KVAT ACT, 2003
VARIOUS ASPECTS

by

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VAT Terminology

- ☑ VAT – Value Added Tax.
- ☑ This is the new system being implemented from April 1, 2005 in Karnataka.
- ☑ Unlike, Sales Tax, VAT is calculated based on Input & Output variation.

Types of Registration

- **Compulsory Registration** ***(Sec 22)***
- **Voluntary Registration** ***(Sec 23)***
- **Suo-Moto Registration** ***(Sec 24)***

VAT Registration *(Sec 22)*

Compulsory Registration

1. **Turnover exceeding ₹ 5 Lakhs during any year.**
2. **Turnover exceeding ₹ 40,000 in any 1 month.**
3. **Transfer of business.**
4. **Obtains/dispatches goods from/to outside the state.**
5. **Export of goods.**
6. **Casual dealers/non-resident dealer or his agent.**
7. **Execution Of Works Contract**

Optional Registration

Other Dealers not covered above registration is optional.

(The registration is granted only from the date of application or from the date of commencement of business whichever is later)

Composition Scheme [COT] - Various Aspects *(Sec 15)*

Sl. No.	Type of dealer	Turnover limit	Rate of taxes	Period for filing return
1	Regular Composition Dealer / Trader / Manufacturer	Upto 25 Lakhs	1%	Quarterly
2	Dealer Executing Works Contract, Hotelier, Restaurateur or Caterer	No turnover limit	4%	Monthly

Composition Scheme – Various Aspects

Rates for a dealer being a Mechanized Crushing Unit:

Sl. No	Capacity - For each mechanized crushing machine of size	Rates	Period for filing return
producing granite metals			
1	exceeding 16"x 9“	₹ 16,500 pm	Monthly
2	exceeding 12"x9”	₹ 8,250 pm	Monthly
3	up to 12"x 9“	₹ 4,000 pm	Monthly
producing other than granite metals			
1	exceeding 16"x 9“	₹ 10,000 pm	Monthly
2	exceeding 12"x9”	₹ 5,000 pm	Monthly
3	up to 12"x 9“	₹ 3,000 pm	Monthly

Turnover – *Sec 2(36)*

The aggregate amount for which goods are

- **sold or**
- **distributed or**
- **delivered or**
- **Disposed :**
  - **directly or**
  - **through another, on his own account or**
  - **on account of others, whether for cash / for deferred payment / other valuable consideration,**

and includes

- **URD Purchases**
- **value of goods transferred / dispatched outside the State otherwise than by way of sale,**
- **the amount for which goods are sold shall include any sums charged for anything done by the dealer in respect of the goods sold at the time of or before the delivery thereof.**

Total Turnover - *Sec 2(35)*

- The aggregate turnover in all goods of a dealer at all places of business in the State,

- whether or not the whole/any portion of such turnover is liable to tax,

- including the turnover of purchase or sale in the course of
  - interstate trade or commerce or
  - Export/import of the goods out of/into the territory of India or
  - the value of goods transferred/dispatched outside the State otherwise than by way of sale

Total Turnover – *Sec 2(35)*

Important Points :

- **The term 'Total Turnover' includes**
  - **Excise duty, VAT, CST and Service tax payable**
  - **Freight and insurance recovered from buyer**

- **The term 'Total Turnover' shall not include**
  - **Stock transfers effected within the State of Karnataka for the purpose of determining the threshold limit in the absence of specific provisions under the KVAT Act, 2003.**

- **It may also be noted that in case goods are sent on consignment basis to an agent *(who is located within the State)*, then the sale effected by the agent will form part and parcel of total turnover of the Principal.**

Taxable Turnover - *Sec 2(34)*

The turnover on which a dealer shall be liable to pay tax as determined after making such deductions from his total turnover and in such manner as may be prescribed, but shall not include the turnover of

- Interstate purchase/sale or
- Export/Import and
- the value of goods transferred/dispatched outside the State otherwise than by way of sale [*refer Rule 3 of the KVAT Rules, 2005].*

Cancellation Of Registration *(Sec 27)*

- **Business - discontinued, transferred or disposed off or**

- **Change in the status of the ownership of the business or**

- **The taxable turnover during twelve months does not exceed ₹ 5 Lakhs or**

- **Death of a proprietor** ***(legal heirs can apply for cancellation)***

Cancellation Of Registration

- **On cancellation of registration:**
  - **Liability to pay tax/penalty/interest for period prior to date of cancellation continues**
  - **Dealer liable to pay tax on stock of taxable goods held by him at prevailing market price**
  - **Obliged to file a final return**

Amendment of Registration Certificate

- A registered dealer sells or otherwise disposes off his business or part thereof or
- There is a change in the ownership of the business including any change in status or
- Business is discontinued or changed or new place of business is opened or
- Name of the business or the nature of the same is changed

VAT Rates *(Sec 4)*

The main rates for Input and Output VAT tax are:

Schedule	Rates
I	Exempt
II	1%
III	5% (*)
IV	20%

Goods which do not form part of above @ 14% (*)

(*) 5.5% & 14.5% (Notification No. VII FD 165 CSL 2013 dated 30.07.2013)

Exempted Goods (Schedule I)

Few Examples :

1. **Agricultural implements manually operated.**
2. **Cotton and silk yarn.**
3. **Curd and Butter Milk.**
4. **Fresh milk and pasteurized milk**
5. **National Flag.**
6. **Salt.**
7. **Lottery Tickets.**
8. **Petrol.**
9. **All varieties of textiles and fabrics**
10. **Aviation turbine fuel**
11. **Books, Periodicals and journals including maps, charts and globe**
12. **Diesel**
13. **Fresh vegetables and fresh fruits**
14. **Human blood** ***(including all its components)***
15. **Liquor including Beer, Fenny, Liqueur and Wine**

Taxable at 1% (Schedule II)

Bullion and Specie

Taxable at 5% (Schedule III)

Few Examples:

1. **Agricultural implements not operated manually**
2. **All types of yarn other than cotton & Silk**
3. **Bearings**
4. **Industrial Inputs & Packing Materials**
5. **Printed Materials** ***(Excl Books meant for reading)***
6. **Kerosene**
7. **Readymade Garments**
8. **Spectacles, Lenses & Frames.**

Taxable at 20% (Schedule IV)

1. **Narcotics**
2. **Molasses ****
3. **Denatured Anhydrous Alcohol***
4. **Denatured Spirit***
5. **Ethyl Alcohol****
6. **Rectified Spirit****

**[VAT Rate reduced to 5% vide notification no FD 82 CSL 10 (III) dated 31.03.2010]*

***[VAT exempted through notification no. FD 507 CSL 2007(VIII) dated 25.03.2008]*

Non - Schedule

Other Non- Schedule items & respective rates:

Others	Rates
Declared Goods – *(Sec 15 of KVAT Act r/w Sec 14 of CST Act)*	4%
Cigarettes, cigars, gutkha & other mftd. tobacco	17%
Composition Dealers – *No Schedule Prescribed*	4%
Gold, silver, platinum jewellery & articles thereof & precious & semi-precious stones - ***Notification No. FD 35 CSL 11(V) Dt. 29.03.11***	2%

Sales Tax

100		250		300	
X	→	Y	→	Z	→

TAX = 100*10%	TAX = 250 *10%	TAX=300*10%
= 10	= 25	=30

VAT Taxation

100	250	300

X → Y → Z →

TAX = 100*10%
= 10

TAX = 150 *10%
= 15

TAX = 50*10%
= 5

VAT Terminology – Input Tax

- Input Tax is the Tax shown in purchase bills.
- As per the norms, every trader need to show VAT separately.
- Apart from Trade Purchases, Tax on Capital Goods purchases like A.C., Computers etc.. is also considered for this Input Tax.

VAT Terminology – Output Tax

- Output Tax is the Tax charged on all the Taxable sales of a Vat Dealer.

- VAT by a seller dealer will be Output Tax and the same for the purchasing dealer will be Input Tax.

NET TAX

- NET TAX = OUTPUT TAX – INPUT TAX
- Tax payable if OUTPUT TAX is greater than INPUT TAX
- Tax refund if INPUT TAX is greater than OUTPUT TAX (VAT CREDIT).

NET TAX Computation

$$X \xrightarrow{100} Y \xrightarrow{150} Z \xrightarrow{200}$$

- OUTPUT Tax for Y = 150 * 10% =15
- INPUT Tax for Y = 100* 10 %=10
- TAX Payable = 15 – 10 = 5

NET TAX Computation

X $\xrightarrow{100}$ Y $\xrightarrow{75}$ Z $\xrightarrow{50}$

- OUTPUT TAX FOR Y = 75 * 10% =7.5
- INPUT TAX FOR Y = 100* 10 % = 10
- INPUT CREDIT = 10 – 7.5 = 2.5

Input Tax Amount Calculation

I. Purchases Gross Value X Rate of Tax

II. For ex.:

Input Tax = 10,00,000 * 0.05 = 50,000/-

Purchases includes Trade purchases and Capital Goods purchases as per the existing VAT Rate.

Output Tax Amount Calculation

- Month Sales X Rate of Tax
- Output Tax = 20,00,000 * 0.05 = 1,00,000/
- Invoice should display goods amount, VAT and Total Value
- In case of discounts, it should be given before VAT.

Books to be Maintained

- **Purchase Register**
- **Sales Register**
- **URD Register**
- **Cash Register**
- **Stock Register**
- **Labour Register**
- **Accounting for Works Contract**

To be recorded as soon as the purchase / sale is made

Period of retention of accounts *(Sec 32)*

Every dealer required under this Act to keep and maintain books of account/other records including tax invoices relating to his purchases & sales shall retain them until the expiration of **5 years** after the end of the year to which they relate or for such other period as may be prescribed or until the assessment reaches finality, whichever is later.

Special Rebating Scheme – Sec 14

- **Deduction of input tax shall be allowed on the difference between the rate of input tax charged at a *rate higher than 4%* or any lower rate specified*(*)*.**

Applicability

- **Tax paid on purchases of fuel/ petroleum product *(naphtha, LPG, furnace oil, light diesel oil, superior kerosene oil, kerosene)*, when used as fuel in production of any goods for export/taxable goods/captive power.**

(*) Rate Specified – 2%

Input Tax Restrictions – Sec 11

(a) Input tax shall not be deducted in calculating the net tax payable, in respect of:

- **Inputs attributable to sale of exempted goods** ***(except export)*****;**
- **Inputs on goods dispatched outside the State, other than as a direct result of inter-state sale/purchase;**
- **Fifth Schedule items**

  (Motor Vehicle, Foods & Drinks, Textiles, Furniture & Electrical Appliances)
- **Any other goods as may be notified**
- **tax paid on goods purchased by a dealer who is required to be registered under the Act, but has failed to register.**

Input Tax Restrictions – Sec 11

- **tax paid on purchase of goods used as inputs in the manufacture, processing/packing of other taxable goods dispatched to a place outside the State not as a direct result of inter-state sale/purchase;**
- **tax paid on purchases of fuel & any other petroleum product** ***(naphtha, LPG, furnace oil, light diesel oil, superior kerosene oil, kerosene)*****, when used as fuel in motor vehicles,** ***(except when used as fuel in production of any goods for export/taxable goods/captive power)***

(b) Input tax shall not be deducted by an agent purchasing or selling goods on behalf of any other person other than a non-resident principal.

(c) Input tax shall not be deducted by any dealer executing a works contract.

Input Tax Restricted Goods (Fifth Schedule)

- **Motor vehicles of all kinds,** Aero planes, helicopters or any other type of flying machine, parts and accessories thereof including tyres, tubes and flaps.
- **Articles of food and drinks,** cakes, biscuits, and confectionery; fruits, fruit and vegetable products; dressed chicken, meat, fish, prawns, shrimps and lobsters sold in any kind of sealed containers; aerated water, spice powder, paste and the like; tobacco and tobacco products.
- **All electrical or electronic goods and appliances,** AC, air coolers, telephones, fax machines, photocopiers and scanners, parts and accessories thereof.
- Textiles, crockery, cutlery, carpets, paintings and artifacts.
- **Furniture** including slotted angles and ready to assemble parts of furniture, stationery articles including paper, sanitary fittings, cement and other construction materials including bricks, timber, wood, glass, mirrors, roofing materials, stones, tiles and paints, toilet articles.

Deduction of input tax in respect of Capital goods *(Sec 12)*

1) allowed to the registered dealer if capital goods are **used in the business/export** and in the case of any other dealer if capital goods are used wholly/partly **in the business.**

2) Deduction shall be allowed only
   - ✓ **after commencement of commercial production, or**
   - ✓ **sale of taxable goods or**
   - ✓ **sale of any goods in the course of export.**

Pre-registration purchases *(Sec 13)*

- Stock of business inputs & capital goods held at registration are rebatable if purchased within the previous 3 months.

- Such goods must be in stock on registration date.

- If the goods are sold/otherwise disposed off within the 3 months period – input tax setoff will not be allowed.

Partial Rebating – *Rule 131 r/w Sec 17*

Where a registered dealer deducting input tax,

- **makes sales of taxable goods and goods exempt u/s 5 or**
- **makes branch transfer of goods or**
- **puts to use the inputs purchased for any other purpose** ***(other than sale, manufacturing, processing, packing or storing of goods)*****, in addition to the use in course of his business,**

he shall be required to apportion and attribute the input tax between such sales/dispatches and other purposes.

Partial Rebating Contd…

The scheme of partial rebating would also apply to petroleum products *(eligible for set off)*.

The rule deals with finding out the non-deductible input tax as follows –

$$\frac{\textbf{(Sales Of Exempt Goods + Non Taxable Transactions) x (Total Input Tax)}}{\textbf{Total Sales (Including Non-taxable Transactions)}}$$

This amount has to be deducted from the total input tax to arrive at the deductible amount of input tax.

Partial Rebating (Contd...)

<u>Note</u> : -

- **All input tax directly relating to sale of exempt goods is not available.**

- **All input tax directly relating to taxable sales may be deducted, subject to provisions of Section 11.**

- **Purchase of petroleum items/fuel items specified u/s 11(6) shall be subjected to special rebating u/s 14 and if used towards both taxable as well as exempted activity/stock transfers outside state, to partial rebating u/s 17 as well.**

Types of Sales – Under CST Act 1956

Forms	Description
FORM C	Inter state sale by a registered dealer to another registered dealer including govt. if registered.
FORM E I	Subsequent inter state sale while goods are in movement from one registered dealer to another registered dealer.
FORM E II	In continuation of FORM-E I.
FORM F	Branch Transfers Consignment Sales Goods sent/received for Job Work to/from outside the state Sales Return under CST Act.
FORM H	Penultimate sale to exporter.
FORM I	Sale to units located in Special Economic Zone
FORM J	Sale to Diplomats.

Frequency of Various Forms

Form	Frequency
C	To be obtained for every quarter and submitted on quarterly basis.
E-I / E-II	To be obtained for every quarter and submitted on quarterly basis.
F	Monthly, but to be submitted to authorities quarterly.
G	Indemnity bond when C form lost (When required).
H	Upto the time of assessment by first assessing authority.
I	Not specified in rules (but should be submitted before assessment).
J	Upto the time of assessment by first assessing authority.

Declaration In C Form

- C form is a declaration issued by a buying dealer to a selling dealer in the course of interstate trade to avail concessional rate of sales tax - Section 8(4)(a).

- If the selling dealer pays CST @ 2% or lower (if applicable), he has to produce proof to his sales tax assessing authority that the purchasing dealer is eligible to get these goods at concessional rate. Otherwise, the selling dealer will be asked to pay balance tax payable plus penalty as applicable.

Who Can Issue C Form ?

- Though the provision prima facie says that any registered dealer or Government can issue C Form, a closer examination evinces as under;
- The purchasing dealer can issue C forms for the purchase of the following;
  - Classes of goods as specified in his certificate of registration as being intended by him for re-sale or for use in manufacture.
  - Packing materials as mentioned in his certificate of registration as intended for packing of the goods for sale.
  - Packing materials as mentioned in his certificate of registration as intended for packing of any containers, packing materials as mentioned in the certificate of registration.

C Form - Periodicity

- The buying dealer is bound to issue a declaration in Form C / Form D at the point in time when he has effected the interstate transaction.

- Rule 12 of the CST Act 1956 permits the buying dealer to issue a single declaration to cover all transactions of sale which take place in one quarter between same two dealers.

- On the contrary; for one time transactions; the buying dealer may issue the C form at the time of purchase or at the end of the financial year as may be agreed mutually.

- Ideal time for the issue and collection of C forms for a quarter shall be before the end of the subsequent quarter by when the C forms have to be submitted to the tax department.

C-Forms – Important Aspects

Q. Whether fixed assets like machines, generator and equipments can be purchased on the strength of C form on concessional rate of tax?

A. **Yes**

J.K. Cotton Spinning &Weaving Mills Ltd. V STO (1965)16 STC 563 (SC)

Q. Whether fans, cooler, cars, books, air conditioner can be purchase against C Form?

A. **No, as these are *<u>not directly linked to the manufacturing or production</u>* and therefore not machines or equipments.**

C-Forms – Important Aspects

Q. Whether consumables like Diesel, lubricating oils, bleaching powder, welding materials, gases can be purchased against C form?

A. **Yes, as per Rule 13 Of CST(Registration & turnover) Rules, 1957.**

CTT Vs Shubham Cane Crusher (2009) 20 VST104 (ALL)

Q. Whether spare parts can be bought on the strength of C forms ?

A. **Yes, if they are purchased for resale or to be used against warranty claims**

CTT Vs Kanpur Tractors (P) Ltd. (2009)20 VST493 (ALL)

C-Forms – Important Aspects

Q. Whether raw material can be purchased on the strength of C forms to produce the tax free goods ?

A. **Yes.**

Printers (Mysore) Ltd. Vs. ACTO (1994) 93 STC 95 (SC).

Q. Whether cement, steel and paints use in construction of factory building can be used in manufacture of finished goods?

A. **No. Cement used in the construction of the factory building or foundation and steel and paints required in the repairs of boiler and protection of machinery can not be use directly in the manufacture of finished goods.**

Travancore Tea Estates Co. Ltd. Vs. State Of Kerala (1977) 39 STC 1 (SC)

Precautions to be taken before billing on concessional rate against C Forms

- Ensure that the buyer has a registrationn under the CST Act and the registration is in force.
- Obtain a copy of the registration certificate if possible.
- Ensure that the buyer's CST registration permits him to issue C forms for the class of goods being negotiated.
- Ensure that the buyer has not defaulted in issuing C forms in earlier instances.
- Ensure that the buyer is not a Government organisation.
- Ensure that the buyer's purchase order states clearly that the C forms will be issued.
- Buyer has to be appraised of the fact that the C forms have to be issued once in a quarter.

Sale In Transit (E-I Transaction)

- Sales made by the Buyer (subsequent seller), without taking the physical delivery of the Goods bought during the movement of goods from one state to another

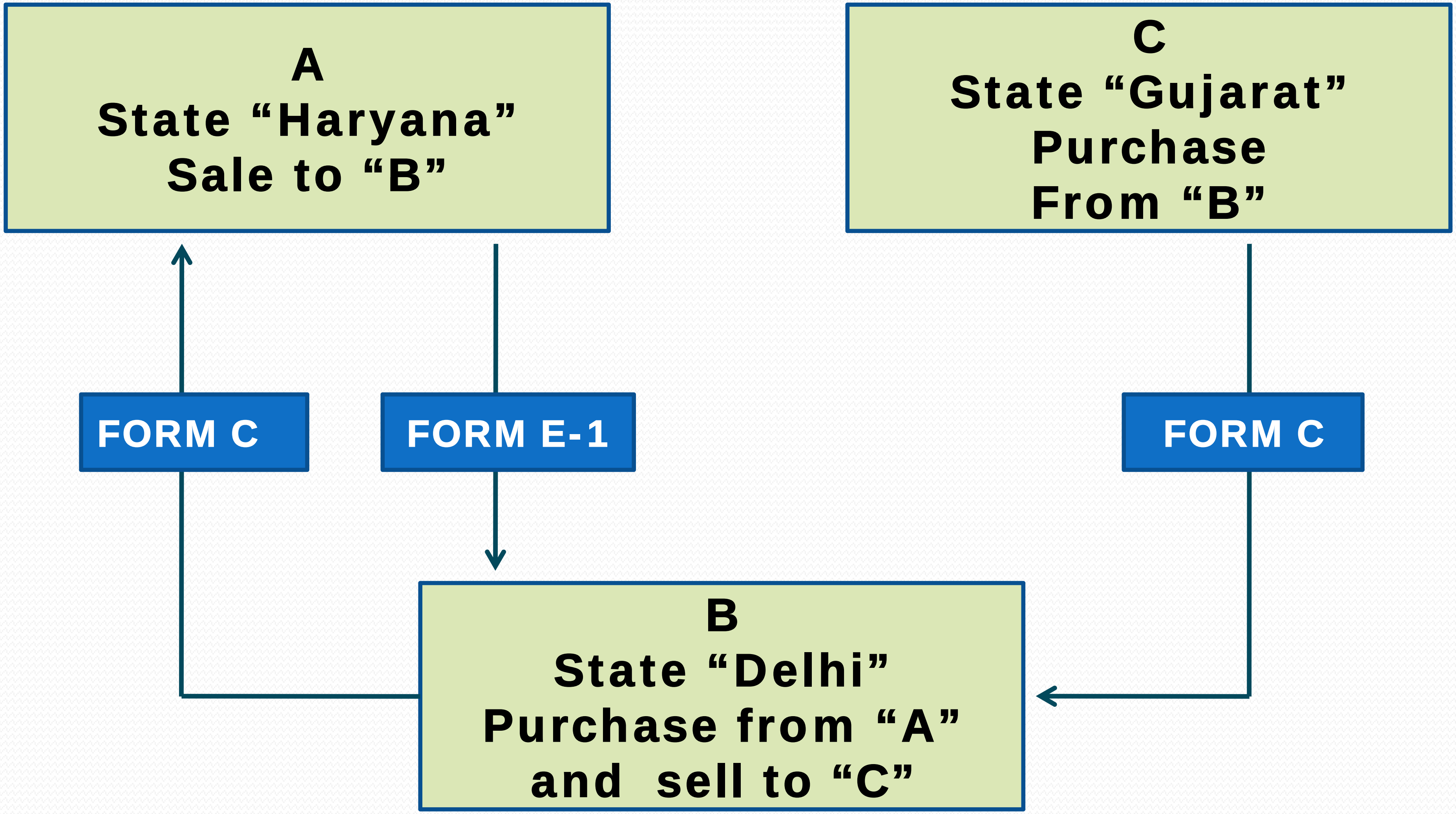
- Goods resold by transferring the documents of title of the goods, normally called G.R. / R.R. to the another party (Subsequent Buyer).

- As per CST Act,1956 Section 6(2) – In case of Sale In Transit, if the goods are of the description referred to in Section 8(3), shall be exempt from tax under this Act.

Form E-I

- FORM E-I is a Statutory form under CST Act.
- The Subsequent Seller has to receive it from his immediate seller.
- These Forms should be submitted to the prescribed authority within prescribed period of time and in manner under the relevant State Act.
- The selling dealer has to make declaration in E-I form if it is a first sale and in E-II form if it is a subsequent sale.

Example-1


A
State “Haryana”
Sale to “B”
C
State “Gujarat”
Purchase
From “B”
FORM C
FORM E-1
FORM C
B
State “Delhi”
Purchase from “A”
and sell to “C”

In the above example,

It is worthy to understand that the transactions between B and C will remain inter-state sale, even both of them are registered in the same state due to the fact that goods are transferred during the movement from one State to another.

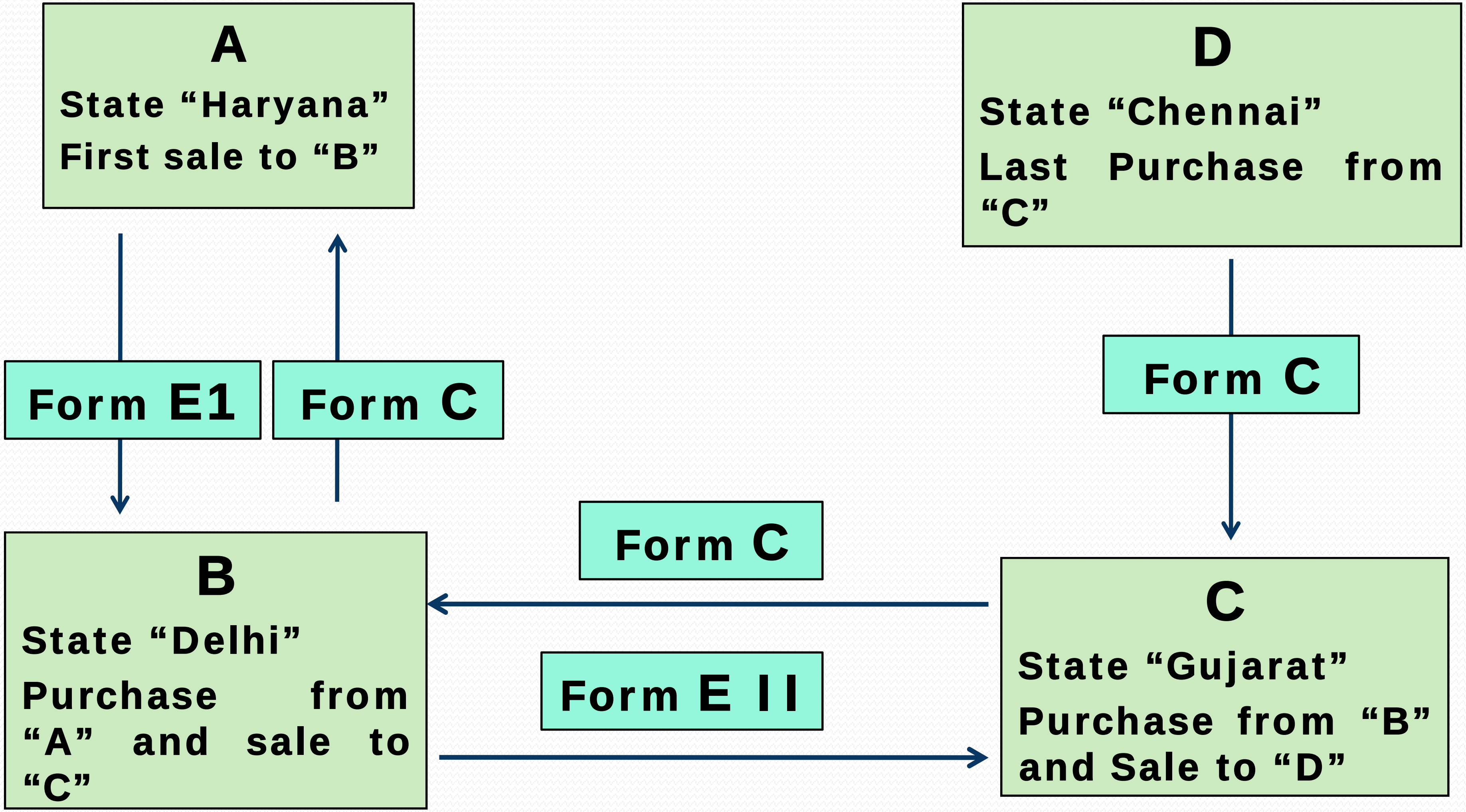
Form E- II

- Form E2 is used for claiming the exemption from payment of CST.

- In case where the registered dealer purchases goods from one registered inter-state dealer and sells the same while in transit, to another registered inter-state dealer, the sales will be exempted from CST on submission of 'Form E2' to the department.

- The 'Form E2' is used to claim exemption from payment of CST to the seller who is a subsequent or last inter-state dealer of goods.

Example : 2


A
State "Haryana"
First sale to "B"
D
State "Chennai"
Last Purchase from "C"
Form E1
Form C
Form C
Form C
Form E II
B
State "Delhi"
Purchase from "A" and sale to "C"
C
State "Gujarat"
Purchase from "B" and Sale to "D"

In the above example

The subsequent seller also transfer the goods in transit, then every subsequent buyer will issue FORM C to his preceding seller.

Some provisions of C form applicable to E-I/E-II forms

- Following provisions of C FORM are also applicable in respect of E-I/E-II FORM

  - One declaration for all transactions in each quarter
  - Separate declaration for each quarter
  - Indemnity bond if form is lost
  - Issue of duplicate form
  - Submission at any time before assessment
  - Like C form, the E-I/E-II forms are mandatory and sales tax concession is not available if the required form is not submitted.

Penultimate Sales – Form H

- **Form H** is used by the seller for claiming the exemption on making penultimate sales (immediately preceding sale to exports).
- Sales made during the course of export are exempt from CST. The penultimate sale is also deemed to be in course of export and is exempt from CST.
- The dealer exporting goods will have supporting documents like customs documents, bank certificate, airway bill/bill of lading, shipping bill etc. However, the penultimate seller will not have any direct evidence to prove that the sale made is exempt from tax.
- In such cases, the actual exporter has to issue a certificate to the penultimate seller in form H.

Penultimate Sales - Conditions

The following conditions can be summed up for claiming exemption to penultimate export:

- The sales must be for the purpose of complying with agreement or order in relation to export, and
- Such sale is made after the agreement or order in relation to export, and
- Same goods which are sold in penultimate sale should be exported.

Penultimate Sales – Imp. Points

- It should be noted that its only the penultimate sale which is exempt but the purchase earlier to penultimate sale is not exempt and purchase tax if any imposed by the State Government on such purchase will be payable as it was held in :

- **State of Tamil Nadu v. Madras Pack Marine(2000) 120 STC 105(TNTST)**
- **Kepee Sons v. State of Kerala(1999)116 STC 156(Ker HC DB).**

Penultimate Sales – Imp. Points

- **Same goods must be sold.**

  Ex : <u>Purchase of paddy and export of rice</u>

  Paddy (Declared Goods) can be purchased without any tax if the rice produced out of it is exported. Paddy sold to an exporter will be penultimate sale even though exporter does not export the same Paddy but rice procured out of such paddy.

  <u>Refer</u> **:** Veerumal Monga v. State of Haryana (2001) 123 STC 158 (P&H HC DB)

- **Sale of packing material for the purpose of export is also a penultimate sale.**

  <u>Refer</u> : State of AP v. Standard Packings (1995) 96 STC 151(AP HC DB)

Form I

- As per the provisions of section 8(6),8(7) & 8 (8) of CST Act,1956 read with Rule 12(11) of CST (Registration & Turnover) rules,1957 dealers whose units are situated in SEZ can purchase goods from the dealers situated outside the state on the strength of FORM-I without payment of central sales tax provided the goods they are buying are specified in their registration certificate. This form has to be obtained from the authority specified by the central govt. which is usually the local state vat authority.

Form J

- As per the provisions of section 6(3) & 6(4) of CST Act,1956 read with rule 12(11A) of CST (Registration & turnover) Rules,1957,any foreign diplomatic mission or consulate, UNO or any other similar international body notified by the authority can buy the goods on the strength of J form without payment of central sales tax.

High Sea Sales

- It means sale of goods after crossing the Custom barriers of the Foreign Nation but before crossing the Custom frontiers of India by way of transfer of documents of title of goods.
- **No Central Sales Tax** is chargeable on High Sea Sales.
- High Sea Transaction is **always a Central Transaction** even though it is made between two Local Dealers.
- **No import duty** is payable on High-Sea Sales made to a unit located in SEZ.
- High Sea Sales **cannot** be made after filling Bill of entry.
- Registered dealer under CST Act can make High Sea Transactions provided he is having a valid **Import Export Code No.**

Due Dates for Various Forms & Returns

Monthly Return (Form VAT-100) – VAT dealers Monthly Return (Form VAT-120) – COT dealers	20^{th} 15^{th}
Revised Returns (Monthly)	6 Months
Submission of Statutory Forms (CST) [C form & H form]	3 Months from the end of the quarter
Tax Invoice	14 days
Audit Report	31^{st} Dec
Remittance of TDS	15^{th} / 20^{th}
Remittance of Net Tax & Tax On Purchases from URDs	20^{th}
Retention of Accounts & other documents	5 years

Forms of VAT

Sl. No.	Form No.	Particulars
1	Form A	Application For Registration Under CST Act, 1956
2	Form B	Certificate Of Registration
3	VAT 1	Registration
4	VAT 2	Amendment of VAT
5	VAT 3	Additional Places Of Business Address Details
6	VAT 4	Partner & Member of Association of persons detail
7	VAT 5	Authorized Signatories Form
8	VAT 7	Registration Certificate
9	VAT 8	Composition Tax Registration Certificate
10	VAT 9	Notice of Rejection of Application for COT

Forms of VAT

Sl. No.	Form No.	Particulars
11	VAT 10	Cancellation of Registration (Death Of Dealer)
12	VAT 11	Cancellation of Registration (Other Than Death)
13	VAT 100	Monthly Returns (For Regular Traders)
14	VAT 110	Monthly Returns (For Casual Traders)
15	VAT 120	Quarterly Returns
16	VAT 125	Monthly Statement of TDS for the Period
17	VAT 126	Monthly Statement of TDS for the Period (Industrial Canteens)
18	VAT 140	Certificate of payment of tax by Agent
19	VAT 145	Declaration of purchase of goods on behalf of principal
20	VAT 146	Clearance Certificate to Registered Dealer

Forms of VAT

Sl. No.	Form No.	Particulars
21	VAT 150	Notice of Rejection of Return in Form 100
22	VAT 156	Certificate of Tax Deduction (for Works Contract)
23	VAT 157	Details of Remittance under Works Contract
24	VAT 158	Certificate of Tax Deduction (for Industrial Canteens)
25	VAT 159	Certificate of Tax Deduction (amount paid by factory/industrial concern/establishment to the dealer)
26	VAT 166	Application for Refund of Input Tax Sec 21
27	VAT 170	Register Of Purchases made within the State
28	VAT 180	Notice of Demand of Tax assessed/re-assessed, penalties levied & interest payable
29	VAT 210	Notice of Demand for Payment of Tax
30	VAT 240	Audit Report

Rate of Interest

- The rate of simple interest payable u/s 36 shall be ***1.50%*** ***pm***.
  - From the date the tax had become payable to the date of its payment or to the date of any assessment under this act, whichever is earlier; and
  - From the date on which any amount payable under this act was due.
- For the purpose of this section interest in respect of parts of a month shall be computed proportionately and month shall mean any period or thirty days.

Penalties Relating to Registration

- **A dealer who**
  - ✓ without reasonable cause,
  - ✓ fails to apply for registration
  - ✓ within the time prescribed in

shall be liable to penalty of ***₹2,000*** *+ interest u/s 37.*

- **A dealer who**
  - ✓ fails to report to the prescribed authority
  - ✓ a change in circumstances

shall be liable to a penalty not exceeding ***₹5,000.***

Penalties Relating To Return – Sec 72

1. Returns & Payment

- Upto 5 days

  ₹50/day

- Beyond 5 days
  - Tax due < ₹250 :
    - *Up to ₹250*
  - Tax due > ₹ 250 :
    - *₹50/day (Subject to amount of tax)*

2. Short Payments

- 10% of the short payment

  If the short payment is beyond 5% of the total tax due

(After opportunity of showing cause)

3. Incomplete Returns

₹ 50 per day of default.

Penalties Relating to Return

A further penalty equal to:-

- **Default - Not more than 10 days**

  Higher of Below

  - ***5% of the amount of tax due***

    or

  - ***₹50***

- **Default – More than 10 days**
  - ***10% of the tax due***

Other Penalties

<u>A dealer who fails</u>

- **To furnish a return has been issued with an assessment showing less than his actual liability to tax & he pays such tax as assessed.**

  Penalty = 10% of under assessed tax

- **Within the time specified, to get registered though liable to do so,**

  Penalty = 30% of the amount of tax payable by him as assessed under Sec 38 or re-assessed under Sec 39

(After an opportunity of showing cause)

Sec 35(4) of the KVAT Act, 2003

- This section restricts a registered dealer, under certain circumstances, from filing a revised return beyond 6 months from the end of the relevant tax period.

- However, the department is accepting the revised returns beyond the period of 6 months, only in such of those circumstances wherein the registered dealer is liable to pay tax.

- In case, of a refund claim / mistake apparent on the records etc which does not lead to any additional tax liability etc., the department is not accepting the said revised return taking support of Section 35(4) of the KVAT Act, 2003.

Sec 35(4) of the KVAT Act, 2003

- On a plain reading of the Form VAT 240, the VAT auditor is required to advise the registered dealer to file such revised returns in circumstances leading to payment / refund of taxes arising out of audit. Therefore, the intent of the legislature is to permit a registered dealer to file revised returns even after a lapse of 6 months.

- Thus, the revised returns can be filed by the dealer along with the KVAT Audit Report or may be submitted after filing the KVAT Audit Report.

Kinds of Assessment

- Self Assessment
- Protective Assessment
- Best Judgment Assessment
- Reassessment

Protective Assessment

If the LVO has reason to believe that the dealer would default in payment of taxes due on a subsequent date

- **LVO may make a protective assessment with the permission of the JC / Ad.C**
- **Taxes would be payable forthwith**
- **Order may be withdrawn within 30 days** ***(suo-motu or based on a application from the dealer)***

Best Judgment Assessment

- If no return/s are filed by the dealers, the LVO may assess the dealer to the best of his judgment based on the information / details available.

- If the dealer files a return within 1 month from the date of BJA, the order may be withdrawn by the LVO. However, interest and penalty will be payable.

Re - assessment

- If the return furnished by the dealer **understates the tax liability**
- Reassessment *(based on best judgement)* may be made based on additional evidence available
- If any further evidence is discovered, further reassessments may also be made
- **Govt Departments**: Upon inspection, if any details are found to be incorrect, the Dept to be **directed to rectify the mistake**

Authorities of VAT

COMMISSIONER

↓

JOINT COMMISSIONER

↓

DEPUTY COMMISSIONER

↓

ASSISTANT COMMISSIONER

↓

COMMERCIAL TAX OFFICERS

↓

COMMERCIAL TAX INSPECTORS

Guidance Note by ICAI

- Input tax paid on purchases of inputs *(VAT Credit)* should not be included in the cost of purchases.

- Payment of VAT should not be treated as an expense in the financial statements of the enterprise.

Benefits of VAT

1) **No Cascading Effect**

2) **Coverage**

3) **Revenue security**

4) **Co-ordination of VAT with direct taxation.**

Deduction of Tax at Source

- Section 18A requires every registered dealer to deduct and remit tax to the government at the rate applicable to the goods *(on their sale)* when they purchase the following goods from other registered dealer –
  - Oil seeds
  - Non refined oil
  - Oil cakes
  - Scrap of iron and steel
  - Such other goods that may be notified by the commissioner

- Question of deducting tax does not apply to inter state purchases. Delay in remittance will attract interest at 1.25 % pm. Statement of tax deducted is also to be submitted within 20 days from the end of the month.

TDS in the Case of Canteens

- A factory/industrial concern/establishment, in which
  - a canteen / cafeteria / restaurant / other similar facility is run,
  - through a dealer,
  - is required to deduct
  - an amount at the rate of 4 %
  - out of the amounts payable to such dealer.

- No deduction shall be made if the aggregate amount payable to such dealer is less than ₹ 5 Lakhs in a year.

Goods Covered Under MRP

- Section 4 of KVAT Act provides a mechanism whereby a dealer dealing in pharmaceutical products may pay VAT at the applicable rate on the basis of the MRP of the product.

- If so, subsequent dealers would be exempted from payment of VAT.

- A clarification has also been issued to state that the taxable turnover shall not include the tax payable and the same shall be deducted from the MRP.

MRP Based Valuation

Q. Medicine Retailers pays VAT @3.85% on M.R.P to the wholesalers. But as medicines are inclusive of all taxes they can't charge VAT to the customers

So how they will calculate VAT......?

MRP Based Valuation

A. Generally VAT is charged at every level of value addition. But in Pharma it is charged at single stage only.

Now regarding MRP inclusive of VAT

<u>Take example :</u>

If company is intended to sale “X” product to end customer @ ₹ 100/- & if VAT is 4% then they will stamp MRP@104 inclusive of VAT.

So back calculation of 4% will be 3.846% on 104.(100*4/104).

Special Accounting Scheme

- In terms of Section 16 of the KVAT Act, 2003, if the dealer is unable to identify
  - each individual sale or
  - its value or
  - rate of tax or
  - is unable to issue a tax invoice as specified in sec 29 for each individual sale
- Then he can apply to the Commissioner for payment of tax on such sales based on special accounting methods as per Rule 134 of the KVAT rules, 2005.
- This option is available only to retailers who sell taxable goods directly to the customers.

Special Accounting Scheme

- Such registered dealer, who has a taxable turnover relating to goods which are taxable at different rates and cannot be identified separately, shall-
  - Record daily total sales at the end of the day;
  - At the end of the month, calculate daily total sales for that month;
  - Apportion those total sales into taxable sales in the same proportion as the value of purchase of taxable goods made in the month out of the value of total purchase in that month; and
  - From the apportioned taxable sales, calculate the tax for the month using the *tax fraction* or fractions for the rate or rates of tax in force and include that amount in the return for the month.

Special Accounting Scheme

- "tax fraction" means the fraction calculated in accordance with the following formula:-

$$\frac{\text{Tax rate}}{\text{Tax rate} + 100}$$

- The local VAT officer or VAT sub-officer may refuse to permit the value of taxable sales to be determined in accordance with a method if it appears:-
  - That the use of any particular scheme does not produce a fair and reasonable taxable turnover during any period; or
  - That it is necessary to do so for protection of the revenue.

Declared Goods

- Declared goods are goods of Special Importance.

- If declared goods are sold there are certain benefits which can be obtained by the dealer, which is not available for the ordinary goods.

- If declared goods are sold inter-State, tax paid within the State is reimbursed to seller. Goods should be sold inter-state in same form.

- As per Section 15(a) of the CST Act, 1956 tax on declared goods within a State cannot exceed 4%

List Of Declared Goods / Goods Of Special Importance – Sec 14 of CST Act, 1956

i. Cereals i.e. paddy, rice, wheat, bajra, jowar, barley etc.
ii. Coal and coke in all forms excluding charcoal.
iii. Cotton in un-manufactured form but not cotton waste.
iv. Cotton fabrics, cotton yarn.
v. Crude Oil
vi. Hides and skins
vii. Jute
viii. Iron and steel i.e. pig iron, sponge iron, iron scrap, steel ingots, billets, steel bars, steel structural, sheets, plates, discs, rings, tool steel, tubes, tin plates, steel wheels, wire rod; defectives of above etc

List Of Declared Goods / Goods Of Special Importance – Sec 14 of CST Act, 1956

ix. Oil Seeds i.e. groundnut, til, cotton seed, linseed, castor, coconut, sunflower, mahua, kokum, Sal, etc
x. Pulses i.e. gram, tur, moong, masur, urad etc
xi. Man-made fabrics-fabrics of man-made filament yarn i.e. artificial textile materials, polyester staple fiber, tyrecord fabric, impregnated textile fabrics, etc
xii. Sugar and Khandsarisugar.
xiii. Woven fabrics of wool.
xiv. Aviation Turbine Fuel sold to a turbo-prop aircraft.

Un-manufactured tobacco, cigars, cigarettes, biris, chewing tobacco, snuff etc., were ‘Declared Goods’ upto 31.03.2007 – Now they are not ‘Declared Goods’

Goods must be sold in the same form to obtain reimbursement

Example :

i. Mung, chana and urad converted into dal is same commodity.
ii. Round timber logs are different from sized timber.
iii. Dried coconuts and watery coconuts are different commodities.
iv. Condensed milk is different from ‘milk’.
v. Oil seeds and oil extracted from these seeds are different commodities.
vi. Ice is different commodity than water.

Thus, if goods sold after processing are different commodity, reimbursement of local sales tax is not available.

KVAT Audit

Particulars	Legal Provisions
Dealers	All Types Of Dealers Whose Total Turnover Exceeds ₹ 1 Crore
Format	FORM VAT 240
Time limit	Within Nine Months from the end of the Financial Year (i.e. 31st December)
Submission	To Local VAT Jurisdictional Authority
Penalty	₹ 5,000/- Plus ₹ 50/- Per Day under Section 75 of the KVAT Act 2003

Who To Audit.....?

Sl. No	Category of dealer	Auditor
1	***<u>Registered dealers not being a company</u>*** defined under the companies Act, 1956 or a ***<u>company incorporated outside India</u>***, having "Total Turnover" not exceeding ₹ 1 crore in a year	• Chartered Accountant or • Cost Accountant or • Tax Practitioner enrolled under *Rule 168 (1) of the KVAT Rules, 2005*
2	<u>Company</u> defined under the Companies Act, 1956 or a company incorporated outside India	Chartered Accountant *[See Rule 168 of the KVAT Rules, 2005]*

Comparative Study of VAT and CST

KST	VAT
Multiplicity of levies on the same tax base	Multiplicity of levies on different tax base
Complex structure	Simple to understand
Cascading Effect	No Cascading Effect
Higher tax rates	Lower Tax rates
No economic benefit to small industries	Economic benefit to small industries

Value Added Tax

Tax Rates

- **The basic rates of tax at 5.5% and 14.5% remain unchanged.**

  (Notification No. VII FD 165 CSL 2013 dated 30.07.2013)

- **Other changes in rate of tax**

Description of goods	Rate of Tax
Sugar sold through public distribution system	Exempt
Sugar sold other than through public distribution scheme.	1%
Footwear costing ₹ 300 or less, per pair.	Exempt

Recent Amendments *[KVAT (Second Amendment) Bill, 2013] {w.e.f – 01.08.2013}*

- **Time limits for initiating assessment or re-assessments *(Section 40)***

Tax periods	Time Limit
For tax periods upto March 31, 2007 ✓Normal time limits ✓Cases involving fraudulent evasion of taxes	 8 years 10 years
For tax periods from April 1, 2007 to March 31, 2012 ✓Normal time limits ✓Cases involving fraudulent evasion of taxes	 7 years 8 years
For other tax periods	5 years

Recent Amendments *[KVAT (Second Amendment) Bill, 2013]* *{w.e.f – 01.08.2013}*

Sales Tax

Tax Rates

- Tax on Motor spirit other than petrol and aviation fuel reduced to **15.65%**.
- Petrol will be taxable at **25%** and Aviation fuel at **28%** under the KST Act, 1957.

Entry Tax

Tax Rates

- Entry tax of 1% on sugar is withdrawn.
- Threshold of 2 lakh rupees for registration under Entry Tax Act increased to **5 lakh rupees**.

Thank You