of (Schedule B, C, D & E) the goods					
c)	**Less**: - Reduction in the amount of Set-off under any other Sub-rule of rule					
d)	**Amount of Set-off available (a) – (c+b)**					

6)	**Computation of Tax Payable**			
	Particulars	*As per Returns (Rs.)*	*As per Audit (Rs.)*	*Difference (Rs.)*
6A)	**Aggregate of credit available for the period covered under Audit.**			
1	2	3	4	5
a)	**Set-off available as per Box 5 (d)**			
b)	Amount already paid **(Details as Per ANNEXURE-A)**			
c)	Excess Credit if any, as per Schedule II, III, IV, or V to be adjusted against the liability as per this Schedule			
d)	Adjustment of ET paid under Maharashtra Tax on Entry of Goods into Local Areas Act, 2002/Motor Vehicle Entry Tax Act, 1987.			
e)	Amount Credited as per Refund adjustment order **(Details As Per ANNEXURE-A)**			
f)	Any other (Please Specify)			
g)	**Total Available Credit (a+b+c+d+e+f)**			

6B)	**Sales tax payable and adjustment of CST/ET payable against available credit**			
a)	**Sales Tax Payable as per Box 2**			
b)	Interest Payable under Section 30(2)			
c)	Excess Credit as per this Schedule adjusted on account of M.VAT payable, if any, as per Schedule II, III, IV or V			
d)	Adjustment on account of CST payable as per Schedule VI for the period under Audit			
e)	Adjustment on account of ET payable under the Maharashtra Tax on Entry of Goods into Local Areas Act, 2002/Motor Vehicle Entry Tax Act, 1987.			
f)	Amount of Sales Tax Collected in Excess of the amount of Sales Tax payable, if any, **As per Box 2A**			
g)	**Total Amount (a+b+c+d+e+f)**			
6C)	**Tax payable or Amount of Refund Available**			
1	2	3	4	5
a)	**Total Amount payable as per Box 6B(g)**			
b)	Aggregate of Credit Available as per **Box 6A(g)**			
c)	**Total Amount Payable (a-b)**			
d)	**Total Amount Refundable (b-a)**			

AUDIT REPORT
PART-3
SCHEDULE II

Computation of Net Turnover of Sales liable to Composition				
Sr. No.	*Particulars*	*As per Returns (Rs.)*	*As per Audit (Rs.)*	*Difference (Rs.)*
1	*2*	*3*	*4*	*5*
1)	Gross Turnover of Sales, including taxes as well as Turn-over of Non-Sales Transactions like Value of Branch Transfers/Consignment Transfers and job work charges			
2)	**Less: -** Turnover of Sales (including taxes thereon) including inter-State Consignments and Branch Transfers Covered under Schedule I, III, IV or V			
3)	**Balance**:- Turnover Considered under this Schedule (1-2)			
4)	**RETAILER**			
a)	Total Turn-over of Sales			
b)	**Less**:- Turn-Over of sales of goods excluded from the Composition Scheme			
c)	**Less**:- Other allowable deductions such as Goods Returns etc.			
d)	**Balance: Net Turn-over of sales liable to tax under Composition Scheme (a) – (b+c)**			
5)	**RESTAURANT, CLUB, CATERER ETC.**			
a)	Total Turnover of Sales			
6)	**BAKER**			
a)	Total Turnover of Sales			
7)	**SECOND HAND MOTOR VEHICLES DEALER**			
a)	Total Turn-over of Sales			

Sr. No.	*Particulars*	*As per Returns (Rs.)*	*As per Audit (Rs.)*	*Difference (Rs.)*
1	*2*	*3*	*4*	*5*
b)	**Less**: Allowable deductions			
c)	**Balance: Net Turnover of sales liable to tax under composition option (a – b)**			
8)	**Total Turnover of Sales liable to tax under composition option [4(d) +5(a) +6(a) +7(c)]**			

9)	**Computation of Tax Payable under the MVAT Act**					
Sr. No.	*Rate of tax (%)*	*As per Returns*		*As per Audit*		*Difference in Tax Amount*
		Turnover of sales liable to tax (Rs.)	*Tax Amount (Rs)*	*Turnover of sales liable to tax (Rs)*	*Tax Amount (Rs)*	
1	*2*	*3*	*4*	*5*	*6*	*7*
a)	4.00					
b)	5.00					
c)	6.00					
d)	8.00					
e)						
TOTAL						

10)	**Computation of Purchases Eligible for Set-off**			
Sr. No.	*Particulars*	*As per Returns (Rs.)*	*As per Audit (Rs.)*	*Difference (Rs.)*
a)	Total Turn-over of purchases including taxes, value of Branch Transfers, Consignment Transfers received and Labour/job work charges			
b)	**Less:-**Turn-Over of Purchases covered under Schedule I, III, IV or V			
c)	**Balance:-Turn-Over of Purchases considered under this Schedule (a-b)**			

Sr. No.	*Particulars*	*As per Returns (Rs.)*	*As per Audit (Rs.)*	*Difference (Rs.)*
d)	**Less:-** Value of Goods Return (inclusive of tax), including reduction of purchase price on account of rate difference and discount.			
e)	**Less:-** Imports (Direct imports)			
f)	**Less: -** Imports (High seas purchases)			
g)	**Less: -** Inter-State purchases			
h)	**Less:-** Inter-State Branch Transfers, Consignment Transfers received			
i)	**Less:-** Within the State Branch Transfers, Consignment Transfers received where tax is to be paid by an Agent			
j)	**Less: -** Within the State purchases of taxable goods from un-registered dealers			
k)	**Less:-** Purchases of taxable goods from registered dealers under MVAT Act, and which are not eligible for set-off			
l)	**Less:-** Within the State purchases of taxable goods fully exempted from tax u/s. 8 other than purchases under section 8(1)			
m)	**Less:-** Within the State purchases of tax-free goods specified in schedule "A"			
n)	**Less:-** Other allowable deductions, if any (Please Specify)			
o)	**Balance**: **Within the State purchases of taxable goods from registered dealers eligible for set-off [c]-[d+e+f+g+h+i+j+k+l+m+n]**			

11)	**Tax rate wise break-up of Purchases from registered dealers eligible for set-off as per Box 10(o) above**					
Sr. No.	*Rate of tax (%)*	*Net Turn-over of Purchases Eligible for Set-off (Rs.)*	*Tax Amount (Rs.)*	*Net Turn-over of Purchases Eligible for Set-off (Rs.)*	*Tax Amount (Rs.)*	*Difference in Tax Amount (Rs.)*
1	*2*	*3*	*4*	*5*	*6*	*7*
a)	4.00					
b)	5.00					
c)	6.00					
d)	8.00					
e)						
TOTAL						

12)	**Computation of set-off claimed.**					
Sr. No.	*Particulars*	*As per Returns*		*As per Audit*		*Difference in Tax Amount (Rs.)*
		Purchase Value Rs.	*Tax Amount*	*Purchase Value Rs.*	*Tax Amount*	
a)	Within the State purchases of taxable goods from registered dealers eligible for set off as per **Box 11 above**					
b)	**Less**:- Reduction in the amount of set-off u/r. 53(1) of the corresponding purchase price of (Schedule C, D & E) the goods					
	Less:- Reduction in the amount of set-off u/r. 53(2) of the corresponding purchase price of (Schedule B, C, D & E) the goods					

Sr. No.	*Particulars*	*As per Returns*		*As per Audit*		*Difference in Tax Amount (Rs.)*
		Purchase Value Rs.	*Tax Amount*	*Purchase Value Rs.*	*Tax Amount*	
c)	**Less**:- Reduction in the amount of set-off under any other Sub-rule of rule 53					
d)	**Amount of Set-off available (a) – (c+b)**					

13)	**Computation of Tax Payable**			
Sr. No.	*Particulars*	*As per Returns (Rs.)*	*As per Audit (Rs.)*	*Difference (Rs.)*
13A)	**Aggregate of credit available for the period covered under Audit.**			
a)	Set-off available as per Box 12(d)			
b)	Amount already paid (Details to entered in Annexure-A)			
c)	Excess Credit if any, as per Schedule I, III, IV, or V to be adjusted against the liability as per this Schedule			
d)	Adjustment of ET paid under Maharashtra Tax on Entry of Goods into Local Areas Act, 2002/Motor Vehicle Entry Tax Act, 1987.			
e)	Amount Credited as per Refund adjustment order. **(Details as per Annexure-A)**			
f)	Any other (Please Specify)			
g)	**Total Available Credit (a+b+c+d+e+f)**			

Sr. No.	*Particulars*	*As per Returns (Rs.)*	*As per Audit (Rs.)*	*Difference (Rs.)*
13B)	**Sales tax payable and adjustment of CST/ET payable against available credit**			
a)	Sales Tax Payable as per Box 9			
b)	Excess Credit as per this Schedule adjusted on account of M.VAT payable, if any, as per Schedule I, III, IV or V			
c)	Adjustment on account of CST payable as per Schedule VI for the period under Audit			
d)	Adjustments on account of ET payable under the Maharashtra Tax on Entry of Goods into Local Areas Act, 2002/Motor Vehicle Entry Tax Act, 1987.			
e)	Amount of Sales Tax Collected in Excess of the amount of Sales Tax payable, if any (As per Box 6A)			
f)	Interest Payable under Section 30(2)			
g)	**Total Amount (a+b+c+d+e+f)**			
13C)	**Tax payable or Amount of Refund Available**			
a)	**Total Amount payable as per Box 13B(g)**			
b)	**Aggregate of Credit Available as per Box 13A(g)**			
c)	**Total Amount Payable (a-b)**			
d)	**Total Amount Refundable (b-a)**			

AUDIT REPORT
PART-3
SCHEDULE III

1.	**Part A — Computation of Net Turnover of Sales liable to tax**			
Sr. No.	*Particulars*	*As per Returns (Rs.)*	*As per Audit (Rs.)*	*Difference (Rs.)*
1	*2*	*3*	*4*	*5*
a)	Gross turnover of sales including, taxes as well as turnover of non sales transactions like value of Branch Transfer, Consignment Transfers, job work charges etc.			
b)	**Less:-** Turn-over of Sales (including taxes thereon) including inter-State Consignments and Branch Transfers Covered under Schedule I, II, IV or V			
c)	**Balance:- Turn-over Considered under this Schedule (a-b)**			
d)	**Less:-**Value of Goods Returns (inclusive of tax), including reduction of sales price on account of rate difference and discount.			
e)	**Balance:-** Turnover of sales including, taxes as well as turnover of non-Sales transactions like value of Branch Transfer, Consignment Transfers, job work charges etc **[(c)-(d)]**			
f)	**Less:-**Turnover of sales under composition scheme(s), other than Works Contracts under composition options **(Computation of turnover of sales liable to tax to be shown in Part B)**			
g)	Turnover of sales (excluding taxes) relating to on-going works contracts **(Computation of turnover of sales liable to tax to be shown in Part C)**			
h)	Turnover of sales (excluding taxes) relating to on-going leasing contracts **(Computation of turnover of sales liable to tax to be shown in Part D)**			

Sr. No.	*Particulars*	*As per Returns (Rs.)*	*As per Audit (Rs.)*	*Difference (Rs.)*
1	*2*	*3*	*4*	*5*
i)	**Balance:-** Net turnover of sales including, taxes, as well as turnover of non sales transactions like Branch Transfers/Consignment Transfers and job works charges, etc. **[(e) – (f+g+h)]**			
j)	**Less:-**Net Tax amount (Tax included in sales shown in (a) above less Tax included in (b) and (d) above)			
k)	**Less**:-Value of Branch Transfers/ Consignment Transfers within the State if the tax is to be paid by the Agent.			
l)	**Less**:-Sales u/s. 8 (1) i.e., Inter-State Sales including Central Sales Tax, Sales in the course of imports, exports and value of Branch Transfers/Consignment transfers outside the State (Schedule-VI)			
m)	**Less**:-Sales of taxable goods fully exempted u/s. 8 other than sales under section 8(1) and covered in Box 1(l)			
n)	Non-taxable Labour and other charges/ expenses for Execution of Works Contract			
o)	Amount paid by way of price for sub-contract			
p)	Sales of tax-free goods specified in Schedule A			
q)	**Less**:- Labour/Job work charges			
r)	Other allowable reductions/deductions, if any (Please specify)			
s)	**Total:- Net Turnover of Sales Liable to tax [(i) - (j+k+l+m+n+o+p+q+r)]**			

2.	**Part B — Computation of Net Turnover of Sales liable to tax under Composition:**			
Sr. No.	*Particulars*	*As per Returns (Rs.)*	*As per Audit (Rs.)*	*Difference (Rs.)*
1	*2*	*3*	*4*	*5*
A)	Turnover of sales (excluding taxes) under composition scheme(s) [Same as 1(f)]			
B)	RETAILER			
a)	Total Turnover of Sales			
b)	**Less**:- Turnover of sales of goods excluded from the Composition Scheme			
c)	**Less**:- Allowable deductions such as Goods Return etc.			
d)	**Balance**: Net turnover of sales liable to tax under composition option **[(a) – (b+c)]**			
C)	RESTAURANT, CLUB, CATERER ETC.			
a)	Total turnover of sales			
D)	BAKER			
a)	Total turnover of sales			
E)	SECOND HAND MOTOR VEHICLES DEALER			
a)	Total turnover of sales			
b)	**Less:** Allowable reductions / deductions			
c)	**Balance:** Net turnover of sales liable to tax under composition option (a – b)			
F)	Total net turnover of sales liable to tax under composition option [2(B)(d)+2(C)(a)+2(D)(a)+2(E)(c)]			

3.	**Part C — Computation of net turnover of sales relating to on-going works contracts liable to tax under section 96(1)(g) the MVAT Act, 2002:**			
Sr. No.	*Particulars*	*Amount (Rs.)*		
a)	Turnover of sales (excluding tax/ composition) during the period **[Same as Box 1(g)]**			
b)	**Less:-Turnover of sales exempted from tax**			
c)	**Less**:- Deductions u/s. 6 of the 'Earlier Law'			
d)	**Less:-** Deductions u/s. 6(A) of the 'Earlier Law'			
e)	**Balance:** Net turnover of sales liable to tax / composition **[(a)] –[(b+c+d)]**			
4.	**Part D — Computation of net turnover of sales relating to on-going leasing contracts liable to tax under Section 96(1)(f) of the MVAT Act, 2002:**			
Sr. No.	*Particulars*	*Amount (Rs.)*		
1	*2*	*3*	*4*	*5*
a)	Turnover of sales (excluding taxes) Relating to On-going Leasing Contract **[same as Box 1(h)]**			
b)	**Less:** Turnover of sales exempted from tax			
c)	**Balance**: Net turnover of sales liable to tax (a – b)			

5)	**Computation of tax payable under the MVAT Act**					
Sr. No.	*Rate of tax (%)*	*As per Returns*		*As per Audit*		*Difference in Tax Amount*
		Turnover of sales liable to tax (Rs.)	*Tax Amount (Rs.)*	*Turnover of sales liable to tax (Rs.)*	*Tax Amount (Rs.)*	
1	*2*	*3*	*4*	*5*	*6*	*7*
a)	12.50					
b)	8.00					
c)	4.00					
d)						
e)						
TOTAL						

5A)	**Sales Tax collected in Excess of the Amount of Tax payable**	*As per Returns*	*As per Audit*	*Difference*

6)	**Computation of Purchases Eligible for Set-off**			
Sr. No.	*Particulars*	*As per Returns (Rs.)*	*As per Audit (Rs.)*	*Difference (Rs.)*
a)	Total Turnover of Purchases including taxes, value of Branch Transfers/ consignment transfers received and Labour / job work charges.			
b)	**Less:-** Turnover of Purchases covered under Schedule I, II, IV or V			
c)	**Balance:- Turn-over of Purchases** Considered under this Schedule **(a-b)**			
d)	**Less:-** Value of Goods Returns (inclusive of tax), including reduction of purchase price on account of rate difference and discount.			
e)	**Less:-** Imports (High seas purchases)			
f)	**Less:-** Imports (Direct imports)			
g)	**Less:-** Inter-State purchases			
h)	**Less:-** Inter-State Branch Transfers/ Consignment Transfers received			

Sr. No.	*Particulars*	*As per Returns (Rs.)*	*As per Audit (Rs.)*	*Difference (Rs.)*
i)	**Less:-** Within the State Branch Transfers/ Consignment Transfers received where tax is to be paid by an Agent			
j)	**Less:-** Within the State purchases of taxable goods from un-registered dealers			
k)	**Less:-** Purchases of the taxable goods from registered dealers under MVAT Act, 2002 and which are not eligible for set-off			
l)	**Less:-** Within the State purchases of taxable goods which are fully exempted from tax u/s. 8 but not covered under section 8(1)			
m)	**Less**:- Within the State purchases of tax-free goods specified in Schedule A			
n)	**Less:-** Other allowable deductions/ reductions, if any. **(Please Specify)**			
o)	**Balance: Within the State purchases of taxable goods from registered dealers eligible for set-off (c) – (d+e+f+g+h+i+j+k+l+m+n)**			

7) Tax rate wise break-up of Purchases from registered dealers eligible for set-off as per Box 6(o) above

Sr. No.	*Rate of tax (%)*	*As per Returns*		*As per Audit*		*Difference in Tax (Rs.)*
		Net Turn-over of Purchases Eligible for Set-off (Rs.)	*Tax Amount (Rs.)*	*Net Turn-over of Purchases Eligible for Set-off (Rs.)*	*Tax Amount (Rs.)*	
1	*2*	*3*	*4*	*5*	*6*	*7*
a)	12.50					
b)	8.00					
c)	4.00					
d)						
e)						
TOTAL						

8)	**Computation of set-off claim.**					
Sr. No.	*Particulars*	*As per Returns*		*As per Audit*		*Difference in Tax Amount (Rs.)*
		Purchase Value Rs.	*Tax Amount*	*Purchase Value Rs.*	*Tax Amount*	
a)	Within the State purchases of taxable goods from registered dealers eligible for set-off as per **Box 7 above**					
b)	**Less**: - Reduction in the amount of set-off u/r. 53(1) of the corres-ponding purchase price of (Schedule C, D & E) the goods					
	Less: - Reduction in the amount of set off u/r. 53(2) of the corres-ponding purchase price of (Schedule B, C, D & E) the goods					
c)	**Less**: - Reduction in the amount of set-off under any other Sub-rule of rule 53					
d)	**Amount of Set-off available (a) – (c+b)**					

9)	**Computation of Tax Payable**			
Sr. No.	*Particulars*	*As per Returns (Rs.)*	*As per Audit (Rs.)*	*Difference (Rs.)*
9A)	**Aggregate of credit available**			
a)	Set-off available as per Box 8 (d)			
b)	Amount already paid **(Details as Per ANNEXURE-A)**			
c)	Excess Credit if any, as per Schedule I, II, IV, or V to be adjusted against the liability as per this Schedule			
d)	Adjustment of ET paid under Maharashtra Tax on Entry of Goods into Local Areas Act, 2002/Motor Vehicle Entry Tax Act, 1987			
e)	Amount Credited as per Refund adjustment order **(Details as Per ANNEXURE-A)**			

Sr. No.	*Particulars*	*As per Returns (Rs.)*	*As per Audit (Rs.)*	*Difference (Rs.)*
f)	Works Contract TDS			
g)	Any other (Please Specify)			
h)	**Total Available Credit (a+b+c+d+e+f+g)**			
9B)	**Sales tax payable and adjustment of CST/ET payable against available credit**			
1	2	3	4	5
a)	Sales Tax Payable **as per Box 5**			
b)	Excess Credit as per this Schedule adjusted on account of M.VAT payable, if any, as per Schedule I, II, IV or V			
c)	Adjustment on account of CST payable as per Schedule VI for the period under Audit			
d)	Adjustment on account of ET payable under the Maharashtra Tax on Entry of Goods into Local Areas Act, 2002/Motor Vehicle Entry Tax Act, 1987			
e)	Amount of Sales Tax Collected in Excess of the amount of Sales Tax payable, if any (As per Box 5A)			
f)	Interest Payable under Section 30 (2)			
g)	**Total Amount.(a+b+c+d+e+f)**			
9C)	**Tax payable or Amount of Refund Available**			
a)	**Total Amount payable as per Box 9B(g)**			
b)	Aggregate of Credit Available as per **Box 9A(h)**			
c)	**Total Amount Payable (a-b)**			
d)	**Total Amount Refundable (b-a)**			

AUDIT REPORT
PART 3
SCHEDULE IV

1)	Eligibility Certificate (EC) No.	Certificate of Entitlement (COE) No.	
a)			
b)			
c)			
	Please tick whichever is applicable		
2)	**Mode of incentive**	**Exemption from tax**	**Deferment of tax payable**
3)	**Type of Unit**	**New Unit**	**Expansion Unit**

4)	**Computation of Net Turnover of Sales liable to tax**			
Sr. No.	*Particulars*	*As per Returns*	*As per Audit*	*Difference*
1	2	3	4	5
a)	Gross turnover of sales including, taxes as well as turnover of non sales transactions like value of Branch Transfers, Consignment transfers and job work charges etc.			
b)	**Less**: - Turn-Over of Sales (including taxes thereon) including inter-State Consignments and Branch Transfers Covered under Schedule I, II, III or V			
c)	**Balance**:- **Turn-over Considered under this Schedule (a-b)**			
d)	**Less**:- Value of Goods Return (inclusive of tax), including reduction of sale price on account of rate difference and discount.			

Sr. No.	*Particulars*	*As per Returns*	*As per Audit*	*Difference*
1	2	3	4	5
e)	**Less**:- Net Tax amount (Tax included in sales shown in (c) above less Tax included in (a) and (d) above)			
f)	**Less**:- Value of Branch Transfers/ Consignment Transfers within the State if is to be paid by the Agent.			
g)	**Less**:- Sales u/s. 8(1) i.e., Inter-State Sales including Central Sales Tax, Sales in the course of imports, exports and value of Branch Transfers Consignment transfers outside the State			
h)	**Less**:- Sales of tax-free goods specified in Schedule A			
i)	**Less**:- Sales of taxable goods fully exempted u/s. 8(4) [other than sales under section 8(1) and shown in Box 4(g)]			
j)	**Less**:- Sales of taxable goods fully exempted u/s. 8 [other than sales under section 8(1) and 8 (4) and shown in Box 4(g)]			
k)	**Less**:- Job/Labour work charges			
l)	**Less**:- Other allowable reductions/ deductions, if any			
m)	**Balance Net Turnover of Sales liable to tax [c] –[d+e+f+g+h+i+j+k+l]**			

5)	Computation of Sales tax payable under the MVAT Act					
I.	Turn-over of Sales eligible for incentive (Deferment of Tax)					
Sr. No.	*Rate of tax (%)*	*As per Returns*		*As per Audit*		*Difference in Tax Amount*
		Turnover of sales liable to tax (Rs.)	*Tax Amount (Rs.)*	*Turnover of sales liable to tax (Rs.)*	*Tax Amount (Rs.)*	
1	*2*	*3*	*4*	*5*	*6*	*7*
a)	12.50					
b)	4.00					
c)	1.00					
d)						
e)	**Sub-Total-A**					
II.	Other Sales (Turnover of Sales Non-eligible for Incentives)					
Sr. No.	*Rate of tax (%)*	*As per Returns*		*As per Audit*		*Difference in Tax Amount*
		Turnover of sales liable to tax (Rs.)	*Tax Amount (Rs.)*	*Turnover of sales liable to tax (Rs.)*	*Tax Amount (Rs.)*	
1	*2*	*3*	*4*	*5*	*6*	*7*
a)	12.50					
b)	4.00					
c)	1.00					
d)						
e)	**Sub-Total-B**					
III	**Total A+B**					

5A)	Sales Tax collected in Excess of the Amount of Tax payable	*As per Returns (Rs.)*	*As per Audit (Rs.)*	*Difference (Rs.)*

6)	**Computation of Purchases Eligible for Set-off**			
Sr. No.	***Particulars***	***As per Returns (Rs.)***	***As per Audit (Rs.)***	***Difference (Rs.)***
1	2	3	4	5
a)	Total Turnover of Purchases including taxes, value of Branch Transfers/ consignment transfers received and Labour/job work charges.			
b)	**Less:-** Turn-over of Purchases covered under Schedule I, II, III or V			
c)	**Balance**:- **Turn-over of Purchases Considered under this Schedule (a-b)**			
d)	**Less:-**Value of Goods Return (inclusive of tax), including reduction of purchase price on account of rate difference and discount.			
e)	**Less:-** Imports (Direct imports)			
f)	**Less:-** Imports (High seas purchases)			
g)	**Less:-** Inter-State purchases			
h)	**Less:-** Inter-State Branch Transfers/ Consignment Transfers received			
i)	**Less:-** Within the State Branch Transfers/ Consignment Transfers received where tax is to be paid by an Agent			
j)	**Less:-** Within the State purchases of taxable goods from un-registered dealers			
k)	**Less:-** Purchases of the taxable goods from registered dealers under MVAT Act, 2002 and which are not eligible for set-off			
l)	**Less:-** Within the State purchases of taxable goods which are fully exempted from tax u/s. 8 [other than u/s. 8(1)] and 41(4)			
m)	**Less**:- Within the State purchases of tax-free goods specified in Schedule "A"			

Sr. No.	*Particulars*	*As per Returns (Rs.)*	*As per Audit (Rs.)*	*Difference (Rs.)*
1	2	3	4	5
n)	**Less**:- Other allowable deductions/ reductions, if any. (Please Specify)			
o)	**Balance**: Within the State purchases of taxable goods from registered dealers eligible for set-off **(c) – (d+e+f+g+h+i+j+k+l+m+n)**			

7) Tax rate wise break-up of Purchases from registered dealers eligible for set-off as per Box 6(o) above

Sr. No.	*Rate of tax*	*As per Returns*		*As per Audit*		*Difference in Tax Amount (Rs.)*
		Net Turn-over of Purchases Eligible for Set-off (Rs.)	*Tax Amount (Rs.)*	*Net Turn-over of Purchases Eligible for Set-off (Rs.)*	*Tax Amount (Rs.)*	
1	*2*	*3*	*4*	*5*	*6*	*7*
a)	12.50%					
b)	4.00%					
c)						
d)						
e)						
TOTAL						

8)	**Computation of Refund/Set-off claim.**					
Sr. No.	*Particulars*	*As per Returns*		*As per Audit*		*Difference in Tax Amount (Rs.)*
		Purchase Value Rs.	*Tax Amount*	*Purchase Value Rs.*	*Tax Amount*	
a)	Within the State purchases of taxable goods from registered dealers eligible for set-off as per **Box 7 above**					
b)	**Less**: - Reduction in the amount of set-off u/r. 53(1) of the corresponding purchase price of (Schedule C, D & E) the goods					
	Less: - Reduction in the amount of set-off u/r. 53(2) of the corresponding purchase price of (Schedule B, C, D & E) the goods					
c)	**Less**: - Reduction in the amount of set-off under any other Sub-rule of rule 53					
d)	**Amount of Refund or Set-off available [(a) – (c+b)]**					
e)	**Amount of Refund relating to Raw Materials for use in manufacture of goods eligible for incentives**					
f)	**Amount of Set-off relating other purchases.**					

9)	**Computation of Tax Payable**			
Sr. No.	***Particulars***	***As per Returns (Rs.)***	***As per Audit (Rs.)***	***Difference***
1	2	3	4	5
9A)	**Aggregate of credit available for the period covered under Audit**			
a)	Refund or Set-off available as per **Box 8(f)**			
b)	Amount already paid **(Details as per Annexure-A)**			
c)	Excess Credit if any, as per Schedule I, II, III, or V to be adjusted against the liability as per this Schedule			
d)	Adjustment of ET paid under Maharashtra Tax on Entry of Goods into Local Areas Act, 2002/Motor Vehicle Entry Tax Act, 1987			
e)	Amount Credited as per Refund adjustment order **(Details as per Annexure-A)**			
f)	Any other (Please Specify)			
g)	**Total Available Credit (a+b+c+d+e+f)**			
9B)	**Sales tax payable and adjustment of CST/ET payable against available credit**			
a)	Sales Tax Payable as per **Box 5 (III)**			
	Less:- Sales Tax deferred as per **Box-5 I.(e)**			
b)	Excess Credit as per this Schedule adjusted on account of M.VAT payable, if any, as per Schedule I, II, III or V			
c)	Adjustment on account of CST payable as per Schedule VI for the period under Audit			
d)	Adjustment on account of ET payable under the Maharashtra Tax on Entry of Goods into Local Areas Act, 2002/Motor Vehicle Entry Tax Act, 1987			

Sr. No.	*Particulars*	*As per Returns (Rs.)*	*As per Audit (Rs.)*	*Difference*
1	2	3	4	5
e)	Amount of Sales Tax Collected in Excess of the amount of Sales Tax payable, if any **as per Box 5A**			
f)	Interest Payable under Section 30(2)			
g)	**Total Amount (a+b+c+d+e+f)**			
9C)	**Tax payable or Amount of Refund Available**			
1	2	3	4	5
a)	**Total Amount payable as per Box 9B(g)**			
b)	Aggregate of Credit Available as per **Box 9A(g)**			
c)	**Total Amount Payable (a-b)**			
d)	**Total Amount Refundable (b-a)**			

10)	**Details of benefits availed under the Package Scheme of Incentives (Details to be given separately for each EC)**								
	COE No.		Eligibility Period	FROM			TO		
	LOCATION OF THE UNIT								

10A)	**Calculation of Cumulative Quantum of Benefits (CQB) Under-rule 78(2)(a)**					
Sr. No.	*Rate of tax (%)*	*As per Returns*		*As per Audit*		*Difference in CQB Amount (Rs.)*
		Turnover of Sales Eligible Goods liable to Tax (Rs.)	*CQB Amount (Rs.)*	*Turnover of Sales Eligible Goods liable to Tax (Rs.)*	*CQB Amount (Rs.)*	
1	*2*	*3*	*4*	*5*	*6*	*7*
a)	12.50					
b)	4.00					
c)						
d)						
e)	**Sub-Total-A**					

10B)	**Calculation of Cumulative Quantum of Benefits (CQB) underrule 78(2)(b)**					
Sr. No.	*Rate of tax (%)*	*As per Returns*		*As per Audit*		*Difference in CQB Amount*
		Turnover of Sales Eligible Goods liable to Tax (Rs.)	*CQB Amount (Rs.)*	*Turnover of Sales Eligible Goods liable to Tax (Rs.)*	*CQB Amount (Rs.)*	*(Rs.)*
1	*2*	*3*	*4*	*5*	*6*	*7*
a)	12.50					
b)	4.00					
c)						
d)						
e)	**Sub-Total-A**					
10C)	**TOTAL (A+B)**					

10D)	**Calculation of Deferment of Benefits Under-rule 81.**					
Sr. No.	*Particulars*	*As per Returns*		*As per Audit*		*Difference in Deferrable Tax Amount*
		Turnover of Sales of Eligible Goods liable to Tax (Rs.)	*Amount (Rs.) (Deferrable)*	*Turnover of Sales of Eligible Goods liable to Tax (Rs.)*	*Amount (Rs.) (Deferrable)*	
1	*2*	*3*	*4*	*5*	*6*	*7*
a)	**Amount of MVAT payable**					
b)	**Amount of CST payable**					
c)	**Total Amount of Tax Deferred**					

10E)	**Status of CQB u/r. 78/Tax deferment u/r. 81**			
Sr. No.	***Particulars***	***As per Returns***	***As per Audit***	***Difference***
1	2	3	4	5
a)	**Sanctioned monetary ceiling**			
b)	Opening balance of the monitory ceiling at the beginning of the period under Audit.			
c)	**Less**: Amount of CQB/Tax deferment for the period under Audit as per Box 10C or 10-D(c), as the case may be			
d)	**Less**: Amount of Refund claimed as per Rule 79(2)			
e)	**Less:-**Benefit of Luxury Tax claimed for TIS-99 under Luxury Tax Act, 1987 for this period.			
f)	Closing balance of the monitory ceiling at the end of the period under Audit **[(b) - (c+d+e**)]			

11)	**Details of benefits availed under the Package Scheme of Incentives (Details to be given separately for each EC)**								
	COE No.		**Eligibility Period**	**FROM**		**TO**			
	LOCATION OF THE UNIT								

11A)	**Calculation of Cumulative Quantum of Benefits (CQB) underrule 78(2)(a)**					
Sr. No.	*Rate of tax (%)*	*As per Returns*		*As per Audit*		*Difference in CQB Amount* (Rs.)
		Turnover of Sales Eligible Goods liable to Tax (Rs.)	*CQB Amount* (Rs.)	*Turnover of Sales Eligible Goods liable to Tax* (Rs.)	*CQB Amount* (Rs.)	
1	*2*	*3*	*4*	*5*	*6*	*7*
a)	12.50					
b)	4.00					
c)						
d)						
e)	**Sub-Total-A**					
11B)	**Calculation of Cumulative Quantum of Benefits (CQB) underrule 78(2)(b)**					
Sr. No.	*Rate of tax (%)*	*As per Returns*		*As per Audit*		*Difference in CQB Amount* (Rs.)
		Turnover of Sales Eligible Goods liable to Tax (Rs.)	*CQB Amount* (Rs.)	*Turnover of Sales Eligible Goods liable to Tax* (Rs.)	*CQB Amount* (Rs.)	
1	*2*	*3*	*4*	*5*	*6*	*7*
a)	12.50					
b)	4.00					
c)						
d)						
e)	**Sub-Total-A**					
11C)	**TOTAL (A+B)**					

11D)	**Calculation of Deferment of Benefits Under-rule 81.**					
Sr. No.	*Particulars*	*As per Returns*		*As per Audit*		*Difference in Amount (Deferrable) (Rs.)*
		Turnover of Sales of Eligible Goods liable to Tax (Rs.)	*Amount (Rs.) (Deferrable)*	*Turnover of Sales of Eligible Goods liable to Tax (Rs.)*	*Amount (Rs.) (Deferrable)*	
1	*2*	*3*	*4*	*5*	*6*	*7*
a)	**Amount of MVAT payable**					
b)	**Amount of MVAT payable**					
c)	**Total Amount of Tax Deferred**					

11E)	**Status of CQB u/r. 78/Tax deferment u/r. 81**			
Sr. No.	*Particulars*	*As per Returns*	*As per Audit*	*Difference*
1	2	3	4	5
a)	**Sanctioned monetary ceiling**			
b)	Opening balance of the monitory ceiling at the beginning of the period under Audit which the return is filed			
c)	**Less:** Amount of CQB/Tax deferment for the period under Audit as per Box 11C or 11-D (c), as the case may be			
d)	**Less**: Amount of Refund claimed as per Rule 79(2)			
e)	**Less:-**Benefit of Luxury Tax claimed for TIS-99 under Luxury Tax Act, 1987 for this period.			
f)	Closing balance of the monitory ceiling at the end of the period under Audit **[(b) - (c+d+e)]**			

12)	**Details of benefits availed under the Package Scheme of Incentives (Details to be given separately for each EC)**									
	COE No.		**Eligibility Period**	**FROM**			**TO**			
	LOCATION OF THE UNIT									

12A)	**Calculation of Cumulative Quantum of Benefits (CQB) underrule 78(2)(a)**					
Sr. No.	*Rate of tax (%)*	*As per Returns*		*As per Audit*		*Difference in CQB Amount*
		Turnover of Sales Eligible Goods liable to Tax (Rs.)	*CQB Amount (Rs.)*	*Turnover of Sales Eligible Goods liable to Tax (Rs.)*	*CQB Amount (Rs.)*	*(Rs.)*
1	*2*	*3*	*4*	*5*	*6*	*7*
a)	12.50					
b)	4.00					
c)						
d)						
e)	**Sub-Total-A**					

12B)	**Calculation of Cumulative Quantum of Benefits (CQB) underrule 78(2)(b)**					
Sr. No.	*Rate of tax (%)*	*As per Returns*		*As per Audit*		*Difference in CQB Amount*
		Turnover of Sales Eligible Goods liable to Tax (Rs.)	*CQB Amount (Rs.)*	*Turnover of Sales Eligible Goods liable to Tax (Rs.)*	*CQB Amount (Rs.)*	*(Rs.)*
1	*2*	*3*	*4*	*5*	*6*	*7*
a)	12.50					
b)	4.00					
c)						
d)						
e)	**Sub-Total-A**					
12C)	**TOTAL (A+B)**					

12D)	**Calculation of Deferment of Benefits Under-rule 81.**					
Sr. No.	*Particulars*	*As per Returns*		*As per Audit*		*Difference in Amount (Rs.) (Deferrable)*
		Turnover of Sales of Eligible Goods liable to Tax (Rs.)	*Amount (Rs.) (Deferrable)*	*Turnover of Sales of Eligible Goods liable to Tax (Rs.)*	*Amount (Rs.) (Deferrable)*	
1	*2*	*3*	*4*	*5*	*6*	*7*
a)	**Amount of MVAT payable**					
b)	**Amount of MVAT payable**					
c)	**Total Amount of Tax Deferred**					

12E)	**Status of CQB u/r. 78/Tax deferment u/r. 81**			
Sr. No.	*Particulars*	*As per Returns*	*As per Audit*	*Difference*
1	2	3	4	5
a)	**Sanctioned monetary ceiling**			
b)	Opening balance of the monitory ceiling at the beginning of the period under Audit			
c)	**Less**: Amount of CQB/Tax deferment for the period under Audit **as per Box 12C or 12-D(c)**, as the case may be			
d)	**Less**: Amount of Refund claimed as per Rule 79(2)			
e)	**Less:-**Benefit of Luxury Tax claimed under TIS under Luxury Tax Act, 1987 for this period.			
f)	Closing balance of the monitory ceiling at the end of the period under Audit. **[(b) - (c+d+e)]**			

AUDIT REPORT
PART — 3
SCHEDULE V

1	**Computation of Net Turnover of Sales liable to tax**			
Sr. No.	***Particulars***	***As per Returns Amount (Rs.)***	***As per Audit Amount (Rs.)***	***Difference Amount (Rs.)***
a)	Gross Turnover of Sales including, taxes as well as turnover of non sales transactions like value of Branch Transfer, Consignment Transfers, job work charges etc.			
b)	**Less**:- Turn-over of Sales (including taxes thereon) including inter-State Consignments and Branch Transfers Covered under Schedule I, II, III, or IV			
c)	**Balance**:- **Turn-Over Considered under this Schedule (a-b)**			
d)	**Less**:- Value of Goods Return (inclusive of tax), including reduction of sale price on account of rate difference and discount.			
e)	**Less**:- Net Tax amount (Tax included in sales shown in (c) above less Tax included in (a) and (d) above)			
f)	**Less**:- Value of Consignment Transfers within the State if is to be paid by the Agent.			
g)	**Less**:- Sales u/s. 8(1) i.e. Inter-State Sales including Central Sales Tax, Sales in the course of imports, exports and value of Branch Transfers/Consignment transfers outside the State			
h)	**Less**:- Sales of tax-free goods specified in Schedule A			
i)	**Less**:- Sales of taxable goods fully exempted u/s. 8(1) [other than sales under section 8(1) and shown in Box 1(g)] and 41(4)			

Sr. No.	*Particulars*	*As per Returns Amount (Rs.)*	*As per Audit Amount (Rs.)*	*Difference Amount (Rs.)*
j)	**Less**:- Job/Labour work charges			
k)	**Less**:- Other allowable reductions/ deductions, if any (Please specify)			
l)	**Balance Net Turn-over of sales liable to tax [c] – [d+e+f+g+h+i+j+k]**			

2) Computation of tax payable under the MVAT Act

Sr. No.	*Sch. Entry No.*	*Rate of tax*	*Turnover of Sales liable to tax (Rs.)* / *Quantity (Litre)*	*Tax Amount (Rs.)*	*Turnover of Sales liable to tax (Rs.)* / *Quantity (Litre)*	*Tax Amount (Rs.)*	*Difference (Rs.)*
a)	**Sch. D Goods (Inter Oil Co. sales of notified Motor Sprits)**	4%					
b)	D5(a)(i)						
c)	D5(a)(i)	Re. One					
d)	D5(a)(ii)						
e)	D5(a)(ii)	Re. One					
f)	D5(b)						
g)	D5(b)	Re. One					
h)	D6						
i)	D7						
j)	D8						
k)	D9						
l)	D10(a)(i)						
m)	D10(a)(i)	Re. One					

Sr. No.	*Sch. Entry No.*	*Rate of tax*	*Turnover of sales liable to tax (Rs.) Quantity (Litre)*	*Tax Amount (Rs.)*	*Turnover of sales liable to tax (Rs.) Quantity (Litre)*	*Tax Amount (Rs.)*	*Difference (Rs.)*
n)	D10(a)(ii)						
o)	D10(a)(ii)	Re. One					
p)	D10(b)						
q)	D10(b)	Re. One					
A.	**Sub-total (a to q)**						
r)	C8	4%					
s)	C27	4%					
t)	C58	4%					
B.	**Sub-total (r to t)**						
u)	Others	4%					
v)	Others	12.5%					
C.	**Sub-total (u + v)**						
	TOTAL (A+B+C)						

2A)	**Sales Tax collected in Excess of the Amount of Tax payable**	*As per Returns*	*As per Audit*	*Difference*

3)	**Computation of Purchases Eligible for Set-off**			
Sr. No.	*Particulars*	*As per Returns (Rs.)*	*As per Audit (Rs.)*	*Difference (Rs.)*
a)	Total turnover of Purchases including taxes, value of Branch Transfers/ consignment transfers received and Labour/job work charges.			
b)	**Less**:- Turn-over of Purchases Covered under Schedule I, II, III, or IV			

Sr. No.	*Particulars*	*As per Returns (Rs.)*	*As per Audit (Rs.)*	*Difference (Rs.)*
c)	**Balance**:- **Turn-over of Purchases Considered under this Schedule (a-b)**			
d)	**Less**:- Value of Goods Returns (inclusive of tax), including reduction of purchase price on account of rate difference and discount.			
e)	**Less**:- Imports (Direct imports)			
f)	**Less**:- Imports (High seas purchases)			
g)	**Less**:- Inter-State purchases			
h)	**Less**:- Inter-State Branch Transfers/ Consignment Transfers received			
i)	**Less**:- Within the State Branch Transfers/ Consignment Transfers received where tax is to be paid by an Agent			
j)	**Less**:- Within the State purchases of taxable goods from unregistered dealers.			
k)	**Less**:-Purchases of the taxable goods from registered dealers under MVAT Act, 2002 and which are not eligible for set-off			
l)	**Less**:- Within the State purchases of taxable goods which are fully exempted from tax u/s. 8 [other than covered under section 8(1)] and 41(4)			
m)	**Less**:-Within the State purchases of tax-free goods specified in Schedule "A"			
n)	**Less**:-Other allowable deductions/ reductions, if any. (Please Specify)			
o)	**Balance**: **Within the State purchases of taxable goods from registered dealers eligible for set-off (c) – (d+e+f+g+h+i+j+k+l+m+n)**			

4)	**Tax rate wise break-up of Purchases from registered dealers eligible for set-off as per Box 3(o) above**					
Sr. No.	*Rate of tax (%)*	*As per Return*		*As per Audit*		*Difference (Rs.)*
		Net Turn-over of Purchases Eligible for Set-off (Rs.)	*Tax Amount (Rs.)*	*Net Turn-over of Purchases Eligible for Set-off (Rs.)*	*Tax Amount (Rs.)*	
1	*2*	*3*	*4*	*5*	*6*	*7*
a)	12.50					
b)	4.00					
c)						
d)						
e)						
TOTAL						

5)	**Computation of set-off claimed.**					
Sr. No.	*Particulars*	*As per Returns*		*As per Audit*		*Difference (Rs.)*
		Purchase Value Rs.	*Tax Amount*	*Purchase Value Rs.*	*Tax Amount*	
a)	Within the State purchases of taxable goods from registered dealers eligible for set-off as per **Box 3(o) above**					
b)	**Less**: - Reduction in the amount of set-off u/r. 53(1) of the corresponding purchase price of (Schedule C, D & E) the goods					
	Less: - Reduction in the amount of set-off u/r. 53(2) of the corresponding purchase price of (Schedule B, C, D & E) the goods					

	Particulars	*As per Return*		*As per Audit*		*Difference (Rs.)*
		Purchase Value Rs.	*Tax Amount*	*Purchase Value Rs.*	*Tax Amount*	
c)	**Less**: - Reduction in the amount of set-off under any other Sub-rule of rule 53					
d)	**Amount of Set-off available (a) – (c+b)**					
6)	**Computation of Sales Tax Payable**					
Sr. No.	*Particulars*	*As per Returns (Rs.)*		*As per Audit (Rs.)*		*Difference (Rs.)*
6A)	**Aggregate of credit available for the period covered under Audit.**					
a)	Set-off available as per **Box 5(d)**					
b)	Amount already paid (Details as per Annexure-A)					
c)	Excess Credit if any, as per Schedule I, II, III, or IV to be adjusted against the liability as per this Schedule					
d)	Adjustment of ET paid under Maharashtra Tax on Entry of Goods into Local Areas Act, 2002/Motor Vehicle Entry Tax Act, 1987					
e)	Amount Credited as per Refund adjustment order (Details to be entered) **(Details as per Annexure-A)**					
f)	Any other (Please Specify)					
g)	**Total Available Credit (a+b+c+d+e+f)**					
6B)	**Sales tax payable and adjustment of CST/ET payable against available credit**					
a)	Sales Tax Payable **as per Box 2**					
b)	Excess Credit as per this Schedule adjusted on account of M.VAT payable, if any, as per Schedule I, II, III, or IV					

Sr. No.	*Particulars*	*As per Returns (Rs.)*	*As per Audit (Rs.)*	*Difference (Rs.)*
c)	Adjustment on account of CST payable as per Schedule VI for the period under Audit			
d)	Adjustment on account of ET payable under the Maharashtra Tax on Entry of Goods into Local Areas Act, 2002/Motor Vehicle Entry Tax Act, 1987			
e)	Amount of Sales Tax Collected in Excess of the amount of Sales Tax payable, if any **as per Box 2A**			
f)	Interest Payable under Section 30 (2)			
g)	**Total Amount.(a+b+c+d+e+f)**			
6C)	**Tax payable or Amount of Refund Available**			
a)	**Total Amount payable as per Box 6B(g)**			
b)	Aggregate of Credit Available as per **Box 6A(g)**			
c)	**Total Amount Payable (a-b)**			
d)	**Total Amount Refundable (b-a)**			

AUDIT REPORT
PART — 3
SCHEDULE VI

1.	**Computation of Net Turn-over of Sales liable to CST Act.**			
Sr. No.	*Particulars*	*As per Returns (Rs.)*	*As per Audit (Rs.)*	*Difference (Rs.)*
1	*2*	*3*	*4*	*5*
a)	**Gross Turnover of Sales**			
b)	**Less**:- Turn-over of Sales within the State			
c)	**Less**:-Turnover of inter-State sales u/s. 6(3)			
d)	**Less**:- Value of Goods Returned within six months u/s. 8A(1)(b).			
e)	**Less**:- Turnover of Sales Goods outside the State.			
f)	**Less**:- Sales of the goods in the course of Export out of India.			
g)	**Less**:- Sales of the goods in the course of Import into India			
h)	**Less**:- Value of goods transferred u/s. 6A(1) of C.S.T. Act 1957			
i)	**Less**:- Turnover of sales of goods fully exempted from tax under section 8(2) read with 8(4) of the MVAT Act, 2002.			
2.	**Balance**:- **Inter-State sales on which tax is leviable in Maharashtra State [1]- [a+b+c+d+e+f+g+h+i]**			
a)	**Less**:- Cost of freight, delivery or installation, if separately charged			
b)	**Less**:- Turnover of inter-State sales on which no tax is payable			
c)	**Less**:- Turnover of inter-State sales u/s. 6(2)			

Sr. No.	*Particulars*	*As per Returns (Rs.)*	*As per Audit (Rs.)*	*Difference (Rs.)*
1	*2*	*3*	*4*	*5*
3.	**Balance** : Total Taxable inter State sales [2]-[a+b+c+d]			
4.	**Less**:- Deduction u/s. 8A(1)			
5.	Net Taxable inter-State Sales (3-4)			

6A)	**Sales Taxable under section 8(1)**					
Sr. No.	*Rate of tax (%)*	*As per Returns*		*As per Audit*		*Difference in Tax Amount (Rs.)*
		Turnover of sales liable to tax (Rs.)	*Tax Amount (Rs.)*	*Turnover of sales liable to tax (Rs.)*	*Tax Amount (Rs.)*	
1	*2*	*3*	*4*	*5*	*6*	*7*
a)	2.00					
b)	3.00					
c)	4.00					
d)						
TOTAL						

6B)	**Sales Taxable under section 8(2)**					
Sr. No.	*Rate of tax (%)*	*As per Returns*		*As per Audit*		*Difference in Tax Amount (Rs.)*
		Turnover of sales liable to tax (Rs.)	*Tax Amount (Rs.)*	*Turnover of sales liable to tax (Rs.)*	*Tax Amount (Rs.)*	
1	*2*	*3*	*4*	*5*	*6*	*7*
a)	12.5					
b)						
c)						
d)						
TOTAL						

6C)	Sales Taxable under section 8(5)					
Sr. No.	*Rate of tax (%)*	*As per Returns*		*As per Audit*		*Difference in Tax Amount (Rs.)*
		Turnover of sales liable to tax (Rs.)	*Tax Amount (Rs.)*	*Turnover of sales liable to tax (Rs.)*	*Tax Amount (Rs.)*	
1	*2*	*3*	*4*	*5*	*6*	*7*
a)						
b)						
c)						
d)						
TOTAL						

6D)	Sales Tax collected in Excess of the Amount of Tax payable	*As per Returns (Rs.)*	*As per Audit (Rs.)*	*Difference (Rs.)*

7)	Computation of Central Sales Tax payable			
Sr. No.	*Particulars*	*As per Returns (Rs.)*	*As per Audit (Rs.)*	*Difference (Rs.)*
a)	**Total Amount of C.S.T Payable (Total tax 6 (A+B+C)**			
b)	**Less**:- Amount deferred (out of Box (6A) (under package scheme of incentives) if any			
c)	**Balance Amount Payable [a-b]**			
d)	**Add**:- Interest Payable u/s.9(2) read with section 30 (2) of the MVAT Act, 2002			
e)	**Add**:- Interest Payable u/s.9(2) read with section 30 (4) of the MVAT Act, 2002			
f)	**Total Amount Payable (c+d+e)**			

Sr. No.	*Particulars*	*As per Returns (Rs.)*	*As per Audit (Rs.)*	*Difference (Rs.)*
8)	**Aggregate of Credit Available**			
a)	Excess MVAT refund to be adjusted against the CST liability.			
b)	Amount paid with returns and/or challans (as per Annexure-B)			
c)	Amount Credited under Refund Adjustment Order (RAO No.——— ——————————————————) (as per Annexure-B)			
d)	Any Other (Pl. Specify)			
e)	**Total available credit (a+b+c+d)**			
9)	**Total Amount payable 7e-8e**			
10)	**Total Amount Refundable (8e-7e)**			
11)	**Other observations, if any, not specifically covered hereinabove:-**			

SEAL AND SIGNATURE OF THE AUDITOR

ANNEXURE-A

DETAILS OF THE AMOUNT PAID ALONG WITH RETURNS AND OR CHALLAN CORRESPONDING TO SCHEDULE I/II/III/IV/V UNDER MVAT ACT, 2002.

Sr. No.	*Period*		*Due Date*	*Type of return (Original or Revised)*	*Date of filing*	*Amount of tax paid*	*Date of payment*	*Amount of interest on delayed payment*	*Amount of interest paid*
	From	*To*							
1									
2									
3									
4									
5									
6									
7									
8									
9									
10									
11									
12									
13									
14									
15	**TOTAL**								

Details of RAO

Sr. No.	*RAO No.*	*Amount Adjusted (Rs.)*	*Date of RAO*
	TOTAL		

SEAL AND SIGNATURE OF THE AUDITOR

ANNEXURE-B

DETAILS OF THE AMOUNT PAID ALONG WITH RETURNS AND OR CHALLAN CORRESPONDING TO SCHEDULE VI FOR CST ACT, 1956.

Sr. No.	*Period*		*Due Date*	*Type of return (Original or Revised)*	*Date of filing*	*Amount of tax paid*	*Date of payment*	*Amount of interest on delayed payment*	*Amount of interest paid*
	From	*To*							
1									
2									
3									
4									
5									
6									
7									
8									
9									
10									
11									
12									
13									
14									
15	**TOTAL**								

Details of RAO

Sr. No.	*RAO No.*	*Amount Adjusted (Rs.)*	*Date of RAO*
	TOTAL		

SEAL AND SIGNATURE OF THE AUDITOR

ANNEXURE C

Details of Tax Deducted at Source (TDS) certificates received corresponding to item (vi)(c) of Table No. 2 of Part-1.

Sr. No.	*Name and address of the employer deducting the tax*	*TIN No. of the employer, if any*	*Date of Certificate*	*Amount of TDS as per certificate*
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				
20				
	Total			

SEAL AND SIGNATURE OF THE AUDITOR

ANNEXURE-D

Details of Tax Deducted at Source (TDS) certificates issued

Sr. No.	*Name of the dealer*	*TIN if any*	*Turnover on which TDS made*	*Amount of tax to be deducted. (Rs.)*	*Amount of tax deducted (Rs.)*	*Interest payable if any*	*Amount paid (Rs.)*
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
11							
12							
	TOTAL						

SEAL AND SIGNATURE OF THE AUDITOR

ANNEXURE-E

COMPUTATION OF SET-OFF CLAIM ON THE BASIS OF TAX PAID PURCHASES EFFECTED FROM REGISTERED DEALERS.

SECTION 1:- TOTAL TAX PAID PURCHASES EFFECTED FROM THE LOCAL SUPPLIER DURING THE PERIOD UNDER AUDIT

Sr. No.	*Particulars/ Tax Rate (%)*	*Net Purchase Value*	*Tax Amount*	*Gross Total (c+d)*
a	**b**	**c**	**d**	**e**
1	25.00			
2	20.00			
3	12.50			
4	8.00			
5	5.00			
6	4.00			
7	1.00			

SECTION 2:- Details of Tax paid purchases on which Set-off is not admissible u/r. 54 (Out of Section-1)

Sr. No.	*Particulars/ Tax Rate (%)*	*Net Purchase Value*	*Tax Amount*	*Gross Total (c+d)*
a	**b**	**c**	**d**	**e**
1	25.00			
2	20.00			
3	12.50			
4	8.00			
5	5.00			
6	4.00			
7	1.00			
	Total			

SECTION 3:- DETAILS OF TAX PAID PURCHASES OF CAPITAL ASSETS ON WHICH FULL SET-OFF IS AVAILABLE (OUT OF SECTION-1)

Sr. No.	*Particulars/ Tax Rate (%)*	*Net Purchase Value*	*Tax Amount*	*Gross Total (c+d)*
a	***b***	***c***	***d***	***e***
1	25.00			
2	20.00			
3	12.50			
4	8.00			
5	5.00			
6	4.00			
7	1.00			
	Total			

SECTION 4:- DETAILS OF TAX PAID PURCHASES ON WHICH SET-OFF IS ADMISSIBLE AFTER REDUCTION UNDER RULE 53. (NOTE:- FOR EACH SUB-RULE A SEPARATE TABLE IS TO BE USED)

Sr. No.	*Rule under which the set-off is claimed*	*Tax Rate*	*Net Purchases value*	*Tax*	*Total (d+e)*	*Reduction, if any*	*Tax amount eligible for set-off (e-g)*
a	***b***	***c***	***d***	***e***	***f***	***g***	***h***
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
	Total						

SECTION 5:- Details of Total Tax paid purchases Effected from Registered Dealers on which Full Set-off is calculated and allowed as per Rule 52. (Section-1 less Section 2 to 4)

Sr. No.	*Particulars/ Tax Rate (%)*	*Net Purchase Value*	*Tax Amount*	*Gross Total (3+4)*
1	**2**	**3**	**4**	**5**
1	25.00			
2	20.00			
3	12.50			
4	8.00			
5	5.00			
6	4.00			
7	1.00			
	Total			

SECTION 6:- Amount of Total Set-off Available to Dealer

Sr. No.	*Particulars/ Tax Rate (%)*	*Amount of Set-off claimed by the dealer in Return*	*Set-off determined by auditor*	*Difference (c - d)*
a	**b**	**c**	**d**	**e**
1	25.00			
2	20.00			
3	12.50			
4	8.00			
5	5.00			
6	4.00			
7	1.00			
8	Total			
Reasons for Excess or Short claim Set-off:-				

ANNEXURE F

Financial Ratios for the year under audit and other information

(a) As per Profit & Loss A/c.

Particulars	*Current Year*	*Previous Year*	*Method of computation and observations, if any*
1. Gross Profit to Gross Sales			
2. Net Profit before tax to Gross Sales			

(b) Information to be furnished in relation to the sales effected within/from Maharashtra

Particulars (To be reported as determined by the Auditor)	*Current Year*	*Previous Year*	*Method of computation and observations, if any*
1 Ratio Net Local Sales in Maharashtra State to Total Sales (Rs.) (excluding tax under VAT & CST Acts.)			
2 Ratio of Inter-State Stock Transfer from Maharashtra State to Total Sales (Rs.)			
3 Ratio of Non Sales (e.g. Job work, Labour charges, etc.) receipts to Total Sales (Rs.)			
4 Ratio of Net Local Sales from row 1 to inter-State stock transfer			
5 Ratio of Net Local Sales of taxable goods to net sales from row 1			
6 Ratio of net Local Sales of tax-free goods to net sales from row 1			
7 Percentage of net inter-State sales excluding Export to net sales from row 1			
8 Ratio of Export sales to net sales from row 1			
9 Ratio of Gross receipts to Gross Turn Over of Sales			
10 Ratio of set-off claimed to net sales from row 1			

Particulars (To be reported as determined by the Auditor)	*Current Year*	*Previous Year*	*Method of computation and observations, if any*
11 Ratio of Gross Tax (MVAT & CST) to turnover of net sales from row 1			
12 Ratio of Closing stock of finished goods to Net Sales from row 1			
13 Opening stock of finished goods including WIP (in Maharashtra) Rs.			
14 Closing stock of finished goods including WIP (in Maharashtra) Rs.			

ANNEXURE-G

Details of purchases exceeding Rs. five lakhs from new local suppliers on which set-off has been claimed during the year. New local supplier means a supplier from whom no purchases were effected in the immediately preceding year.

Sr. No.	*Name*	*TIN*	*Total Purchase Amount (Net)*	*VAT on purchases*
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13	Total			

ANNEXURE-H

Details of Declarations or Certificates (in Form-H) not received

Sr. No.	*Name of the Dealer who has issued Declarations or Certificates*	*Declaration or Certificate type (specify form or certificate type)**	*Invoice No.*	*Invoice Date*	*Taxable amount (Rs.) (Net)*	*Tax Amount (Rs.)*	*Rate of tax applicable (Local Rate)*	*Amount of Tax (as per co-8)*	*Differential tax liability (Rs.) (Col. 9- Col. 6)*
1	*2*	*3*	*4*	*5*	*6*	*7*	*8*	*9*	*10*

ANNEXURE-I

Declarations or Certificates not received Under Central Sales Tax Act, 1956. (other than Form-H)

Sr. No.	*Name of the Dealer who has issued Declarations or Certificates*	*Declaration or Certificate type (please specify)*	*Invoice No.*	*Invoice Date*	*Taxable amount (Rs.) (Net)*	*Tax Amount (Rs.)*	*Rate of tax applicable (Local Rate)*	*Amount of Tax (as per co-8)*	*Differential tax liability (Rs.) (Col. 9- Col. 6)*
1	*2*	*3*	*4*	*5*	*6*	*7*	*8*	*9*	*10*

ANNEXURE – J
(Section 1)
CUSTOMER-WISE VAT SALES

A. Information of Claimant Dealer						
TIN of Claimant Dealer		V	SALES			
Period Covered Under Audit (DD/MM/YYYY)	From	To		Other Local Taxable SALES Rs.		

B. List of CUSTOMER WISE SALES on which VAT is charged separately				
Sr. No	TIN of Customers	Net Taxable Amount Rs.	Output VAT Amount Rs.	Gross Total Rs.
1	2	3	4	5
1				
2				
3				

* Net Taxable Amount means – Sales Amount on which VAT is charged separately.

* Gross Amount means – Total Value of Sales to Customer including, VAT, insurance, freight, any other charges etc. shown separately in invoices.

* Other Local Taxable Sales means — the sales which are inclusive of tax i.e., the taxable sales where the taxes are not collected separately.

(Section 2)
SUPPLIERS WISE VAT PURCHASES

A. Information of Claimant Dealer						
TIN of Claimant Dealer		V	PURCHASES			
Period Covered Under Audit (DD/MM/YYYY)	From	To		Other Local Taxable PURCHASES Rs.		

B. List of SUPPLIER WISE PURCHASES on which VAT is charged separately.				
Sr. No	TIN of Suppliers	Net Taxable Amount Rs.	Input VAT Amount Rs.	Gross Total Rs.
1	2	3	4	5
1				
2				
3				

* Net Taxable Amount means – Purchase Amount on which VAT is charged separately.

* Gross Amount means – Total Value of Purchases of Supplier including, VAT, insurance, freight, any other charges etc. shown separately in invoices.

* Other Local Taxable Purchases means — the purchase which are inclusive of tax i.e. the taxable purchases where the taxes are not collected separately.

(Section 3)
CUSTOMER WISE DEBIT NOTE OR CREDIT NOTE

A. Information of Claimant Dealer					
TIN of Claimant Dealer			V	SALES CR/DR NOTE/GOODS RETURN	
Period Covered Under Audit (DD/MM/YYYY)	From		To		

B. List of CUSTOMER WISE DEBIT NOTE/CREDIT NOTES on which VAT is charged separately

Sr. No	TIN of Customers	Net Taxable Amount Rs.	Output VAT Amount Rs.	Gross Total Rs.
1	2	3	4	5
1				
2				
3				
4				
5				

* Note – The details in respect of Credit Notes/Debit Notes to be submitted only when there is variation in sale price in respect of goods sold.

(Section 4)
SUPPLIER WISE DEBIT NOTE OR CREDIT NOTE

A. Information of Claimant Dealer				
TIN of Claimant Dealer		V	PURCHASES CR/DR NOTE/GOODS RETURN	
Period Covered Under Audit (DD/MM/YYYY)	From	To		

B. List of SUPPLIER WISE CREDIT NOTES/DEBIT NOTE on which VAT is charged separately

Sr. No	TIN of Suppliers	Net Taxable Amount Rs.	Input VAT Amount Rs.	Gross Total Rs.
1	2	3	4	5
1				
2				
3				
4				
5				

* **Note – The details in respect of Credit Notes/Debit Notes to be submitted only when there is variation in purchase price in respect of goods purchased.**

ANNEXURE K
Determination of Gross Turnover of Sales and Purchases along with reconciliation with Profit and Loss Account, Trial Balance/Sales and Purchase register."

SANJAY BHATIYA
Commissioner of Sales Tax,
Maharashtra State, Mumbai

Appendix 2

GUIDELINES FOR THE MEMBERS OF ICAI

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA (ICAI)
(*Set up under The Chartered Accountants Act, 1949)*
Council Guidelines No. 1-CA(7)/02/2008, dated 8th August, 2008

GUIDELINES FOR THE MEMBERS OF ICAI
(Issued under the provisions of The Chartered Accountants Act, 1949)

Chapter I
Preliminary

1.0 Short title, commencement, etc.

(a) These Guidelines have been issued by the Council of the Institute of Chartered Accountants of India under the provisions of The Chartered Accountants Act, 1949, as amended by The Chartered Accountants (Amendment) Act 2006, in supersession of the Notifications issued by the Council under erstwhile Clause (ii) of Part II of the Second Schedule to the Chartered Accountants Act, 1949.

(b) These Guidelines be called the 'Council General Guidelines, 2008'.

1.1 Definitions.

1.1.1 For the purpose of these Guidelines:

(a) 'Act' means the Chartered Accountants Act, 1949.

(b) "Chartered accountant" means a person who is a member of the Institute.

(c) "Council" means the Council of the Institute constituted under section 9 of the Act.

(d) "Institute" means the Institute of Chartered Accountants of India constituted under the Act.

1.1.2 All other words and expressions used but not defined herein have the same meaning as assigned to them within the Chartered Accountants Act, 1949 and the Rules, Regulations and Guidelines made there under.

1.2 Applicability of the Guidelines

These guidelines shall be applicable to all the Members of the Institute whether in practice or not wherever the context so requires.

Chapter II
Conduct of a Member being an employee

2.0 A member of the Institute who is an employee shall exercise due diligence and shall not be grossly negligent in the conduct of his duties.

Chapter III
Appointment of a Member as Cost auditor

3.0 A member of the Institute shall not accept:-

(i) The appointment as Cost auditor of a Company under Section 233B of the Companies Act, 1956 while he-

(a) is an auditor of the Company appointed under Section 224 of the Companies Act or

(b) is an officer or employee of the Company; or

(c) is a partner, of any employee or officer of the Company; or

(d) is a partner or is in the employment of the Company's auditor appointed under Section 224 of the Companies Act, 1956; or

(e) is indebted to the Company for an amount exceeding one thousand rupees, or has given any guarantee or provided any security in connection with the indebtedness of any third person to the Company for an amount exceeding one thousand rupees;

OR

(ii) After his appointment as Cost Auditor, he becomes subject to any of the disabilities stated in items (i) (a) to (e) above and continues to function as a cost auditor thereafter.

3.1 A member of the Institute in practice shall not accept the appointment as auditor of a Company under Section 224 of the Companies Act, 1956, while he is an employee of the cost auditor of the Company appointed under Section 233B of the Companies Act, 1956.

Chapter IV
Opinion on financial statements when there is substantial interest

4.0 A member of the Institute shall not express his opinion on financial statements of any business or enterprise in which one or more persons who are his "relatives" within the meaning of Section 6 of the Companies Act, 1956 have, either by themselves or in conjunction with such member, a substantial interest in the said business or enterprise.

Explanation: For this purpose and for the purpose of compliance of Clause (4) of Part I of the Second Schedule to the Chartered Accountants Act, 1949, the expression "substantial interest" shall have the same meaning as is assigned thereto under Appendix (9) to the Chartered Accountants Regulations, 1988.

Chapter V
Maintenance of books of account

5.0 A member of the Institute in practice or the firm of Chartered Accountants of which he is a partner, shall maintain and keep in respect of his / its professional practice, proper books of account including the following:-

(i) a Cash Book;

(ii) a Ledger.

Chapter VI
Tax Audit assignments under Section 44 AB of the Income-tax Act, 1961

6.0 A member of the Institute in practice shall not accept, in a financial year, more than the "specified number of tax audit assignments" under Section 44AB of the Income-tax Act, 1961.

Provided that in the case of a firm of Chartered Accountants in practice, the "specified number of tax audit assignments" shall be construed as the specified number of tax audit assignments for every partner of the firm.

Provided further that where any partner of the firm is also a partner of any other firm or firms of Chartered Accountants in practice, the

number of tax audit assignments which may be taken for all the firms together in relation to such partner shall not exceed the "specified number of tax audit assignments" in the aggregate.

Provided further that where any partner of a firm of Chartered Accountants in practice accepts one or more tax audit assignments in his individual capacity, the total number of such assignments which may be accepted by him shall not exceed the "specified number of tax audit assignments" in the aggregate.

Provided also that the audits conducted under Section 44AD, 44AE and 44AF of the Income Tax Act, 1961 shall not be taken into account for the purpose of reckoning the "specified number of tax audit assignments".

6.1 Explanation

For the above purpose, "the specified number of tax audit assignments" means -

(a) in the case of a Chartered Accountant in practice or a proprietary firm of Chartered Accountant, 45 tax audit assignments, in a financial year, whether in respect of corporate or non-corporate assesses.

(b) in the case of firm of Chartered Accountants in practice, 45 tax audit assignments per partner in the firm, in a financial year, whether in respect of corporate or non-corporate assesses.

6.1.1 In computing the "specified number of tax audit assignments" each year's audit would be taken as a separate assignment.

6.1.2 In computing the "specified number of tax audit assignments", the number of such assignments, which he or any partner of his firm has accepted whether singly or in combination with any other Chartered Accountant in practice or firm of such Chartered Accountants, shall be taken into account.

6.1.3 The audit of the head office and branch offices of a concern shall be regarded as one tax audit assignment.

6.1.4 The audit of one or more branches of the same concern by one Chartered Accountant in practice shall be construed as only one tax audit assignment.

6.1.5 A Chartered Accountant being a part time practicing partner of a firm shall not be taken into account for the purpose of reckoning the tax audit assignments of the firm.

6.1.6 A Chartered Accountant in practice shall maintain a record of the tax audit assignments accepted by him in each financial year in the format as may be prescribed by the Council.

Chapter VII
Appointment of an Auditor in case of non-payment of undisputed fees

7.0 A member of the Institute in practice shall not accept the appointment as auditor of an entity in case the undisputed audit fee of another Chartered Accountant for carrying out the statutory audit under the Companies Act, 1956 or various other statutes has not been paid:

Provided that in the case of sick unit, the above prohibition of acceptance shall not apply.

7.1 Explanation 1:

For this purpose, the provision for audit fee in accounts signed by both - the auditee and the auditor shall be considered as "undisputed" audit fee.

7.2 Explanation 2:

For this purpose, "sick unit" shall mean where the net worth is negative.

Chapter VIII
Specified number of audit assignments

8.0 A member of the Institute in practice shall not hold at any time appointment of more than the "specified number of audit assignments" of Companies under Section 224 and/or Section 228 of the Companies Act, 1956.

Provided that in the case of a firm of Chartered Accountants in practice, the "specified number of audit assignments" shall be construed as the specific number of audit assignments for every partner of the firm.

Provided further that where any partner of the firm of Chartered Accountants in practice is also a partner of any other firm or firms of Chartered Accountants in practice, the number of audit assignments which may be taken for all the firms together in relation to such partner shall not exceed the "specified number of audit assignments" in the aggregate.

Provided further where any partner of a firm or firms of Chartered Accountants in practice accepts one or more audit of Companies in his individual capacity, or in the name of his proprietary firm, the total number of such assignments which may be accepted by all firms in relation to such Chartered Accountant and by him shall not exceed the "specified number of audit assignments" in the aggregate.

8.1 Explanation:

For the above purpose, the "specified number of audit assignments" means –

a. in the case of a Chartered Accountant in practice or a proprietary firm of Chartered Accountant, thirty audit assignments whether in respect of private Companies or other Companies.

b. in the case of Chartered Accountants in practice, thirty audit assignments per partner in the firm, whether in respect of private Companies or other Companies.

Provided that out of such "specified number of audit assignments, the number of audit assignments of public Companies each of which has a paid-up share capital of rupees twenty-five lakhs or more, shall not exceed ten.

8.2 In computing the "specified number of audit assignments"-

a. the number of audit of such Companies, which he or any partner of his firm has accepted whether singly or in combination with any other Chartered Accountant in practice or firm of such Chartered Accountants, shall be taken into account.

b. the audit of the head office and branch offices of a Company by one Chartered Accountant or firm of such Chartered Accountants in practice shall be regarded as one audit assignment.

c. the audit of one or more branches of the same Company by one Chartered Accountant in practice or by firm of Chartered Accountants in practice in which he is a partner shall be construed as one audit assignment only.

d. the number of partners of a firm on the date of acceptance of audit assignment shall be taken into account.

8.3 A Chartered Accountant in practice, whether in full-time or part-time employment elsewhere, shall not be counted for the purpose of determination of "specified number of audit of Companies" by firms of Chartered Accountants.

8.4 A Chartered Accountant being a part time practicing partner of a firm shall not be taken into account for the purpose of reckoning the audit assignments of the firm.

8.5 A Chartered Accountant in practice as well as firm of Chartered Accountants in practice shall maintain a record of the audit assignments accepted by him or by the firm of Chartered Accountants, or by any of the partners of the firm in his individual name or as a partner of any other firm, as far as possible, in the following format:

S. No.	Name of the Company	Registration Number	Date of Appointment	Date of Acceptance	Date on which which Form 23-B filed with Registrar of Companies
1	2	3	4	5	6

Chapter IX
Appointment as Statutory Auditor

9.0 A member of the Institute in practice shall not accept the appointment as statutory auditor of Public Sector Undertaking(s)/ Government Company(ies)/Listed Company(ies) and other Public Company(ies) having turnover of Rs. 50 crores or more in a year where he accepts any other work(s) or assignment(s) or service(s) in regard to the same Undertaking(s)/ Company(ies) on a remuneration

which in total exceeds the fee payable for carrying out the statutory audit of the same Undertaking/company.

Provided that in case appointing authority(ies)/regulatory body(ies) specify(ies) more stringent condition(s)/restriction(s), the same shall apply instead of the conditions/restrictions specified under these Guidelines.

9.1 The above restrictions shall apply in respect of fees for other work(s) or service(s) or assignment(s) payable to the statutory auditors and their associate concern(s) put together.

9.2 For the above purpose,

(i) the term "other work(s)" or "service(s)" or "assignment(s)" shall include Management Consultancy and all other professional services permitted by the Council pursuant to Section 2(2)(iv) of the Chartered Accountants Act, 1949 but shall not include: -

(a) audit under any other statute;

(b) certification work required to be done by the statutory auditors; and

(c) any representation before an authority;

(ii) the term "associate concern" means any corporate body or partnership firm which renders the Management Consultancy and all other professional services permitted by the Council wherein the proprietor and/or partner(s) of the statutory auditor firm and/or their "relative(s)" is/are Director/s or partner/s and/or jointly or severally hold "substantial interest" in the said corporate body or partnership;

(iii) the terms "relative" and "substantial interest" shall have the same meaning as are assigned thereto under Appendix (9) to the Chartered Accountants Regulations, 1988.

9.3 In regard to taking up other work(s) or service(s) or assignment(s) of the undertaking/company referred to above, it shall be open to such associate concern or corporate body to render such work(s) or service(s) or assignment(s) so long as aggregate remuneration for such other work(s) or service(s) or assignment(s) payable to the statutory auditor/s together with fees payable to its associate concern(s) or corporate body(ies) do/does not exceed the aggregate of fee payable for carrying out the statutory audit.

Chapter X
Appointment of an auditor when he is indebted to a concern

10.0 A member of the Institute in practice or a partner of a firm in practice or a firm shall not accept appointment as auditor of a concern while indebted to the concern or given any guarantee or provided any security in connection with the indebtedness of any third person to the concern, for limits fixed in the statute and in other cases for amount exceeding Rs. 10,000/-.

Chapter XI
Directions in case of unjustified removal of auditors

11.0 A member of the Institute in practice shall follow the direction given, by the Council or an appropriate Committee or on behalf of any of them, to him being the incoming auditor(s) not to accept the appointment as auditor(s), in the case of unjustified removal of the earlier auditor(s).

Chapter XII
Minimum Audit Fee in respect of Audit

12.0 A member of the Institute in practice shall not, on behalf of the firm of chartered accountants in which he is a partner, accept or carry out any audit work involving receipt of audit fees (excluding reimbursement of expenses, if any) for such work of an amount less than what is specified hereunder:-

(a) consisting of 5 or more partners but less than 10 partners with at least one partner holding a certificate of practice for five years or more; or

(b) consisting of 10 or more partners with at least one partner holding a certificate of practice for five years or more.

		Practising firm having 5 or more partners but less than 10 partners	Practising firm having 10 or more partners
(i)	In cities with population of 3 million and above. . . as per the last census)	Rs. 6000/- p.a.	Rs. 12,000/- p.a
(ii)	In cities/towns having population of less than 3 million. . . (as per the last census)	Rs. 3500/- p.a	Rs 8000/- p.a

Provided that such restriction shall not apply in respect of the following: -

(i) audit of accounts of charitable institutions clubs, provident funds, etc. where the appointment is honorary i.e., without any fees;.

(ii) statutory audit of branches of banks including regional rural banks;

(iii) audit of newly formed concerns relating to two accounting years from the date of commencement of their operations;

(iv) certification or audit under Income-tax Act or other attestation work carried out by the Statutory Auditor; and

(v) Sales Tax Audit and VAT Audit.

12.1 Explanation:

For the purpose of these Guidelines, the expression statutory auditor means and includes a chartered accountant appointed as an auditor under a Central/State or

Provincial Act as well as an auditor appointed under any agreement.

The Council has clarified that for the above purpose the audit of Provident Fund Trust; Gratuity Fund etc. carried out by the statutory auditor are to be considered as separate and distinct audit so that the above restrictions are applicable to it.

Chapter XIII
Repeal and Saving

13.0 The Notifications as specified in the **Schedule** hereto, issued under erstwhile Clause (ii) of Part II of the Second Schedule to the Chartered Accountants Act, 1949 by the Council from time to time shall stand repealed from the date herein.

13.1 Notwithstanding such repeal:-

(a) Anything done or any action taken or purported to have been done or taken, any enquiry or investigation commenced or show cause notice issued in respect of the said notifications shall be deemed to have been done or taken under the corresponding provisions of these guidelines.

(b) Any application made to the Council or Director (Discipline) under the said Notifications and pending before the Director (Discipline), Board of Discipline, Disciplinary Committee and the Council shall be deemed to have been made under the corresponding provisions of these Guidelines.

SCHEDULE

NOTIFICATIONS ISSUED BY THE COUNCIL UNDER ERSTWHILE CLAUSE (ii) OF PART II OF THE SECOND SCHEDULE TO THE CHARTERED ACCOUNTANTS ACT, 1949.

1. No. 1-CA(7)/65, dated 6th November, 1965.
2. No. 1-CA (37)/70, Published in Part III Section 4 of the Gazette of India dated 30th May, 1970.
3. No. 1-CA (39)/70, Published in Part III Section 4 of the Gazette of India dated 24th October, 1970.
4. No. 1-CA (44)/71, Published in Part III Section 4 of the Gazette of India dated 20th March, 1971.
5. No. 1-CA (153)/86, Published in Part III Section 4 of the Gazette of India dated 30th August, 1986.
6. No. 1-CA (7)/3/88, Published in Part III Section 4 of the Gazette of India dated 4th February, 1989.
7. No. 1-CA (7)/9/89, Published in Part III Section 4 of the Gazette of India dated 19th August, 1989 (Since quashed by the Supreme Court vide Order dated 16th May, 2007).
8. No. 1-CA (7)/43/99, Published in Part III Section 4 of the Gazette of India dated 31st July, 1999.
9. No. 1-CA (7)/46/99, Published in Part III Section 4 of the Gazette of India dated 13th November, 1999.
10. No. 1-CA (7)/53/2001, Published in Part III Section 4 of the Gazette of India dated 12th May, 2001.
11. No. 1-CA (7)/60/2002, Published in Part III Section 4 of the Gazette of India dated 23rd March, 2002.
12. No. 1-CA (7)/63/2002, Published in Part III Section 4 of the Gazette of India dated 7th September, 2002.
13. No. 1-CA (7)/67/2002, Published in Part III Section 4 of the Gazette of India dated 19th October, 2002.
14. No. 1 - CA (7)/75/2004, Published in Part III Section 4 of the Gazette of India dated 22nd May, 2004.

Appendix 3

COUNSEL'S RESOLUTION ON PART TIME PRACTICE

"It is further resolved that the general and specific permission granted by the Council is subject to the condition that –

(i) any member engaged in any other business or occupation, in terms of general or specific permission granted as per Appendix No. (9) given above shall not be entitled to perform any attest function. However, a member engaging in any of the following area(s), in terms of the specific or general permission so granted, shall be entitled to perform attest function :

(a) *Authorship of books and articles*

(b) Holding of Life Insurance Agency Licence for the limited purpose of getting renewal commission.

(c) Attending classes and appearing for any examination.

(d) Holding of public elective offices such as M.P., M.L.A. & M.L.C.

(e) Honorary office-bearership of charitable, educational or other non-commercial organisations.

(f) Acting as Notary Public, Justice of the Peace, Special Executive Magistrate and the like.

(g) Part-time tutorship under the Coaching Organisation of the Institute.

(h) Valuation of papers, acting as paper-setter, head-examiner or a moderator for any examination.

(i) Editorship of professional journals – (not in employment).

(j) Acting as surveyor and Loss Assessor under the Insurance Act, 1938 - (not in employment).

(k) Acting as Recovery consultant in the Banking Sector - (not in employment).

(l) Any coaching assignment organized by the Institute, its Regional Councils and Branches of Regional Councils.

(m) Engagement as Lecturer in an University, affiliated college, educational institution, coaching organisation, private tutorship, provided the direct teaching hours devoted to such activities taken together do not exceed 25 hours a week.

(n) Engagement in any other business or occupation permitted by the Executive Committee from time to time.

(ii) A member who is not entitled to perform attest function shall not be entitled to train articled clerks.

(iii) The decision (of the Council) taken at its 223rd meeting held in February, 2002 prescribing the criteria for individual cases of articleship shall continue to be in operation, mutatis mutandis."

The Council in this connection also clarified that the Attest function for the purpose of this Resolution would cover services pertaining to audit, review, certification, agreed upon procedures, and compilation, as defined in the Framework of Statements on Standard Auditing Practices and Guidance Notes on Related Services published in the July, 2001 issue of the Institute's Journal.

The Council also decided that the aforesaid resolution, as passed by it, be incorporated as a part of and in continuation of the existing resolution [under Regulation 190A, which appears as Appendix No. 9 to the Chartered Accountants Regulations, 1988 (2002 Edition)].

Appendix 4

MANDATORY COMMUNICATION - RELEVANT EXTRACTS FROM THE CODE OF ETHICS (11th Edition - January, 2009) (Pages 163 to 168)

Clause (8): **accepts a position as auditor previously held by another Chartered Accountant or a certified auditor who has been issued certificate under restricted Certificate Rules, 1932 without first communicating with him in writing;**

It must be pointed out that professional courtesy alone is not the major reason for requiring a member to communicate with the existing accountant who is a member of the Institute or a certified auditor. The underlying objective is that the member may have an opportunity to know the reasons for the change in order to be able to safeguard his own interest, the legitimate interest of the public and the independence of the existing accountant. It is not intended, in any way, to prevent or obstruct the change. When making the enquiry from the retiring auditor, the one proposed to be appointed or already appointed should primarily find out whether there are any professional or other reasons why he should not accept the appointment.

It is important to remember that every client has an inherent right to choose his accountant; also that he may, subject to compliance with the statutory requirements in the case of limited Companies, make a change whenever he chooses, whether or not the reasons which had impelled him to do so are good and valid. The change normally occurs where there has been a change of venue of business and a local accountant is preferred or where the partner who has been dealing with the clients affairs retires or dies; or where temperaments clash or the client has some good reasons to feel dissatisfied. In such cases, the retiring auditor should always accept the situation with good grace.

The existence of a dispute as regards the fees may be root cause of an auditor being changed. This would not constitute valid professional reasons on account of which an audit should not be accepted by the member to whom it is offered. However, in the case of an undisputed audit fees for carrying out the statutory audit under the Companies Act, 1956 or various other statutes having not been paid, the incoming auditor should not accept the appointment unless such fees are paid. In respect of other dues,

the incoming auditor should in appropriate circumstances use his influence in favour of his predecessor to have the dispute as regards the fees settled. The professional reasons for not accepting an audit would be:

(i) Non-compliance of the provisions of sections 224 and 225 of the Companies Act as mentioned in Clause (9);

(ii) Non-payment of undisputed audit fees by auditees other than in case of sick units for carrying out the statutory audit under the Companies Act, 1956 or various other statutes; and

(iii) Issuance of a qualified report.

In the first two cases, an auditor who accepts the audit would be guilty of professional misconduct. In this connection, attention of members is invited to Council Guidelines 1-CA(7)/ 02/2008 dated 08.08.2008 appearing in Chapter-3 of the book and also published at page 686 of October, 2008 issue of the Journal. In the said guidelines, council has explained that the provision for audit fee in accounts signed by both the auditee or the auditor shall be considered as "undisputed audit fee and seek unit" shall mean where net worth is negative.

In the last case, however, he may accept the audit if he is satisfied that the attitude of the retiring auditor was not proper and justified. If, on the other hand, he feels that the retiring auditor had qualified the report for good and valid reasons, he should refuse to accept the audit. There is no rule, written or unwritten, which would prevent an auditor from accepting the appointment offered to him in. these circumstances. However, before accepting the audit, he should ascertain the full facts of the case. For nothing will bring the profession to disrepute so much as the knowledge amongst the public that if an auditor is found to be "inconvenient" by the client, he could readily be replaced by another who would not displease the client and this point cannot be too over-emphasised.

What should be the correct procedure to adopt when a prospective client tells you that he wants to change his auditor and wants you to take up his work? There being two persons involved, the company and the old auditor, the former should be asked whether the retiring auditor had been informed of the intention to change. If the answer is in the affirmative, then a communication should be addressed to the retiring auditor. If, however, it is learnt that the old auditor has not

been informed, and the client is not willing to make the first move, it would be necessary to ask him the reason for the proposed change. If there is no valid reason for a change, it would be healthy practice not to accept the audit. If he decides to accept the audit he should address a communication to the retiring auditor.

As stated earlier, the object of the income auditor, in communicating with the retiring auditor is to ascertain from him whether there are any circumstances which warrant him not to accept the appointment. For example, whether the previous auditor has been changed on account of having qualified his report or he had expressed a wish not to continue on account of something inherently wrong with the administration of the business. The retiring auditor may even give out information regarding the condition of the accounts of the client or the reason that impelled him to qualify his report. In all these cases it would be essential for the incoming auditor to carefully consider the facts before deciding whether or not he should accept the audit, and should he do so, he must also take into account the information while discharging his duties and responsibilities.

Sometimes, the retiring auditor fails without justifiable cause except a feeling of hurt because of the change, to respond to the communication of the incoming auditor. So that it may not create a deadlock, the auditor appointed can act, after waiting for a reasonable time for a reply.

The Council has taken the view that a mere posting of a letter under certificate of posting is not sufficient to establish communication with the retiring auditor unless there is some evidence to show that the letter has in fact reached the person communicated with. A Chartered Accountant who relies solely upon a letter posted under certificate of posting therefore does so at his, own risk.

The view taken by the Council has been confirmed in a decision by the Rajasthan High Court in J.*S. Bhati vs. The Council of the Institute of the Chartered Accountants of India and another. (Pages 72-79 of Vol. V of Disciplinary Cases published by the Institute - Judgement delivered on 29th August, 1975)*. The following observations of the Court are relevant in this context:-

"Mere obtaining a certificate of posting in my opinion does not fulfill the requirements of clause (8) of Schedule I as the presumption under Section 114 of the Evidence Act that the letter in due course reached

the addressee cannot replace that positive degree of proof of the delivery of the letter to the addressee which the letters of the law in this case require. The expression 'in communication with' when read in the light of the instructions contained in the booklet 'Code of Conduct' cannot be interpreted in any other manner but to mean that there should be positive evidence of the fact that the communication addressed to the outgoing auditor by the incoming auditor reached his hands. Certificate of posting of a letter cannot, in the circumstances, be taken as positive evidence of its delivery to the addressee."

Members should therefore communicate with a retiring auditor in such a manner as to retain in their hands positive evidence of the delivery of the communication to the addressee. In the opinion of the Council, communication by a letter sent "Registered Acknowledgement due" or by hand against a written acknowledgement would in the normal course provide such evidence.

The Council is of the opinion that it would be a healthy practice to communicate with the member who had done the work previously in every case where a Chartered Accountant is required to give a certificate or in respect of a verification of the books of account for special purpose as well as in cases where he is appointed as a Liquidator, Trustee or Receiver and his predecessor was a Chartered Accountant.

As a matter of professional courtesy and professional obligation it is necessary for the new auditor appointed to act jointly with the earlier auditor and to communicate with such earlier auditor.

It would also be a healthy practice if a tax auditor appointed for conducting special audit under the Income-tax Act, communicates with the member who has conducted the statutory audit.

It is desirable that a member, on receiving communication from the auditor who has been appointed in his place, should send a reply to him as soon as possible setting out in detail the reasons, which according to him had given rise to the change and other attendant circumstances but without disclosing any information as regards the affairs of the client which he is not competent to do.

The Council has taken the view that it is not obligatory for the auditor appointed to conduct a Special Audit under section 233A of Companies Act, 1956 to communicate with the previous auditor who

had conducted the regular audit for the period covered by the Special Audit.

The Council has also laid down the detailed guidelines on the subject as under:

1. The requirement for communicating with the previous auditor being a Chartered Accountant in practice would apply to all types of audit viz., statutory audit, tax audit, internal audit, concurrent audit or any other kind of audit.

2. Various doubts have been raised by the members about the terms "audit", "previous auditor", "Certificate" and "report", normally while interpreting the aforesaid Clause (8). These terms need to be clarified.

3. As per para 2 of the Institute's publication viz., Auditing & Assurance Standards (AAS) 1 on "Basic Principles Governing an Audit", an "audit" is the independent examination of financial information of any entity, whether profit oriented or not, and irrespective of its size or legal form, when such an examination is conducted with a view to expressing an opinion thereon.

4. The term "previous auditor" means the immediately preceding auditor who held same or similar assignment comprising same/similar scope of work. For example, a Chartered Accountant in practice appointed for an assignment of physical verification of inventory of raw materials, spares, stores and finished goods, before acceptance of appointment, must communicate with the previous auditor being a Chartered Accountant in practice who was holding the appointment of physical verification of inventory of raw materials, stores, finished goods and fixed assets. The mandatory communication with the previous auditor being a Chartered Accountant is required even in a case where the previous auditor happens to be an auditor for a year other than the immediately preceding year.

5. As explained in para 2.2 of the Institute's publication viz., 'Guidance Note on Audit Reports and Certificates for Special Purposes', a "certificate" is a written confirmation of the accuracy of the facts stated therein and does not involve any estimate or opinion. A "report", on the other hand, is a formal

statement usually made after an enquiry, examination or review of specified matters under report and includes the reporting auditor's opinion thereon. Thus, when a reporting auditor issues a certificate, he is responsible for the factual accuracy of what is stated therein. On the other hand, when a reporting auditor gives a report, he is responsible for ensuring that the report is based on factual data, that his opinion is in due accordance with facts, and that it is arrived at by the application of due care and skill.

6. A communication is mandatorily required for all types of audit/ report where the previous auditor is a Chartered Accountant. For certification, it would be healthy practice to communicate. In case of assignments done by other professionals not being Chartered Accountants, it would also be a healthy practice to communicate.

7. Although the mandatory requirement of communication with previous auditor being Chartered Accountant applies, in uniform manner, to audits of both government and non-government entities, yet in the case of audit of government companies/banks or their branches, if the appointment is made well in time to enable the obligation cast under this clause to be fulfilled, such obligation must be complied with before accepting the audit. However, in case the time schedule given for the assignment is such that there is no time to wait for the reply from the outgoing auditor, the incoming auditor may give a conditional acceptance of the appointment and commence the work which needs to be attended to immediately after he has sent the communication to the previous auditor in accordance with this clause. In his acceptance letter, he should make clear to the client that his acceptance of appointment is subject to professional objections, if any, from the previous auditors and that he will decide about his final acceptance after taking into account the information received from the previous auditor.

Appendix 5

ANNOUNCEMENT PUBLISHED IN THE ICAI JOURNAL, 'THE CHARTERED ACCOUNTANT' FOR THE MONTH OF AUGUST, 2006 AT PAGE 276

Revision of recommended scale of fee chargeable for the work done by the members of the Institute.

(See page 325 of the Eleventh Edition of the Code of Ethics)

The Council of the Institute of Chartered Accountants of India recommends from time to time scale of fees chargeable for the work done by the member of the Institute. Such scale of fees were last revised effective from April 1, 2000. Keeping in view the overall increase in the cost of living since then, the Council at its meeting held in January 2006, has revised the existing recommended fees as under (effective from 12th May 2006):

		As on 1-4-2000		**Revised with effect from(12th May 2006)**	
		Between (Rs.)	**And (Rs.)**	**Between (Rs.)**	**And (Rs.)**
1.	For giving expert evidence in courts of law in the Union of India according to professional standing of the witness.	5,000 [For each day or part there-of, spent in attendance and/or travelling]	10,000	7,500 [For each day or part thereof, spent in attendance and/or travelling]	15,000
2.	Other work (a) Statutory Audit, Tax Audit, Internal Audit, Accountancy and Secretarial Work:				
	Principal	600	1200	900	1800
	Qualified Assistants	300	600	450	900
	Semi Qualified/Other Assistants	100	200	150	300
		[Per Hour]	[Per Hour]	Per Hour]	[Per Hour]

		Existing		Revised with effect from(12th May 2006)	
		Between (Rs.)	**And (Rs.)**	**Between (Rs.)**	**And (Rs.)**
	(b) Taxation Work:				
	Principal	1000	2000	1500	3000
	Qualified Assistants	500	1000	750	1500
	Semi-Qualified/Other Assistants	200 [Per Hour]	400 [Per Hour]	[Per Hour]	[Per Hour]
	(c) Investigation, Management Services or Special Assignments:				
	Principal	1500	3000	2250	4500
	Qualified Assistants	750	1500	1125	2250
	Semi-Qualified/Other Assistants	250 [Per Hour]	500 [Per Hour]	375 [Per Hour]	750 [Per Hour]

Note:

1. Office time spent in travelling would be chargeable. In case of outstation work, travelling and out-of-pocket expenses would also be chargeable.

2. The Council issues for general information the above revised recommended scale of fees which it considers reasonable under present conditions. It will be appreciated that the actual fees charged in individual cases will be a matter of agreement between member and the client.

Appendix 6

ILLUSTRATIVE CHECKLIST OF DOCUMENTS, ETC. TO BE SOUGHT FROM DEALER FOR VAT AUDIT

I) BASIC DETAILS

1) Constitution of Business:

   Proprietor / Partnership / Pvt. Ltd. Co. / Public Ltd. Co. / HUF / Co-op. Society / Trust / etc.

2) Trade Name (if any) in which business is carried on.

3) Address of Places of Business: Principal place, Additional places in Maharashtra and additional places of business outside the State with CST number, if any.

4) List with address of division/unit for which separate books of accounts are maintained.

5) Nature of Business / Business Activity Manufacturer / Reseller / Work Contractor/ Lessor / Bakery / Restaurant / Labour / Job Worker / Importer / etc.

6) Class of Products dealt in List of goods dealt in, along with their classification, giving Central Excise Tariff Codes & VAT Schedule / Notification Entry Numbers, giving Rate of Vat.

   Similarly details be obtained for raw materials etc. in case of manufacturing concern.

7) Method of accounting

8) List of Books of Account and Sales tax related records such as various Registers, Bills, Vouchers, delivery Challans, etc. maintained and address where same are maintained.

9) Name of the Software Package (if any) used for accounting and change during the year, if any.

10) Details of all bank accounts, Banker's Name, Address of Branch, Branch BSR Number, Account Type & Number, and Bank reconciliation.

11) Method of Stock Valuations adopted during previous year & year under audit and valuation of stock for different purposes such as stock transfer etc.

12) Internal Control & Checks available with regard to accounting System, Software, Purchases, Sales, Stocks transfers etc.

13) Whether entitled for PSI benefit if use mode of availment of benefit viz. Exemption Scheme Deferral Scheme

14) Whether opted for Composition Scheme in case of Reseller / Bakery / Restaurant / Caterer / Second Hand Passenger Motor vehicle dealer / etc.

15) Details & Computation of Composition sum paid / payable under different Schemes / Notification.

16) Copies of refund application filed for the year along with copy of the refund orders, if any, changes in accounting system, product line, new business activity and any other changes.

II) CERTIFIED TRUE COPY (CTC) OF CERTAIN DOCUMENTS

1) Certified True Copy (CTC) of Constitution, Registration Certificates under MVAT Act, CST Act, Tax deduction A/c, Eligibility Certificate, Entitlement Certificate, Profession Tax EC, Profession Tax RC, Other Registration Certificate under laws administered by Sales Tax Department such as Luxury Tax, Entry Tax, Sugarcane Purchase Tax Act, IT PAN, ECC No. under Central Excise Act, IEC certificate, Services Tax Registration.

2) CTC of Returns filed under MVAT Law & CST Act and tax payment Challans, including Revised / fresh Returns filed.

3) CTC of payments made under Profession Tax Act as employer as well as Entitlement Certificate holder.

4) Consolidation of Sales / Purchases deduction claim etc. as per Returns filed & taxes paid giving due dates & payment dates.

5) CTC of Trading, Profit & Loss A/c. for the previous year and for year under audit Balance Sheet along with Schedules as on those dates.

6) CTC of Audit Report, if any, under the Income Tax Act, 1961 along with all enclosures. If the audit u/s 44AB of the Income Tax Act is complied then any other statutory report on financial statement under any other Law for the previous year and current year.

7) CTC of TIN Application and New TIN RC CST RC (if issued).

8) CTC of Bank Statements.

III) STATEMENTS REQUIRED

1) Statement of Sales, Purchases, Goods Returns, Credit / Debit Notes & Stocks, giving details of tax breakups in specified format (Regular Goods, Fixed Assets, Scrap, Misc. goods, etc.) in respect of all places of business within the Maharashtra with Profit & Loss A/c.

2) Working Capital Employed: (Rs. In Lakhs)

   Current Assets Rs. _____ lakhs

   Less: Current Liabilities Rs._____ lakhs

   Working Capital Rs._____lakhs

3) Accounting ratios as required in Annexure F.

4) Activity Code wise turnover and tax.

IV) SALES SIDE REQUIREMENTS

1) Procedure followed for determining concluded sales

2) Nature and amount of admissible deduction e.g. labour charges / service charges / discounts / goods return etc.

3) Documentation & Operating procedure for Exports, Highseas sales, Sales on Form 'H', Sale-in-Transit under form C & E I, Stock Transfer on form 'F'.

4) System / Procedure followed for sending goods on Stock Transfer basis & its valuation.

5) System and procedure for issuing Cr. Notes and Dr. notes.

6) Customer wise summary of sales, debit notes, credit notes, etc.

V) PURCHASE SIDE REQUIREMENTS

1) System followed for recording or / purchases and identification of purchases eligible / not eligible for set-off.

2) Computation of set-off claimed in Returns filed, along with basis of reduction / retentions made.

3) Details of purchases exceeds Rs. 5 Lakhs from new local supplier.

4) Customer wise summary of purchases, debit notes, credit notes in Maharashtra from all dealers as per Annexure 'J'.

VI) WORKS CONTRACTS REQUIRMENTS

1) Method followed to pay tax i.e., whatever payment of tax on works Contract is as under : Composition Scheme or as per the provisions of MVAT Act.

2) Details of Sub-Contracts given & details of Form 407 & Form 408 received from Sub-Contractor.

3) Details of contract carried on, for which tax is paid by Main Contractor who has given Form 406 & Form 409.

4) Statement of TDS made / certificates Issued.

5) Details of Works Contracts, liable to TDS but not deducted and reasons thereof.

6) Statement of TDS record maintained and TDS statement and returns filed.

Appendix 7

APPLICABILITY OF ACCOUNTING STANDARDS - (Compendium of Accounting Standards (including interpretations as on July 1, 2004) - page xxxii to xxxviii)

4. Applicability of Accounting Standards and exemptions / relaxations for SMEs

So far, the Institute has issued 29 accounting standards. The applicability of the accounting standards and exemptions / relaxations for SMEs are as follows:

I. Accounting Standards applicable to all enterprises in their entirety (Levels I, II and III)

(i) AS I, Disclosure of Accounting Policies

(ii) AS 2, Valuation of Inventories

(iii) AS 4, Contingencies and Events Occurring After the Balance Sheet Date

(iv) AS 5, Net Profit or Loss for the Period, Prior Period Items and Changes in Accounting Policies

(v) AS 6, Depreciation Accounting

(vi) AS 7 (Revised 2002), Construction Contracts AS 7 (Issued 1983), Accounting for Construction Contracts

(vii) AS 8, Accounting for Research and Development

(viii) AS 9, Revenue Recognition

(ix) AS 10, Accounting for Fixed Assets

(x) AS 11 (revised 2003), The Effects of Changes in Foreign Exchange Rates AS 11 (revised 1994), Accounting for the Effects of Changes in Foreign Exchange Rates

(xi) AS 12, Accounting for Government Grants

(xii) AS 13, Accounting for Investments

(xiii) AS 14, Accounting for Amalgamations

(xiv) AS 15, Accounting for Retirement Benefits in the Financial Statements of Employers

(xv) AS 16, Borrowing Costs

(xvi) AS 22, Accounting for Taxes on Income

(xvii) AS 26, Intangible Assets

II. Exemptions/Relaxations for SMEs

(A) Accounting Standards not applicable to Level II and Level III enterprises in their entirety:

(i) AS 3, Cash Flow Statements

(ii) AS 17, Segment Reporting

(iii) AS 18, Related Party Disclosures

(iv) AS 24, Discontinuing Operations.

(B) Accounting Standards not applicable to Level II and Level III enterprises since the relevant Regulators require compliance with them only by certain Level I enterprises:

(i) AS 21, Consolidated Financial Statements

(ii) AS 23, Accounting for Investments in Associates in Consolidated Financial Statements (iii) AS 27, Financial Reporting of Interests in Joint Ventures (to the extent of requirements relating to consolidated financial statements)

(iii) AS 27, Financial Reporting of Interests in JVs (to the extent of requirements relating to consolidated financial statements)

(C) Accounting Standards in respect of which relaxations from certain disclosure requirements have been given to Level II and Level III enterprises:

(i) AS 19, Leases

Paragraphs 22(c), (e) and (f); 25(a), (b) and (e); 37(a), (f) and (g); and 46(b), (d) and (e), of AS 19 are not applicable to Level II and Level III enterprises.

(ii) AS 20, Earnings Per Share

As regards AS 20, diluted earnings per share (both including and excluding extraordinary items) and information required by paragraph 48 (ii) of AS 20 are not required to be disclosed by Level II and Level III enterprises if this standard is applicable to these enterprises because they disclose earnings per share. So far as companies are concerned, since all the companies are required to apply AS 20 by virtue of the provisions of Part IV of Schedule VI to the Companies Act, 1956, requiring disclosure of earnings per share, the position is that the companies which do not fall in Level I, would not be required to disclose diluted earnings per share (both including and excluding extraordinary items) and information required by paragraph 48 (ii) of AS 20.

(iii) AS 29, Provisions, Contingent Liabilities and Contingent Assets

— Paragraph 67 is not applicable to Level II enterprises

— Paragraphs 66 and 67 are not applicable to Level III enterprises

The above relaxations are incorporated in AS 29 itself.

(D) Accounting Standard applicability of which is deferred for Level II and Level III enterprises:

AS 28, Impairment of Assets

— For Level I Enterprises applicable from 1-4-2004

— For Level II Enterprises applicable from 1-4-2006

— For Level III Enterprises applicable from 1-4-2008

(E) AS 25, Interim Financial Reporting, does not require any enterprise to present interim financial report. It is applicable only if an enterprise is required or elects to prepare and present an interim financial report. However, the recognition and measurement requirements contained in this Standard are applicable to interim financial results, e.g., quarterly financial results required by the SEBI. At present, in India, enterprises are not required to present interim financial report within the meaning of AS 25. Therefore, no enterprise in India is required to comply with the disclosure and presentation requirements

of AS 25 unless it voluntarily presents interim financial report within the meaning of AS 25. The recognition and measurement principles contained in AS 25 are also applicable only to certain Level I enterprises since only these enterprises are required by the concerned regulators to present interim financial results.

In view of the above, at present, AS 25 is not mandatorily applicable to Level II and Level III enterprises in any case.

5. An enterprise which does not disclose certain information pursuant to the above exemptions / relaxations, should disclose the fact.

6. Where an enterprise has previously qualified for any exemption / relaxation (being under Level II or Level III), but no longer qualifies for the relevant exemption/relaxation in the current accounting period, the relevant standards/requirements become applicable from the current period. However, the corresponding previous period figures need not be disclosed.

7. Where an enterprise has been covered in Level I and subsequently, ceases to be so covered, the enterprise will not qualify for exemption/ relaxation available to Level II enterprises, until the enterprise ceases to be covered in Level I for two consecutive years. Similar is the case in respect of an enterprise, which has been covered in Level I or Level II and subsequently, gets covered under Level III.

Annexure I

Criteria for classification of enterprises

Level I Enterprises

Enterprises which fall in anyone or more of the following categories, at any time during the accounting period, are classified as Level I enterprises:

(i) Enterprises whose equity or debt securities are listed whether in India or outside India.

(ii) Enterprises which are in the process of listing their equity or debt securities as evidenced by the board of directors' resolution in this regard.

(iii) Banks including co-operative banks.

(iv) Financial institutions.

(v) Enterprises carrying on insurance business.

(vi) All commercial, industrial and business reporting enterprises, whose turnover for the immediately preceding accounting period on the basis of audited financial statements exceeds Rs. 50 crore. Turnover does not include 'other income'.

(vii) All commercial, industrial and business reporting enterprises having borrowings, including public deposits, in excess of Rs. 10 crore at any time during the accounting period.

(viii) Holding and subsidiary enterprises of anyone of the above at any time during the accounting period.

Level II Enterprises

Enterprises which are not Level I enterprises but fall in anyone or more of the following categories are classified as Level II enterprises:

(i) All commercial, industrial and business reporting enterprises, whose turnover for the immediately preceding accounting period on the basis of audited financial statements exceeds Rs. 40 lakhs but does not exceed Rs. 50 crores. Turnover does not include' other income'.

(ii) All commercial, industrial and business reporting enterprises having borrowings, including public deposits, in excess of Rs. 1 crores but not in excess of Rs. 10 crore at any time during the accounting period.

(iii) Holding and subsidiary enterprises of anyone of the above at any time during the accounting period.

Level III Enterprises

Enterprises which are not covered under Level I and Level II are considered as Level III enterprises.

Appendix 8

ILLUSTRATIVE CHECKLIST FOR DETERMINATION OF GROSS TURNOVER AND RECONCILIATION

Sr. No.	Particulars	Amount
1	Gross Turnover of sales as per Books of Accounts / Audited Statements	
2	Add: Recoveries, Receipts, Disposals whether or not taxable under MVAT Act and / or CST Act.	
	(a) Customs and Excise Duty	
	(b) Octroi or Cess	
	(c) Processing Charges, Packing Charges, Weighing Charges	
	(d) Freight	
	(e) Miscellaneous / Other Income – Sale of scrap, waste, by-products and other goods, Disposal of Licences, Quota, DEPB and other intangible goods.	
	(f) Sale / Disposal of movable assets	
	(g) Deposits connected to sales or deemed sales.	
	(h) Royalty for use of Technical know-how, Copyrights, Patents or under Franchise Agreements and other IPRs	
	(i) Works contracts, Job-work, Processing charges or Service charges involving use of materials	
	(j) Recoveries from employees for meals and other goods excluding payment of wages in kind	

Sr. No.	Particulars	Amount
	(k) Disposal of goods under buy-back Schemes (l) Leases – Capital Recovery including Finance Charges (m) Hire Purchase – Capital Recovery including Finance Charges (n) Receipts under Comprehensive Annual Maintenance Contracts (o) Sales on behalf of principal though only commission income is recorded in the accounts, for example; as agent, under conducting agreement, etc. (p) Branch, Consignment and Stock transfers (q) Supply to members by Clubs, AOP, BOP, etc. (r) Amounts received or receivable on account of claim for increase or escalation or arbitration awards (s) Collection of taxes (t) Goods Returns (u) Other adjustments to sale price of goods sold (v) Sales of raw materials and packing materials	

Sr. No.	Particulars	Amount
	(w) Sale of goods under compulsion of law / order	
	(x) Supply of food and drinks as part of any service for human consumption	
	(y) Sales eligible for composition other than works contracts	
3.	Less:	
	(a) Turnover of sales of goods outside the State	
	(b) Labour and Job Work not involving sale of goods	
	(c) Service and Consultancy charges	
	(d) Discounts and Price Reductions	
	(e) Any other amount collected subsequent to delivery of goods	
4.	Gross Turnover under MVAT Act and CST Act.	

It may be noted that taxes collected/accounted for separately, Branch Transfers, Consignment Transfers, Job Work charges do not form part Turnover of sales or purchases. However, Sr. No. 1 of all schedules appended to Form 704 requires that all such non sales charges/taxes be included in Gross Turnover of Sales.

Appendix 9

Statement on Qualifications in Auditors' Reports
(Handbook of Auditing Pronouncements (as on February 1, 2005)
– Volume I – pages II54 to II71)

Qualifications in Auditor's Report

General Considerations

3.1 In a majority of cases auditor's reports on the accounts examined by them are found to be unqualified. This often creates the impression in the minds of the public that auditors tend to make reports in a routine manner. It is not appreciated that the right of a statutory auditor to make a qualified report is a great deterrent and prevents the managements of companies from resorting to accounting practices and methods of disclosure which are not in accordance with the law. The result is that the auditor of a company is in a position to persuade the management of the company to accept his views and modify the accounts or make such disclosures as are required by law, as in the absence of these he would qualify his report.

3.2 However, it happens that in certain circumstances, the auditor has no alternative but to give a qualified report, and it is important to appreciate the manner in which this should be done. A qualified report is not normally necessary, unless the issues involved are material. However, items requiring disclosure, under the law, such as, the directors' remuneration, whether material or not, have to be specifically disclosed. If this is not done, it is the duty of the auditor to qualify his report.

3.3 The statutory provisions in the Companies Act relating to qualifications in the auditor's report are contained in Section 227(4) of the Act which provides that where the auditors are required, in their report, to answer any of the statutory affirmations in the negative or with a qualification, their report shall state the reasons for such answer. It is, therefore, necessary for the auditor to give the reasons for any qualifications in his report.

3.4 There are several matters in the professional code applicable to Chartered Accountants in practice which have a direct relevance to the subject of qualifications or reservations in auditors' reports. In particular, attention is drawn to the following clauses in Part I of the Second Schedule to the Chartered Accountants Act, 1949.

"A Chartered Accountant in practice shall be deemed to be guilty of professional misconduct, if he.....

(5) fails to disclose a material fact known to him which is not disclosed in a financial statement, but disclosure of which is necessary to make the financial statement not misleading.

(6) fails to report a material mis-statement known to him to appear in a financial statement with which he is concerned in a professional capacity".

As indicated in these clauses, failure to report or disclose material facts or mis-statements constitutes professional misconduct. The disclosures required by these clauses may be made in the accounts or in the auditors' report, as deemed appropriate.

"(8) fails to obtain sufficient information to warrant the expression of an opinion or his exceptions are sufficiently material to negate the expression of an opinion".

In this connection see Paragraph 3.7 below:

"(9) fails to invite attention to any material departure from the generally accepted procedure of audit applicable to the circumstances".

This clause implies that the audit should be performed in accordance with "generally accepted procedure of audit applicable to the circumstances" and if for any reason, the auditor has not been able to perform the audit in accordance with such procedure, his report should draw attention to the material departures from such procedure. What constitutes "generally accepted audit procedure" would depend upon the facts and circumstances of each case, but guidance is available in general terms from the various pronouncements of the Institute issued by way of notes of members, in particular, the Institute's Statement on Auditing Practices.

3.5 An auditor of a company is appointed by the shareholders to perform certain statutory functions and duties and it is expected of him that he will in fact perform these functions and duties. The failure to perform a statutory duty in the manner required is not excused merely by giving a qualification or reservation in auditor's report. For example, if an auditor fails to verify the cash balance in

circumstances where such verification was necessary, feasible and material, it is not sufficient for him merely to state in his report that he did not verify the cash balance. Consequently, when giving any reservations or qualifications in the auditor's report as required by Clause 9 of Part I of the Second Schedule to the Chartered Accountants Act, 1949, a member would be well advised to indicate clearly the reasons why he was unable to perform the audit in accordance with generally accepted procedures and standards.

Aspects to be considered while Qualifying Reports*

3.6 While qualifying a report, it is important to appreciate:

(i) as to which of the various items (the statements of fact and opinion) require a qualification;

(ii) whether the auditors are in active disagreement with something which has been done by the company or are merely unable to form an opinion in regard to items for which there is lack of adequate information;

(iii) whether the matters in question are so material as to affect the presentation of a true and fair view of the whole of the affairs of the company or are of such a nature as to affect only a particular item disclosed in the accounts; and

(iv) whether the matters constituting qualification involve a material contravention of any requirements of the Companies Act, 1956 which have a bearing on the accounts.

3.7 In a majority of cases, items which are the subject matter of qualifications are not so material as to affect the truth and fairness of the whole of the accounts. In such cases, it is appropriate for the auditors to report that in their opinion, subject to the specific qualifications mentioned, the accounts present a true and fair view. Sometimes, however, the items which are the subject matter of qualifications are so material that it would be meaningless to state, that subject to the qualifications, the accounts disclose a true and fair view. An example would be where all the qualifications taken together substantially affect the profit or loss as shown in the profit and loss account, including where the profit is converted into a loss or *vice versa*. In such a case, the auditor should state that the profit and loss account does not reflect a true and fair view of profit or loss for the period. Another example would be where the auditors were

not able to examine a substantial part of the books of account, *e.g.*, they were in police custody. In such a case, it would not be proper to express an opinion on the truth and fairness of the accounts after merely stating that the books of account were not examined. In such cases the auditors must report that either -

(i) they are unable to state whether the accounts present a true and fair view; or

(ii) make a categorical statement that in their opinion the accounts do not present a true and fair view. Which of the above two alternatives should be followed would depend upon the facts of each case. An example of a situation referred to in paragraph 3.7 (ii) is as follows:

(a) The Company has adopted the method of taking entire profits on construction contracts to the Profit and Loss Account on entering into the contract. This has resulted in anticipating the profit in cases where contracts have not even been commenced or where only a very minor part of the expenditure on the contract has been incurred. We are of the opinion that this method of accounting is contrary to accounting principles and methods;

(b) In view of para (a) above, we are of the opinion that the said accounts do not give a true and fair view –

(i) In the case of Balance Sheet, of the state of affairs of the Company as at 31st march, 1980; and

(ii) in the case of the Profit and Loss Account, of the profit of this year ended on that date.

3.8 Auditors must always bear in mind the well established principle that they must give full information about the subject matter of their qualification and not merely create grounds for suspicion or inquiry and leave it to the shareholders to ascertain the facts by diligent inquiry. The distinction between "information" and "means to information" made in the London and General Bank's case1 is still valid.

Manner of Qualifying Reports

3.9 In order to ensure a certain degree of uniformity and to assist the public in evaluating the contents of auditor's reports, it is desirable that the manner in which qualifications are made in auditors' reports is such as not to leave any room for doubt in the minds of the public.

3.10 All qualifications should be contained in the auditors' report. The notes to the accounts normally represent explanatory statement given by the directors of the company and should not contain the opinion of the auditors. Some of the notes may be subject matter of qualifications in the auditors' report while some others may be merely clarificatory. It is necessary that, in their audit reports, the auditors should reproduce the notes which are subject matter of qualifications so that the readers may properly appreciate the significance of those qualifications. It is also necessary that the auditors should quantify, wherever possible, the effect of individual qualifications as well as the total effect of all the qualifications on profit or loss and or state of affairs in clear and unambiguous manner. In circumstances where it is not possible to quantify the effect of the qualifications accurately, the auditors may do so on the basis of estimates made by the management after carrying out such audit tests as are possible and clearly indicate the fact that the figures are based on management estimates.

3.11 The qualifying remarks should be placed in such a manner as to make it very clear as to the particular item of the auditors' report to which the qualifications relate *e.g.*, if the qualification is of such a nature that it affects the truth and fairness of the accounts, it should not be placed in such a manner as to give an impression that the auditors have not obtained all the information which has been required in the performance of their work.

3.12 It is customary for qualifications to be made by the use of expression such as, "subject to" or "except that". The expression "read with the notes thereon" or "together with the notes thereon" are of an explanatory nature and do not constitute qualifications. It is, therefore, important when seeking to qualify a report, that the auditors shall use such recognised terminology which clearly implies a qualification. It is not a correct practice to merely make a factual statement in the auditors' report without taking exception thereto. In a case where the treatment of underwriting commission was not in

accordance with the accepted accounting practice, the auditors reported as under:

> "Underwriting commission on shares taken up by the corporation under underwriting arrangements has been taken to Profit and Loss Account. This is contrary to accepted accounting practice.
>
> We report that the Balance Sheet shows a true and fair view ……."
>
> This method of reporting is not proper. The report should have been worded as follows:
>
> "Underwriting commission on shares amounting to Rs…. taken up by the Corporation under underwriting arrangements has been taken to Profit and Loss Account. This is contrary to accepted accounting practice and has resulted in the profit being overstated by Rs……
>
> Subject to the above, we report that the Balance Sheet shows a true and fair view……."
>
> The use of the words "subject to" is essential to bring out the qualification.

3.13 It is recommended that the use of separate reports which are referred to in the report of the auditors to the shareholders should, as far as possible, be avoided. It is desirable that the report should be comprehensive and brief. It should specify the matters in respect of which the auditors have reservations or qualifications, and the amounts involved in clear and unambiguous manner. The practice of making reports subject to a detailed report addressed to the directors of the company, running into several pages, is not desirable, as the lay shareholder is not in a position to appreciate a mass of facts and information, and the total effect thereof on the accounts. If the circumstances are such that a separate detailed report cannot be avoided, the auditors should take care to ensure that such separate report is also addressed to the shareholders rather than to the directors or the management, and the report to the shareholders is made subject to such a report. The auditors should take special care to ensure that such a separate report is clearly identified by reference to number, date, etc. and attached to the main report. Instead of referring to such a detailed report in their statutory report, it is

considered advisable that the contents of the separate report should be embodied in statutory report in a condensed form. In the opinion of the Council where an auditor makes a qualified report by reference to another report, it is the duty of the directors to publish such other report together with the accounts of the company.

3.14 Reference has been made above to the need for brevity in qualifications made in auditors' report. At the same time, no scope should be left for any mis-interpretation. The statement should be as precise as possible, bringing out clearly the items affected and their effect on the accounts. Although, normally, full information should be given in the report, where full information is not available, it is desirable to give as much information as is available. This is because, in such cases even partial information may be more useful to the shareholders than no information at all. Similarly, where full information with regard to the monetary effect on the Profit and Loss Account and / or Balance Sheet of a qualification or comment is not available, the auditors' report should either indicate the approximate monetary effect (taking care to state whether it is before or after tax) or state that it is not possible to ascertain the monetary effect, as the case may be. The following illustration of a qualification will explain the point:

> "During the year, one of the four factories of the company (none of which was insured) was gutted by fire and extensive damage was caused to the fixed assets of the company situated at that location. The extent of the loss has not been ascertained and no provision has been made in the accounts against such losses, but the total written down value of the fixed assets installed at the factory amounted to Rs……."

This illustration shows that where full information is not available, *viz.,* the extent of loss by fire, partial information *viz.,* the written down value of assets involved, is relevant.

3.15 Vague statements, the effect of which upon the accounts is not ascertainable, should be avoided, *e.g.*, "the debit balances are subject to confirmation"; "We have accepted the certificate signed by the Managing Director that stocks are realisable at the value stated in the balance sheet"; "Payment vouchers have been accepted by us as passed by the manager". The auditor should avoid making qualifications in his report which do not contain any real objection on

his part, *e.g.*, statement such as, "development rebate reserve amounting to Rs.... has not been made in view of the net loss shown in the profit and loss account"; "no provision for taxation has been made in view of the past losses brought forward"; "no depreciation has been provided as the factory has not yet gone into production". Statements such as those given above are obviously statements of fact and may well be given in notes to the accounts but do not constitute qualifications.

3.16 It is also not a good practice to qualify by reference to a report made in an earlier year because all the shareholders may not have access to such reports. The following type of statement should be avoided:

"The position of advance to ABC to Rs..... remains the same as explained in our last report."

Each year's accounts being independent, the essential facts relating to a qualification made in an earlier year must be repeated where appropriate.

3.17 In some cases the auditor's objection may be of such a nature that it is his duty to bring it to the attention of shareholders, *e.g.*, where there is a breach of law. It would not be sufficient in that case to merely state the facts leaving it to be inferred therefrom that a contravention of legal requirements has arisen. It is the auditor's duty not only to state the facts which give rise to the legal contravention, but also to point out that in his opinion, a contravention of the law has occurred. For example, if a company has not separately invested the provident fund moneys of its employees, it would not be sufficient for the auditor in his report merely to state this fact. He should go further and point out that the facts as stated constitute, in his opinion, a contravention of the requirements of Section 418 of the Companies Act.

3.18 It is suggested that the auditor should not normally include the directors' explanation in his report in respect of qualifications made by him. On the other hand, if the auditor's qualification involves a debatable point on which a difference of opinion has arisen between the auditor and the management, or if the auditor's qualification involves a point of law on which he holds an opinion contrary to that expressed by the company's legal advisers, it may be appropriate for the auditor in his report not only to state his own opinion but also to point out that a contrary opinion is held by the management or the company's legal advisers, as the case may be.

3.19 The duty of the auditors is to exercise independent judgement and express their opinion regardless of the views held by the directors and without regard to any consequences which the qualifications may have upon the future or the financial standing of the company. The auditors cannot under any circumstances escape the unpleasant duty of giving a qualified report. Under such circumstances it would not be proper to refuse to submit their report. Whether or not it would be proper for them to resign before the expiry of their term of office and before they have submitted their report is a matter for them to decide having regard to their own evaluation of their ethical responsibilities under the facts and circumstances of each case.

3.20 Where the auditors of a company have decided to give a qualified report, it is desirable that they should discuss the contents of their report, with the company's management and make their views clear so that an opportunity may be afforded to the Board of Directors to consider the issues involved. It is sometimes believed that by discussing their proposed qualifications with the management and thereby giving the management an opportunity to meet the auditors' objections or offer their explanations, the auditors may prejudice their independence. This is not at all true. The auditor has the final right and duty of deciding whether or not a qualification is called for. The directors have a statutory duty to comment in their report on every qualification contained in the auditors' report. For this reason also, prior discussion between the management and the auditors of proposed qualifications in the auditors' report is necessary. The explanations given by the management in response to a discussion of the auditors' proposed qualifications may also assist the auditors in framing their qualifications more accurately when drafting their final report to the shareholders. Finally, it should not be forgotten that the most important and fundamental purpose of a company's financial statements is to present a true and fair view of the state of the company's affairs. If, by a prior discussion of their proposed qualifications with the management, the auditors are able to convince the management of their view-point, a much more useful purpose is served thereby than if the auditors were to give a qualified report on financial statements prepared by the management which do not give a true and fair view.

Directors' Comments on Qualifications

3.21 Under Section 217(3) of the Companies Act the directors of a company are required to "give the fullest information and explanation" on every qualification in the auditors' report.

3.22 When the auditors have qualified their report and a similar note to the accounts is given by the directors also, the Board of Directors is required to comply with the relevant provisions of the Companies Act, 1956. This is so because the notes are a part of the accounts which are the primary responsibility of the directors of the company and as such provide satisfactory explanations for the purposes of Section 217(3) of the Companies Act. However, where the qualification is contained only in the auditors' report, separate information or explanation by the Board is called for.

Separate Report to Directors etc.

3.23 Auditors of companies sometimes submit a detailed report on the work carried out by them, which may be variously addressed either to the Board of Directors, or to the Managing Director or to other appropriate officials of the company. There is nothing improper or irregular about the making of such reports. In many cases the managements require that auditors should, in addition to their statutory report, make a detailed report for the information of the management regarding the procedures, systems, weaknesses in internal control etc., which would enable the management to exercise a greater degree of control over the operations of the business. Separate reports are also required to be made in the case of public sector companies giving certain additional information regarding operations. It is not necessary to refer to such reports in the auditors' report to the shareholders. It is at the same time important to appreciate that if any statement is contained in a detailed report which is of such nature that the attention of the shareholders should be drawn to it, the auditors should do so. However, it should not be presumed that every statement made in the detailed report must necessarily be such as to call for a qualification. The nature of the facts, their materiality and their bearing upon the truth and fairness of the accounts must be the governing factors. No rules can be made to guide auditors in determining what facts are of sufficient importance to warrant a reference in the statutory report and what facts are not so important. This must be determined by individual auditors in the light of their personal judgement and their professional experience.

3.24 Another reason for issuing a separate internal report to the management may be to obtain information and explanations from the management to certain errors in the accounts which need correction. In response to such detailed internal reports, the management may provide the necessary information and explanations, or may pass the necessary corrective entries in the books of account, as the case may be, in which case it would be quite irrelevant to refer to the contents of the detailed reports when issuing the report to the shareholders.

It should be noted that in certain cases, even where corrective measures have been taken by the directors of a company in relation to matters brought to their attention by the auditors, it may still be necessary for the auditors to report to the shareholders about the matter *e.g.,* where the Managing Director of a company has committed a fraud involving a loss to the company. On the subsequent detection of the fraud by the auditors, the Managing Director may have compensated the company to the full extent of the loss incurred, but it would still be necessary for the auditors to bring to the notice of the shareholders the fact that such an act was committed by the Managing Director.

3.25 It is generally well recognised that in matters of reporting it is essential to have regard to the level at which the reports are issued and higher the level to which a report is made, less is the detail contained therein. For this reason, a report issued to the Chief Accountant may contain more detailed information than the one issued to the Board of Directors. For the same reason, a report issued to the shareholders should deal with the broad and general question of the truth and fairness of the accounts rather than with details which may, in fact, confuse them. Bearing in mind the foregoing general observations, it is recommended that the continuance of the present practice of issuing detailed internal reports to the management is in the best interests of the companies concerned.

Branch Audit Reports

3.26 In accordance with the provisions of section 228 of the Companies Act, it is permissible for the accounts of a branch to be audited by a person other than the statutory auditor. Where the audit is so carried out, it is desirable to mention this fact in order to disclaim the responsibility of the statutory auditors for matters contained in the accounts of the branch.

3.27 In the case of a branch audit carried out by a person other than the statutory auditors, section 228(3)(c) requires that the branch auditors shall prepare a report on the branch office examined by them and forward the same to the company's auditor who shall, in preparing the auditor's report, deal with the same in such a manner as he considers necessary. If the branch auditor's report contain any qualifications, the company auditor should normally include them in his own report unless he is satisfied that either -

(i) The objections of the branch auditor have been met while preparing the accounts of the company or during the conduct of the company's audit;

(ii) the matter on which the qualification is made is not material in the context of the company's accounts as a whole; or

(iii) in the light of information and explanations given to him which were not available to the branch auditor, he is satisfied that the qualification is not called for.

Some Examples

4.1 The circumstances under which auditors are obliged to qualify their reports are numerous, and the following illustrations are provided merely as guide to prevailing practices.

4.2 Where the auditors are unable to obtain all the information and explanations which they consider necessary for the purposes of their audit.

Examples which arise under this head are the absence of satisfactory documentary evidence of existence or ownership of material assets, such as, title deeds in respect of land; or absence of vouchers in respect of material payments made by the company; destruction of books and records by fire or accident; non-availability of books and records owing to unavoidable circumstances, such as books and records of foreign branch which has been nationalised or with which no communication is possible.

4.3 It should be appreciated that in the majority of cases a qualification to this aspect of the report is likely to be a qualification to the true and fair aspects also. An example of qualification under this head is as follows:

"Owing to the destruction by fire during the war, of the company's old records, it has not been possible to ascertain the

original cost of and the total depreciation written-off from the Fixed Assets. An analysis of the original expenditure on Fixed Assets is also not available. It is not possible therefore to give the particulars of the Fixed Assets required by Companies Act, 1956.

Subject to the above, we report that……."

4.4 Where proper books of account have not been kept in accordance with the law.

An example of qualification under this head is as follows:

"In our opinion, proper books of account as required by law have not been kept by the company since its cash book for the year has not been maintained properly and does not contain a complete record of all cash transactions.

Subject to the above, we report that ……."

4.5 The balance sheet and profit and loss account are not in agreement with the books of account and returns. In this case, the qualification in the auditor's report should indicate precisely in what manner the financial statements are not in agreement with the books of account and returns.

4.6. Where information required by law is not furnished.

In this case, the auditor should ascertain and evaluate the facts requiring disclosure in the financial statements so that he can disclose the same in his report.

4.7 Where the accounts do not disclose a true and fair view.

Examples of qualifications which may arise under this head are :

(a) Where the accounting practices followed by the company are not considered appropriate to the circumstances and nature of business.

Illustration:

"Hire purchase sales have been treated as outright sales by the company and contrary to accepted accounting practice, the entire profit thereon has been taken into account. The profit relating to instalments not due as at the date of the balance

sheet and included in profit for the year amounted to Rs…….. This has resulted in the profit being overstated by Rs……..”

(b) Where there has been a change in accounting principle or procedures in relation to material items, such as, valuation of stock, depreciation, treatment of by-product costs, etc., without adequate explanation and disclosure of effect of change.

(c) Where differences of opinion with management have arisen regarding valuation or realisability of assets, such as, stock-in-trade, accounts receivable, sundry debtors, loans and advances or the extent of liabilities contingent or otherwise.

(d) Where income or expenditure is not properly reflected so as to show a fair figure of profit for the year.

(e) Where information is not required by law to be disclosed but the disclosure of which is considered as essential by the auditors in order to show a true and fair view.

4.8 When contravention has taken place of the provisions of the Companies Act, 1956 having a bearing upon the accounts and transactions of the company e.g., donations to political parties or for political purposes in contravention of Section 293A; contributions to charitable or other funds in excess of the limitations specified in Section 293(1)(c).

4.9 Contravention of the provisions of the Memorandum and Articles of Association of the company:

An example of qualification under this head is as follows:

“We have to repeat our qualification of last year that the investments of the company in shares of other companies, vide the details of the investments annexed to the Balance Sheet are *ultra vires* its Memorandum of Association as there is no specific power therein to make such investments and this cannot be implied from the objects contained in its objects clause.

Subject to the foregoing, in our opinion and to the best of our information….”

Examples of Total Effect of Qualifications

4.10 (a) *Where all qualifications are quantifiable*

"We report that:

(1) No provision for Minimum Alternative Tax amounting to Rs. 66.61 lakhs has been made due to which the profit during the year has been overstated and the provisions have been understated to that extent.

(2) No depreciation has been provided for the period in the financial statements. This is contrary to Accounting Standard (AS) 6, "Depreciation Accounting", issued by the Institute of Chartered Accountants of India and the accounting policy being followed by the Company according to which depreciation is provided on straight line basis. Had this accounting policy been followed, the provision for depreciation for the period would have been Rs. 29.05 Lakhs. Accordingly, profit for the year, fixed assets and reserves and surplus are overstated to that extent.

We further report that had the observations made by us in paragraphs (1) and (2) above been considered, the profit for the year would have been Rs. 500.41 lakhs (as against the reported figure of Rs. 596.07 lakhs), reserves and surplus would have been Rs. 685.43 lakhs (as against the reported figure of Rs. 781.09 lacs) and total fixed assets would have been Rs. 200.00 lacs (as against the reported figure of Rs. 229.05 lacs).

Subject to the above, in our opinion……."

4.10 (b) *Where all the qualifications are not quantifiable*

Where it is not possible to quantify the effect of certain qualifications in the auditors' report, in the overall-effect paragraph, reference should be made to such qualifications. For instance, suppose in the illustration at (a) above, the following additional qualification appears at serial no. 3

"No provision has been made in respect of product warranties outstanding at the year end. The amount of provision required in this behalf could not be ascertained."

In the above situation, the overall-effect paragraph would appear as follows:

"We further report that, without considering item mentioned at 3 above, the effect of which could not be determined, had the observations made by us in paragraphs (1) and (2) above been considered, the profit for the year would have been Rs. 500.41 lacs (as against the reported figure of Rs. 596.07 lakhs), reserves and surplus would have been Rs. 685.43 lakhs (as against the reported figure of Rs. 781.09 lakhs) and total fixed assets would have been Rs. 200.00 lakhs (as against the reported figure of Rs. 229.05 lakhs)."

Appendix I

Examples of Explanatory Notes

1. The figures for the previous year have been regrouped to the extent necessary. However, the figures for the previous year are not strictly comparable, since the Profit and Loss Account is prepared for a period of twelve months as against a period of fifteen months in the previous year.

2. The profit of Rs. 7,49,08,942 for the year is after charging Rs. 2,24,97,233 being the expenses relating to previous years/ adjustment of unserviceable/damaged stores/reversal of income relating to previous years and after taking credit of Rs. 61,16,765 being income relating to previous years/reversal of excess provisions made in earlier years.

3. The company has charged off technical assistance fee amounting to Rs. 10,23,776 representing 1/7th of the total fee due for payment to M/s. C. Company.

4. A sum of Rs. 39,27,312 has been provided for in these accounts towards royalty and technical know-how fees payable to the G. Co. Ltd., U.K. for the period 8th May, 1975, to 31st March, 1979 (as at 31st March 1978 – Rs. 30,34,312). Adjustment to the provision will be made in due course after the collaboration agreement in terms of the Government's approval dated 20th June, 1979 has been taken on record by them.

5. Long term foreign currency loans from ICICI for acquisition of fixed assets, are repayable at the rate of exchange prevailing at the time of

remittance. The effect of exchange fluctuations on the cost of Plant and Machinery and depreciation thereon has not been considered in these accounts. The outstanding foreign currency loan if converted at the rate of exchange prevailing on 31st March, 1979 would be more by Rs. 68,827. The loss on exchange on actual repayment during the year amounting to Rs. 7,447 has been charged to revenue account.

6. The declaration filed under the Urban Land (Ceiling and Regulation) Act, 1976, in respect of the company's holdings in excess of the ceiling prescribed under the Act, and the applications for exemption filed under section 20 of the Act, to retain these lands are under consideration of the concerned authorities.

7. The Corporation have on their own to the extent of Rs. 25 lakhs and further jointly with .... Ltd., London and severally to the extent of further Rs. 25 lakhs, guaranteed the repayment of loans advanced from time to time... Ltd. by Union Bank of India. The balance at 31st May, 1979 was Rs. 33,84,360 (previous year Rs. 34,39,940).

8. In previous years, expenditure incurred by the Company's ..... Engineering Works on the manufacture of machinery, stores and spares for its other factories was debited to Machinery, Stores and Spares in process. When the items were utilised by the other factories, the cost of the items was capitalised or charged to Packing Materials, Stores and Spares, as appropriate. As a sizeable portion of the output of the .... Engineering Works is sold to outside parties, it has been decided to route such expenditure through the Profit and Loss Account; and the cost of unsold stocks or partly completed jobs as at the end of the year is, therefore included in Stock-in-Trade. The expenditure incurred on such items upto 31st July, 1968 has now been brought into the Profit and Loss Account. Consequently, the previous year's figures are not quite comparable. However, this change in accounting treatment has had no effect on the profits.

9. The method of computation of depreciation on all additions made during the year has been changed. The company has followed the straight line method of depreciation as provided under Section 205(2)(b) of the Companies Act, 1956, for all assets added during the year instead of the written down value method. Had the depreciation been calculated on the same basis as last year the charge for the depreciation would have been Rs. 5,91,39,107 as against, Rs. 4,68,99,693.

Appendix 10(a)

TRADE CIRCULAR

To

.....

.....

No.CST/Return/1007/5/Adm-3 Mumbai, dt. 31.07.07
Cir. No. 52 T of 2007

Sub : The Central Sales Tax Act, 1956 – Grant of exemption from filling returns.

Ref : 1) Circular No. CST/1081/1497/19/Adm-3, dated 14.04.81 (Cir. No. 12 of 1981)

2) Circular No. CST/1081/1497/19/Adm-3, dated 02.07.81 (Cir. No. 15 of 1981)

Gentlemen/Sir/Madam,

It may be recalled that the Trade Circular referred at Sr. No. 2 above was issued in supersession of Trade Circular at. Sr. No. 1 above whereby exemption from filling the return under CST Act, 1956 was granted. The concession was available to the dealers who had not effected any sales in the course of inter-State trade or commerce during the return period.

2. Queries have been received about the scope and limit of the Trade Circular No. CST/1081/1497/19/Adm-3 (Cir 15 of 1981) dated 02.07.1981.

3. It is now clarified that the circular No. 15 of 1981 holds good till today. It is hereby clarified that where there are no inter-State sales in any return period, no return is required to be filed under the Central Sales Tax Act, 1956 provided that the Maharashtra Value Added Tax Act, 2002 return for the same period shows NIL turnover of inter-State sales. This concession will be available to the dealer till he effects any sales in the course of inter- State Trade or commerce.

4. This circular cannot be made use of for legal interpretation of provisions of law, as it is clarificatory in nature. If any member of the trade has any doubt, he may refer the matter to this office for further clarification.

5. You are requested to bring the contents of this circular to the notice of all the members of your association.

Yours faithfully,

(SANJAY BHATIA)
Commissioner of Sales Tax
Maharashtra State, Mumbai.

Appendix 10(b)

TRADE CIRCULAR

To

.....

.....

.....

No.VAT-2005/Act/VD-1 Mumbai Dt :30th May 2005
Trade Cir.- 11 T of 2005

Sub : Sales in the course of Export :
Section 5(3) of the Central Sales Tax Act, 1956.

Section 5 of the Central Sales Tax Act, 1956 was amended with effect from 1st April 1976 by adding a new sub-section (3) to section 5 of the Central Sales Tax Act, 1956 [C.S.T.Act]. The new sub-section 5(3) reads as follows:

Notwithstanding anything contained in sub-section (1), the last sale or purchase of any goods preceding the sale or purchase occasioning the export of those goods out of the territory of India shall also be deemed to be in the course of such export, if such last sale or purchase took place after, and was for the purpose of complying with, the agreement or order for or in relation to such export.

2. The Central Government had also amended the Central Sales Tax [Turnover and Registration] Rules and had, in 1977, introduced a new Form, namely Form-H under these Rules. Rule 12 (10) of the said Rules was also amended. The amended rules stated that, A dealer may, in support of his claim that he is not liable to pay tax under this Act in respect of any goods on the ground that the sale of such goods is a sale in the course of export of those goods out of the territory of India within the meaning of the sub-section (3) of section 5, furnish to the prescribed authority a certificate in Form-H duly filled and signed by the exporter along with the evidence of export of such goods.

3. The sub-section 5(3) refers to what are commonly called as back-to-back exports. The sub-section provides that in case of a back-to-back export, both the actual final export as well as the sale immediately preceeding such export will be deemed to be in the course of export. Thus, even the penultimate sale is a sale in the course of export if it fulfills the conditions laid down in the said sub-section. The Form-H which had been provided in the rules was merely an enabling mechanism whereby dealers can present in a systematic manner the details of the proof in support of their claim. However, the Form was not mandatory.

4. As stated earlier, such penultimate sales are also in the course of export and were accordingly covered by Section 75 of the Bombay Sales Tax Act, 1959 [BST Act]. There was a common apprehension that Form-H could be used only in case of an inter-State penultimate sale and may not be applicable if both the seller and the purchaser were based in the same State. After considering the problems of the dealers, the State Government had introduced another Form, namely Form N-14B under Rule 21 of the Bombay Sales Tax Rules. This Form was a replica of the Form-H prescribed under the CST Act. The transactions represented by Form N-14B remained transactions under Section 75 of the B.S.T.Act, 1959.

5. Value Added Taxation (VAT) system has replaced the traditional sales tax system with effect from 1st April. Under the Maharashtra VAT Act, there is no provision for purchase against any kind of declaration. Consequently, Form N-14B has also been abolished. The section 5 of the C.S.T.Act has been further amended by the Finance Act, 2005 of the Union Government. A new sub-section, namely sub-section 5(4) has been introduced in the C.S.T.Act, 1956.? The new sub-section 5(4) is now a part of the C.S.T.Act, 1956.? It provides that the provisions of sub-section 5(3) shall not apply to any transactions unless the dealer selling the goods furnishes the prescribed declaration to the prescribed authority. In other words, in order to make a claim under section 5(3) of the C.S.T.Act, Form-H has become mandatory with the passing of the Finance Bill 2005.

6(1) Queries have been received from members of the trade as to which declaration should be used in place of Form N-14(B). It is now clarified that with the passing of the Finance Bill 2005, Form-H has become mandatory. It will, therefore, have to be used for all transactions for which Form N-14(B) was earlier being used. For

administrative convenience, these instructions are made effective from 1st April 2005. In other words, Form-H should be procured in support of any claim regarding sales under section 5(3) in respect of all transactions including intra-State transactions which take place on or after the 1st April 2005.

6(2) However, all such turnovers covered by Form-H, whether inter-State or intra-State must be shown in the CST Return and not in the state VAT return.

7. This circular cannot be made use of for legal interpretation of provisions of law, as it is clarificatory in nature. If any member of the trade has any doubt, he may refer the matter to this office for further clarification.

8. You are requested to bring the contents of this circular to the notice of all the members of your association.

Yours faithfully,

(B. C. KHATUA)
Commissioner of Sales Tax
Maharashtra State, Mumbai.

Appendix 11

TRADE CIRCULAR

To

.....

.....

No. VAT/MMB-1006/152/Adm-3
Mumbai, dt. 18.9.2006
Cir. No. 26 T of 2006

Sub : VAT Audit Report in Form 704-
Clarification about the queries from the Chartered Accountants

Ref : Meeting held on 25th August 2006.

Gentlemen/Sir/Madam,

Certain queries have been received from members of the Western India Regional Council of the Institute of Chartered Accountants of India in connection with the VAT Audit report in Form 704. The Vat Audit Report is to be submitted in Form 704. This Form was designed about a year ago, i.e., during the initial period of introduction of VAT as pointed out by the ICAI, on going through the form, there seem to be some errors.

However, the form also needs corrections of a more basic type. The time for submission of form 704 is fast approaching. In many instances, the audit must be over or nearly over. Hence, major corrections in or substitution of the form at this stage will not be practicable. Besides the Chartered Accountants and the dealers are likely to come up with suggestions once they have the experience of filling in the form for the 1st year. It is, therefore, decided that all changes to form 704 will be made only after the forms for the first year are filled in. Changes will be made in the form after taking account of the suggestions received on this account.

2. However, in order to tide over immediate problems, following clarifications are given to the queries raised by the Institute.

Sr. No.	Points	Clarification
1.	A dealer, subjected to Vat Audit, is required to submit the audit report within a period of eight months from the end of the year. Whether any particular officer has been designated to receive all such reports or the same shall be submitted at the returns accepting counter/s?	The Form 704 is to be submitted to the office of the respective Jt. Commissioner in charge of Business Audit.
2.	Some of the dealers have lost their books of account, documents and other records of MVAT & CST in the 2005 floods / natural calamities. Whether the dealer can get copy of such returns from the Department for the purpose of audit? How the auditor should report?	Ordinarily, the dealers and the practitioners retain copies of the returns. However, if in any instance such copies are not retained by the dealer or the practitioner, then these can certainly be obtained from the Returns Branch on payment of copying charges as provided in rule 73 (19).
3.	Many dealers (in the year 2005-06) were having two or more different registration numbers. Some of them have been filing separate returns for all such different places of business within the State. Howsoever, they are preparing one consolidated balance sheet. In the circumstances, whether separate audit report for each place of business or one consolidated report covering all the places	If a dealer was having more than one certificates of registration in the year 2005-06 and was filing separate returns for his different places of business, he should now file only a single audit report in form 704 in respect of all such places of business for which he was filing separate returns in the year 2005-06. If a dealer was holding an entitlement certificate during the year 2005-06, he should file a single audit report in respect of the year 2005-06. Even if the

Sr. No.	Points	Clarification
	within the State is to be filed.	entitlement certificate had expired or was cancelled during the year 2005-06, he should still file a single audit report in respect of the year 2005-06.
4.	In case a dealer has failed to inform the opening of an additional place of business, the registration certificate has thus not been amended to that effect, but the turnover of such place has already been included in the turnover of main place and the taxes have been paid accordingly. Whether any specific report required?	This will be technical non compliance and appropriate disclosure should be made.
5.	All the dealers were required to file an application for TIN before a prescribed date. There are certain cases where the dealer failed to apply in time, resulting in automatic cancellation of registration. Some of them have taken fresh registration in the month/s of January/February/ March 2006. The question arises about the Vat Audit: Whether, two different audits are required: (a) if turnover in both the periods exceed the prescribed limit?	Single report for the whole year covering both periods as well as URD period, if any, should be submitted. The turnover for the entire year is to be taken into account for determining whether the prescribed limit of Rs. 40 lakhs has exceeded.

Sr. No.	Points	Clarification
	(b) if turnover in the second period does not exceed the limit? (c) if turnover for each period separately does not exceed the limit, but taking the whole year together exceeds? In some of the cases there may be a possibility of URD period also?	
6a	Some of the dealers have not claimed set-off on miscellaneous purchases in their respective monthly/ quarterly returns but claimed in the last month/ quarter of the year. Is it ok?	It may be claimed in the return including revised return for last month/quarter of the year. .
6b	Being petty amount, the dealer does not wish to claim set-off on items of miscellaneous purchases. And, therefore, has not included such purchases in the total turnover of purchases. Is revised return required to be submitted?	Appropriate disclosure is sufficient. There is no need to file revised returns solely on this ground, i.e., unless otherwise required to file revised return.
6c	Filed monthly returns instead of quarterly or filed quarterly return instead of six monthly returns. Should correct returns be filed now?	These are technical defects which should be disclosed but there is no need to now file appropriate number of returns or revised returns solely on this ground.

Sr. No.	Points	Clarification
6d	The periodicity of returns filed is correct but a different Form No. (Such as 201 instead of 202 or vice versa) has been used it should require revised return?.	These are technical defects which should be disclosed but there is no need to file revised return solely on this ground.
7.	The Vat Auditor is required to report purchases from un-registered dealers of Rupees 10,000/- or more. Whether the intention is to get report on each transaction of purchase exceeding the limit or all the purchases, during the year, from each such party where aggregate purchases from a party exceed the limit?	Total party-wise purchases are required to be reported when aggregate of purchases from a single dealer in a year exceeds Rs.10,000/- , in case of capital assets and inputs only and not in case of purchases of tax free goods and expenses debited to trading payment.
8.	In case of certain works contracts, (using goods liable at different rates of tax), there is a possibility that the tax liability as worked out as per monthly / quarterly returns may differ when calculated on yearly basis.	This appears unlikely. However, if this were to happen in any given case, then the tax liability should be worked out returnwise.
9.	The amount of Working Capital has to be reported in section 'B' of Part II, but in case of multi-state companies, where one consolidated balance sheet is prepared, it may not be possible to workout the working capital employed in the State of Maharashtra?	To be reported as per Balance Sheet along with appropriate footnote.

Sr. No.	Points	Clarification
10.	Section 'C' of 704 requires consolidation of returns under the MVAT Act, 2002. However, certain information asked for may not be available in the copy of returns (being old forms viz. 201,202 etc.)?	The dealer may ask for true copies of the return from the Department.
11.	Some of the dealers, although holding CST registration, may not have filed CST return (being Nil turnover, following Circular No. 15 of 1981). In such cases, whether section 'E' should be reported as "Not Applicable"?	Appropriate disclosure should be made
12.	In section 'F', observations have been invited for non-payment or short payment of tax. However, there is no column for stating that amount paid. Thus, whether to that extent the table should be redrafted? Further, whether the information is restricted to VAT returns only or CST return should also be included here?	Tax short paid / not paid should be included in the observation. CST returns should also be included in section F.
13.	Sections 'G' and 'H' are regarding verification of turnover of sales and purchases. Whether the amount to be mentioned here should be as per the books of account or as determined by the Vat Auditor, if the amount determined is not the same as per books?	The turnovers as determined by the Auditor are to be mentioned.

Sr. No.	Points	Clarification
14.	In respect of section G-7.4, it may be necessary to clarify about the exclusion of sales of certain goods such as Petrol, etc., in case of petrol pumps. Likewise medicines also.	The turnover of sales of Motor Spirits and of medicines should be excluded, where appropriate.
15.	In part I of the report, the auditor has to work out the amount payable as differential tax liability or additional refund to be claimed by the dealer. The Vat Auditor has also to advise the dealer to file revised return(s). In such cases, whether it should be returns for all the periods during the year or the last return only to be revised (giving effect to all the observations together).	The return for the period ending on 31st March 2006 should be revised to give effect to all of the observations of the Auditor.
16.	Statutory audit report is required to be enclosed to the Audit Report. What statutory audit does it refer to?	Audit reports are required under certain other Acts, such as Income Tax Act, Companies Act, etc. Copies of such audit reports as are issued should be enclosed wherever applicable.
17.	In case of reporting Section 'S' regarding sales not supported by Sales Tax Declaration Forms, what should be disclosed?	Section S should be restricted to CST Act details only.
18.	At Section 'P' , in case of purchase of 'C' Forms resulting in contravention, how to report?	If goods are purchased from other States which are not mentioned in CST RC, then the CST RC needs to be amended with retrospective effect. Appropriate request may be made to the registering authority.

Sr. No.	Points	Clarification
19.	What to do if rules are amended retrospectively after audit? How does dealer avail of the consequential benefit?	The Audit report should be correct as on the date of signature of the Auditor. The dealer may file revised return for the month / quarter ending March to claim benefit.
20.	'Goods returns' within 6 months of sale is allowable as deduction. Under VAT Law u/s. 63, it is allowed in the period in which it is accounted for, whereas under the CST Act it has to be claimed in the year of sale. Commissioner may please allow administratively the CST goods returns also as per provision under VAT law in order to smoothen CST returns and audit	Section 63 of the VAT Act would apply mutatis mutandis to the claim of 'goods return' under CST Act in so far as the accounting part is concerned.
21.	Composition schemes for Retailers, Hotels, etc. contains many conditions. If any of the conditions is violated, then it is a contravention of the scheme and the dealer is liable to pay VAT instead of lumpsum as per composition scheme. In such a case, the dealer is liable under VAT provisions from the date of contravention and not from 1st April. This needs clarification.	A Trade Circular will be issued to clarify this issue.
22.	Whether all of the provisions and clarifications regarding audit report apply to liquor dealers even if their turnover is below Rs. 40 lakhs.	Yes.

Sr. No.	Points	Clarification
23	Many employers have not obtained tax deduction account numbers.	It is not necessary to provide the tax deduction account number.
24	**(a)** In section C, at item number 12, the narration reads "unadjusted set-off —— refund claimed in March ……..". Whether this amount is to be claimed in the year 2006-07.	The unadjusted set-off / refund claimed in March is not to be adjusted in returns pertaining to the year 2006-07.
24	**(b)** If the dealer has not applied for refund, how he can claim it now?	He may now apply in form 501.
25.	In section G, by number 8(6), it is provided that where the execution of works contract has been entered into before 1st April 2005. The query is whether this description refers to on going contracts.	Yes. The reference is to ongoing works contract where the execution has started before 1st April 2005.

3. This circular cannot be made use for legal interpretation of provisions of law, as it is clarificatory in nature. If any member of the trade has any doubt, he may refer the matter to this office for further clarification.

4. You are requested to bring the contents of this circular to the notice of all the members of your association.

Yours faithfully,

(B. C. KHATUA)
Commissioner of Sales Tax,
Maharashtra State, Mumbai.

Appendix 12

TRADE CIRCULAR

To

.....

.....

No.VAT/MMB-1006/152/Adm-6 Mumbai, Dt. 21.03.2009
Trade Cir. No. 9 T of 2009

Sub : Filing of revised return as advised by the Auditor in Audit Report.

Ref : Trade circular No. 26T of 2006 dated 18.9.2006.

Gentlemen/Sir/Madam,

Certain queries have been received from the trade and associations, as also from departmental authorities in connection with the filing of the revised returns as advised by the auditor. The specific query relates to, discrepancies noticed in more than one return. In such circumstances, whether all such returns are to be revised or the return for the period ending on 31st March of the respective year is to be revised. The issue was under consideration.

2. Attention is invited towards the Trade circular cited above. In para 15 of the said circular, it is stated that in such circumstances the return for the period ending on 31st March of the respective year should be revised to give effect to the observations of the auditor. However, there may be cases where the effect of auditor's observation cannot be given effect to by filing revised return electronically only for the period ending on 31st March of that year. In view of this the instructions are modified as under:

   1) Where a revised return is to be filed to give effect to the observations of the auditor the dealer may revise the return for the period ending on 31st March of the year to which audit report relates.

   2) However, if it is not possible to give effect to all the observations of the auditor by filing revised return for the period ending on 31st March of the respective year, then the dealers should revise the returns for the respective periods for which discrepancies have been pointed out by the auditor.

Needless to state that all such revised returns shall be filed electronically. It is again emphasized that in no case any revised return shall be filed manually.

3. This circular cannot be made use of for legal interpretation of provisions of law as it is clarificatory in nature. If any member of the trade has any doubt, he may refer the matter to this office for further clarification.

4. You are requested to bring the contents of this circular to the notice of the members of your association.

Yours faithfully,

(SANJAY BHATIA)
Commissioner of Sales Tax,
Maharashtra State, Mumbai.

Appendix 13

TRADE CIRCULAR

Date: 1st October 2009

To

.....

.....

No. VAT/ JC MAHAVIKAS/ Mumbai, Dt. 1st October, 2009
Trade Cir. No.27T of 2009

Sub : Filing of Audit Report in Form -704 electronically.

Ref. : 1. Notification No VAT/AMD- 1009/IB/ADM- 6 dated 21st August 2009. 2. Notification No VAT/AMD-1009/ IB/ADM-6 dated 26th August 2009 3. Notification No. VAT/AMD-1009- IB/ADM-6 dated 18th June 2009.

Gentlemen/ Sir/ Madam,

The sub-rule (1) of rule 17A of the Maharashtra Value Added Tax Rules, 2005 empowers the Commissioner of Sales Tax to issue notification and to provide the class or classes of dealers required to file various Forms, Declarations, Returns including Audit Report in Form-704 electronically. Accordingly, requisite notification cited at Ref.-l is issued. Further, in view of the provisions contained in sub-rule (2) of rule 17A, a notification cited at Ref..-2 has also been issued substituting Form-704. Therefore, any dealer who files Audit Report on or after 1st October 2009 for any period shall file the same in the new Form-704. Now, it is mandatory for all the dealers who are required to get their books of account audited as per the provisions of the section 61 of the MVAT Act, 2002 to file Audit Report in Form-704 electronically.

2. DOWNLOADING OF FORM -704 FROM WEB-SITE:

(i) In view of the aforesaid notifications, it has been made mandatory for all the dealers who are required to file Audit Report in Form -704 as per the section 61 of the MVAT Act, 2002 read with rule 65 of MVAT Rules, 2005 and Section 9 (2) (A) of the Central Sales Tax Act, 1956 to file Audit Report in Form-704 electronically for the period starting on or after 1st April 2008.

(ii) The template of the new Form -704 is provided on the Web-site of the Sales Tax Department www.mahavat. gov.in at **'DOWNLOAD>FORMS >FORM-704'**. Every dealer to whom the above notification applies shall download the template of the Form -704. It is hereby clarified that only the downloaded template of Audit Report in Form -704 is to be used for preparation of Audit Report.

3. FILLING AND UPLOADING OF FORM -704:

(i) The template of Form -704 is provided at the Department's Web-site. The said template is in the form of an excel Work Book. The dealer is first required to download the said template and make the offline data entry in all the fields provided in the relevant Excel Sheets contained in the said work book.

(ii) The Excel Sheets are named as Part I, Part II, Sch I, Sch II, Sch III, Sch IV, Sch V, Sch VI, Annex A, Annex B, Annex C, Annex D, Annex E, Annex F, Annex G, Annex H, Annex I, Annex J and Annex K. The Auditor is requested to first fill in the various Annexures provided in the said work book. These annexures are linked with the Schedules. After filling the information into these annexures the relevant fields in the Schedules will get automatically filled.

(iii) After filing information into the Annexures, the Auditor should then fill the information in the relevant Schedules. If dealer is required to file Form-231 the Auditor should only fill Schedule-I. In this case it is not necessary to fill other schedules contained in PART-3. However, if dealer is required to file more than one type of return then the Auditor should accordingly fill the relevant Schedules. After filling the information into these schedule (s) the relevant fields in the Part I, will get automatically filled.

(iv) After, filling information in the Schedule, the Auditor should then fill the information in PART-I and PART-II. Wherever, the Auditor has given negative certification, for all such certificates the Auditor should enter the reasons for such negative certification In Para-3 of PART-1.

(v) Information in Table-2 and Table-3 should be filled considering the Schedule (s) and Schedule-VI for CST. The Gross Turnover and deductions should match the figures entered into those schedules. Eg. If dealer is required to File return in Form-231, then while filing Table-2 the dealer should import the figures for Gross Turnover of Sales, Total allowable deductions etc. from the Schedule-I and Schedule-VI of Part-3. These figures should match.

(vi) In Table-2 of Part-1, row xiv) i.e. differential tax liability for non-production of Form-H, (Annex-H) in this row the Turn-over which pertains to the sales (against Form-H) immediately preceding the Export Sales to the dealers within the State should be entered. In all other cases the sales against Form-H should be given in the Table-3 i.e. said liability under the CST Act (as per Annex-I).

(vii) The Auditor should then fill the Table-5 stating the additional tax liability on account of reasons given therein. In Para-5 the Auditor should briefly give the qualifications or remarks which impact the tax liability. Para-6 contains the recommendations by the Auditor to the dealer.

(viii) After filling the information in PART-1, the Auditor should then fill information in PART-2. This part deals with the general information about the dealers business activities. In this part the dealer is also required to fill the activity codes along with the Turnover of sales and tax liability thereon. These Activity codes are used for the purpose of classification of all Economic Activities comprising primary, secondary and tertiary sectors. The Sales Tax Department has adopted four digit classifications. The activity codes are made available on the Department's Web-site. If the dealer is engaged in more than one activity, then top six activities on the basis of turn-over need to be mentioned in descending order. One dealer may have more than one activity code.

(ix) The completed Form -704 shall then be uploaded by the dealer using his login Id and password for the e-services. The uploading shall be done on or before the due date prescribed for submission of Form -704 i.e. 31st January 2010. The system shall generate an acknowledgment after successful uploading of

Form -704. The dealer should take two print outs of the said acknowledgement. .The acknowledgments shall be required to be signed by the dealer as well as the auditor and shall bear seal and the rubber stamp of both the dealer and the Auditor.

(x) As the file size of the Audit Report in Form -704 is somewhat big, therefore, the dealer should use the high bandwidth internet connectivity. Further, in case where the information filled in Annexure-J contains more than 5000 entries then under such circumstances the dealer is advised to use a PC having minimum 2 GB RAM.

4. SUBMISSION OF FORM -704:

(i) The last date of submission of Audit Report in Form -704, for the period 01/04/08 to 31/03/09 is 31 January 2010. The dealers are requested to adhere to this deadline for uploading of Form -704.

(ii) The dealers shall be required to submit "Statement of submission of Audit Report in form -704" alongwith the statement of submission of Audit Report in Form -704 (in the format enclosed with this Trade Circular) on or before 10 February 2010. The dealers are also required to submit the following documents: (a) A duly signed copy of an acknowledgment generated after uploading of Form- 704. (b) Balance Sheet and Profit & Loss Account / Income and expenditure account alongwith the Statutory Audit Report. (c) In case the dealer is having multi-state activities, the Trial Balance for the business activities in Maharashtra . (d) PART-I of the Audit Report along with Certification duly signed by the Auditor

(iii) The aforesaid documents shall be submitted, - (a) to the concerned LTU officer; if the dealer is Large Tax Payer; (b) to the "DESK AUDIT CELL" in the Office of the Joint Commissioner of Sales Tax (Business Audit) in Mumbai if the dealer is not Large Tax Payer; (c) in the rest of the State to the concerned LTU officer; if the dealer is Large Tax Payer; and in any other case to the Joint Commissioner of Sales Tax, VAT (ADM).

(iv) It is necessary to upload Audit Report in Form -704 on or before 31st January 2O10 and submit the aforesaid documents on or before 10th February 2010 in order to avoid any penal action under the provisions of the MVAT Act, 2002.

6. In case of difficulties, the dealers are requested to approach the Help Desks specially established to provide technical support to the dealers while filing their Audit Reports in form -704.

7. This circular cannot be made use of for legal interpretation of provisions of law, as it is clarificatory in nature. If any member of the trade has any doubt, he may refer the matter to this office for further clarification.

8. You are requested to bring the contents of this circular to the notice of all the members of your association.

Yours faithfully,
(Sanjay Bhatia)

Commissioner of Sales Tax
Maharashtra State, Mumbai.

STATEMENT OF SUBMISSION OF AUDIT REPORT IN FORM-704

I, _____ _____ _____ , Proprietor / Partner / Director / Authorized Signatory of M/s _____ _____ _____ holder of TIN 27_____ _____ V/C, hereby certify that the accounts of M/s _____ _____ _____ holder of TIN 27_____ _____V/C, have been duly audited for the period 01.04.2008 to 31.03.2009 by _____ _____ ___(Name of the Chartered Account/Cost Accountant or name of the firm of Chartered Account/Cost Accountant), under the provisions of Section 61 of the Maharashtra Value Added Tax Act,2002 and have received audit report in form 704 certified by the said _____ _____ _____ _____ _(Name of the Chartered Account/Cost Accountant or name of the firm of Chartered Account/Cost Accountant).

It is further acknowledged that the said Audit Report has been uploaded by me on the website www.mahavat. gov.in under the Transaction Id_____.

Date :

Place :

Signature with Name and Designation

Encl:-

1. Balance Sheet and Profit & Loss Account /Income and Expenditure Account and statutory Audit Report.
2. In case dealer is having multi-state activities the Trial Balance for the business activities in Maharashtra.
3. Copy of the acknowledgment for submission of Form-704
4. Part I of the e-704 duly signed by the accountant as defined under Section 61c of the MVAT Act, 2002 pertaining to the Form-704 uploaded by the dealer. This part comprises of Audit Report and Certification, Computation of tax liability and recommendations by the accountant.

Department of Sales Tax

FORM-704 Acknowledgment

Sr No	Particulars	Details
1	Transaction Id	
2	Date of Transaction	
3	Name of the dealer	
4	TIN of the dealer	
5	Period of Audit	
6	Name of the Auditor	
7	Registration No of the Auditor under the relevant statute..	