

Amendments in the Composition Scheme for Works Contract Dealers under Delhi VAT

Vide Notification No. 3(5)/Fin.(Rev-I)/2013-14/dsvi/801 dated 30.09.2013 with effect from 01.10.2013

HIGHLIGHTS

[by Rakesh Garg, FCA, Author and Consultant]

1. The composition scheme, notified vide No. 3(13)/Fin.(rev-1)/2012-13/dsvi/180 dated 28.2.2013 (effective from 1.4.2013), issued u/s 16(12) of the DVAT Act for works contract dealers has been **modified** vide present notification.
2. The dealers are allowed to withdraw from composition scheme only from the beginning of the financial year. **However**, in view of the amendments by the present notification, they may -
 - withdraw from the composition scheme, if already opted, by filing an application till 31.10.2013; or
 - opt for the composition scheme from 01.10.2013; or
 - switch over from Scheme "A" to Scheme "B", or vice-a-versa, w.e.f. 01.10.2013. It may be recalled that there are two Schemes for the works contractors : (i) Scheme "A", having lower rate of tax, only for those dealers who are executing works contracts in Delhi; and (ii) Scheme "B", having higher rate of tax, where the contractors can make central purchases/transfers against declaration forms and import from other countries.
3. The Composition dealer shall be eligible to opt for only one of the Scheme, i.e. Scheme "A" or Scheme "B", for all categories of works contracts to be executed by him in the financial year.
4. Limit for purchases from unregistered dealers has been increased to 5% (earlier 2%) of total purchase turnover during the year, or Rs.50 lacs (earlier limit of Rs.25 lacs), whichever is lower.
5. In case, a composition dealer fails to comply with the stipulated conditions of the Scheme: Earlier - entire amount deposited was to be forfeited; Now - forfeiture would be restricted to the extent of 50%.
6. The contractor, who was paying tax under the normal scheme, is required to pay tax on the entire opening stock held on the date of option for the composition scheme. **This amendment will enable** the contractor (opting for this Scheme w.e.f. 01.10.2013 or any subsequent financial year) to adjust his "carry forward amount as per DVAT-16" against "the amount payable as per SS-01"; and to carry forward (or claim refund) the remaining amount, if any, in the subsequent tax periods.

For example, on the date of option, a dealer is liable to pay tax of Rs. One lakh on his stock on 1.10.2013. He has carry forward amount of tax of Rs. Three lakhs on 30.09.2013. He may adjust his liability of Rs. One lakh from his carry forward amount as per DVAT-16; and remaining Rs. Two lakhs may be claimed as refund, or carry forward to the subsequent tax periods.
7. If a dealer shifts from scheme "B" to "A", he shall pay tax on his **entire** stock on the date of option at the rate specified in section 4 of the Act. It may be noted that such dealer is required to pay tax even on goods purchased within Delhi on which he has not claimed any input tax credit at the time of purchase (since at that time also, he was under the composition scheme).

8. **Cases where main-contractor (MC) and sub-contractor (SC), both are under the composition scheme:**

Earlier, SC could deduct amount of turnover based upon CC-01 issued by MC.

Now, SC shall be eligible to deduct the amount of tax :- To be computed on the amount paid to him by MC as mentioned in CC-01, at lower of the two rates of composition : one opted for by MC, and second by SC.
In short, SC could claim deduction, at the most, for the amount of tax paid by MC on such turnover (instead of entire turnover stated in CC-01).

For example, MC has issued Form CC-01 for Rs.1,00,000/- to his SC. The MC has opted for composition scheme @3%, whereas SC has opted for composition scheme of 6%. In such a case, SC shall be eligible to claim exemption of Rs.3,000/- [1,00,000/- *3% (lesser rate of tax)] from his liability of Rs.6,000/- (6% of Rs.1,00,000/).

The Reason: Where MC and SC are paying tax at the same rate, there would be no impact. **But**, where SC is paying tax, at a higher rate of tax than MC; say, SC @6% and MC @3% : - If SC is allowed deduction of turnover stated in CC-01, then SC would get benefit of 6% of the turnover, whereas MC has paid only @3%. To remove this anomaly, this amendment has been carried.

Further, MC shall be required to deduct VAT-TDS at the differential rate, i.e. 3% (6% - 3%) on Rs.1,00,000/- (earlier, in such cases, no tax was required to be deducted by MC).

9. Other provisions of the Notification dated 28.2.2013 would remain same.

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(TO BE PUBLISHED IN PART IV OF THE DELHI GAZETTE EXTRAORDINARY)
GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI
FINANCE (REVENUE-I) DEPARTMENT, DELHI SACHIVALAYA, I.P. ESTATE, NEW DELHI-110002

No. 3(5)/Fin.(Rev-I)/2013-14/dsvi/801

Date the 30.09.2013

NOTIFICATION

Whereas the Lt. Governor of the National Capital Territory of Delhi is of the opinion that it is necessary in the interest of general public so to do.

Now, therefore, in exercise of the powers conferred by sub-section (12) of section 16 and clause (I) of sub-section (2) of section 102 of the Delhi Value Added Tax Act, 2004 (Delhi Act 3 of 2005) (hereinafter referred to as "the Act"), the Lt. Governor of the National Capital Territory of Delhi, further amends certain provisions, particular conditions, modalities for availing the composition scheme, specified in the Notification No.3(13)/Fin.(Rev-I)/2012-13/dsvi/180 dated 28/02/2013, namely:-

1. After the proviso given at the end of the "Table" of composition scheme and before sub-heading "Particular Conditions", the following shall be inserted, namely:-

"PROVIDED FURTHER that the dealers who have already opted for the composition scheme notified on 28/02/2013 will have the option to withdraw from the scheme from the third quarter of 2013-14 by filing Form WC-02 by 31/10/2013. They shall in that case pay tax as normal dealers under section 3 of the Act w.e.f. 01/10/2013."
2. In "General Conditions", -
 - (i) Sub condition no.(i) of condition no.(1), -
 - a. for the words and figures "2%" the words and figures "5%" shall be substituted;
 - b. for the words and figures "Rs. 25 lakhs", the words and figures "Rs. 50 lakhs" shall be substituted;
 - c. in sub condition no. (ix), after the word "original", the symbol "/" and word "electronic" shall be inserted.
 - (ii) After the condition no.5, the following proviso shall be inserted, namely:-
"PROVIDED that the dealer shall be eligible to opt for only one Scheme, that is either Scheme "A" or Scheme "B", for all categories of works contracts to be executed by him in a financial year."
 - (iii) In condition no. (8), after the word "forfeited", the words "to the extent of 50%" shall be inserted.
3. In "Modalities for availing the Scheme" -
 - (i) In clause no. (2),- for the first proviso, the following shall be substituted, namely:-
"Provided that a dealer who is paying tax under section 3 of the Act on the date of this notification or paying tax under the composition scheme notified on 28.02.2013 may opt for this scheme from the third quarter of 2013-14 by filing an application in Form WC 01."

- (ii) In clause no. (3), after the words and number “ DVAT 20”, the following shall be inserted, namely:-
“However, as per the Form DVAT-16 filed by the dealer, if the dealer has certain tax amount to his credit at the end of the second quarter of the year 2013-14 or at the end of the previous financial year, as the case may be, he shall be entitled to adjust the amount payable as per SS-01 with the said tax amount at his credit. After the said adjustment, if the dealer is still left with some tax amount at his credit, he may, at his option, either claim refund of the remaining amount or carry forward the same to subsequent tax periods.”
- (iii) after clause (3), the following clause shall be inserted, namely:-
“(3A) A dealer who is paying tax in scheme “B” under composition may opt scheme “A” (and vice-versa) by filing an application to this effect in form WC-01 by 31st October, 2013 for the last two quarters of the year 2013-14 or within a period of 30 days from the 1st day of the year for that year with effect from which he opts to change the scheme:
Provided that in case of a dealer changing from scheme “B” to scheme “A”, he shall be required to pay tax at the rate specified in section 4 of the Act, on the entire opening stock of goods held by him on the first day of October, 2013 for the year 2013-14 or on the first day of the year with effect from which the dealer opts to change the scheme. The dealer shall furnish, along with his application for changing the scheme, the details of such stock and the payment of tax thereon in Form SS 01 along with the copy of challan in proof of payment of tax in DVAT 20.”
- (iv) For the clause no.(7), the following clauses shall be substituted, namely:-
“(7) Where the composition dealer has made any payment to a registered sub-contractor, who also opts for composition under this notification, for the execution of works contract, whether wholly or partly, the composition dealer shall issue a certificate to such sub-contractor, in Form **CC 01**. Such sub-contractor shall be eligible to deduct the amount of tax which shall be computed on the amount paid to him as mentioned in CC-01, at the lower of the two rates of composition opted one each by the contractor and the sub-contractor. The said CC-01 shall be enclosed by the sub-contractor along with his return.
Further, the contractor is exempt from deducting TDS from payments made to such sub-contractors in respect of the turnover covered by the certificate CC-01.
PROVIDED that in case where the rate of the composition tax of the contractor is lower than that of the sub-contractor, the contractor shall be liable to deduct TDS at the differential rate of composition tax between the two, from payments made to such sub-contractors in respect of the turnover covered by their respective Form CC-01.
For example, a contractor has issued Form CC-01 for Rs.1,00,000 to his sub-contractor. The contractor has opted for composition scheme @ 3%, whereas the sub-contractor has opted for composition scheme of 6%. In such case, the sub-contractor shall be eligible to claim exemption of Rs.3,000 [1,00,000 *3% (lesser rate of tax)] from his liability of Rs.6,000 (6% of Rs.1,00,000). Further, the contractor shall be required to deduct TDS at the differential rate i.e. 3% (6% - 3%) on Rs.1,00,000.
- (8) Notwithstanding anything contained in this notification, the Commissioner may notify, by a special or general order, that any or all of the forms appended to this notification shall be filed online.
- (9) All the provisions contained in the DVAT Act, 2004 and DVAT Rules, 2005 which are not contrary to the provisions of the composition scheme under this notification, shall apply to the dealers opting for composition.”

4. In Form CC-01:-

(i) for column No.(7) of the table, the following columns shall be substituted, namely:-

“

Composition Tax Rate	Total Composition Tax	Last date for completion of sub-contract, if any
(7)	(8)	(9)

”

(ii) In the certificate, below the table, for the words and figures “column 5”, the words and figures “column (8)” shall be substituted.

(iii) In the undertaking, after the certificate, for the words and figures “column 5”, the words and figures “column (8)” shall be substituted.

The composition scheme under this notification shall come into force with effect from 1st October, 2013.”.

By order and in the name of the Lt. Governor
of the National Capital Territory of Delhi,

(Ravinder Kumar)
Deputy Secretary-VI (Finance)