DELHI VAT & CST AMENDMENTS DURING THE YEAR 2013-14

HIGHLIGHTS

[Rakesh Garg, FCA, Author & Consultant]

1. DVAT (Amendment) Act, 2013 – Notification No. F.14(5)/LA-2013/ com.2law/ 65 dated 9.9.2013 read with Notification No.F.3(14)/ Fin.(Rev.-1)/2013-14/ dsVI/703 dated 11.9.2013 w.e.f. 12.9.2013

(i) Scope of the term "business premises" under section 2(1)(e) has been expanded. It now includes the place of business of his agent (by whatever name called) where a dealer carries on business through an agent; and a warehouse, godown or such other place where a dealer stores his goods.

(ii) **With effect from end of the year 2013-14, excess tax credit cannot be carried forward to the <u>next financial year</u>**, and the dealer has to mandatorily claim refund in last quarterly return of 31st March of that year. As per section 11(2), where the net tax of a dealer amounts to a negative value, the dealer shall be entitled to carry forward the amount to next calendar month or tax period, as the case may be, **<u>of the same year</u>**.

(iii) Where the dealer is maintaining computerized books of accounts using software, he should be able to readily provide soft and/or hard copy of the records at the principal place of business as recorded in his certificate of registration, as and when required by the Commissioner. It is also explained that the dealer may maintain and retain soft copy of the records as means of compliance with the said provision. [Proviso and Explanation to section 48(1)]

(iv) Scope of section 58A, i.e. the circumstances when the Commissioner may order for special audit of a dealer, has been widened. Special audit may now be required by the Commissioner having regard to: (a) the nature and complexity of the business of a dealer; or (b) the interest of the revenue; or (c) volume of accounts; or (d) doubts about the correctness of the accounts; or (e) multiplicity of transactions in the accounts; or (f) specialized nature of business activity; or (g) non-production of all records and accounts; or (h) non-filing of audit report u/s 49 of this Act; or (i) any other reason.

(v) Second proviso to section 86(2), which reads as, "Provided further that the penalty imposed under this section can be remitted where a person is able to prove existence of a reasonable cause for the act or omission giving rise to penalty during objection proceedings u/s 74 of this Act" has been omitted. Due to its omission, it would be difficult for the Objection Hearing Authority to remit penalty even if there was reasonable cause for omission/default.

(vi) Various penalties specified in section 86 have been increased drastically. For example, penalty for non-filing of return has been increased from Rs.100/- to Rs.500/- per day. Likewise, penalty for not filing of information for amendment in the R.C. has been increased from Rs.100/- to Rs.500/- per day.

2. DVAT (Second Amendment) Rules, 2013 – Notification No. F.3(4)/ Fin.(Rev-I)/2013-14/ DSVI/519 dated 9.7.2013

(i) Rule 4A of the DVAT Rules prescribes various percentages for computation of taxable turnover by the residential hotels, who are providing lodging and boarding and charging a composite sum, which is inclusive of breakfast or lunch or dinner or, as the case may be, a combination of all or any of the above. Through the said notification; the said percentage of taxable turnover for certain categories has been increased by 5%.

(ii) The dealer shall prominently display his TIN and ward number outside the main entrance of all places of business in Delhi. [Rule 14(3)]

(iii) Manner of furnishing DVAT Return: Return shall be furnished online on the web-site of the Department. After such furnishing, e-acknowledgement shall be generated in DVAT-56, which shall be signed by the dealer, and to be filed to the Commissioner along with the required documents. Dealer is no longer required to file the hard copy of the complete return.

(iv) Every dealer holding the TAN is required to file TDS return on quarterly basis. With this amendment, every TAN holder, even if he has not deducted any TDS in a quarter, shall file "NIL" return for that quarter.

(v) An application for amendment and/or cancellation to an existing registration for TAN shall be made in Form DVAT-45A electronically, on the department website.

3. DVAT (Third Amendment) Rules, 2013 – Notification No. F.3(16)/Fin. (Rev-I)/2013-14/ dsVI/785 dated 20.9.2013

(i) In respect of computation of VAT on the builders and other works contracts, the Delhi Government has amended Rule 3 of the DVAT Rule comprehensively. These rules provide detailed method for computation of turnover in collaboration agreement where works contract is executed by the builder for the land-owner and/or the intended purchasers.

(ii) Percentage prescribed for computation of labour and services under Rule 3(2) has been increased for the following works contracts:-

- Book-binding;
- Textile processing, such as, dying, fabrication, tailoring, embroidery and other similar activities where textile is supplied by the contractee;
- Electro plating, electro galvanizing, anodizing, powder coating and other similar activities; and
- Re-treading of old tyres.

(iii) In Rule 44A, it has been made mandatory for the composition dealers to state at the top of the retail invoice issued by them as, 'Composition Dealer (Not eligible to charge VAT on Bill Amount)'.

(iv) Under Rule 22(2), it has been prescribed that where a person requires de-sealing or release of any premises including the office, shop, godown, box, locker, safe, almirah or other receptacle under section 60(4) of the Act, he shall furnish security of a sum equal to 1% of the maximum of GTO of last three years or a sum equal to Rs.5 lacs, whichever is higher. Further, as per Rule 23(2), 50% of the said security amount shall be furnished in the form of cash and remaining 50% in any other mode specified in Rule 23.

4. DVAT (Amendment) Rules, 2014 – Notification No. F.3(27)/Fin. (Rev-I)/2013-14/dsVI/291 dated 5.3.2014

Quarterly Reconciliation Return for Central Statutory / Declaration Forms in Form DVAT-51 for has been omitted.

A new mechanism as stated at **Para No. 12** of this Paper has been provided for furnishing of these details.

5. DVAT Amnesty Scheme – Notification No. F.3(16)/Fin.(Rev-I)/2013-14/dsVI/786 dated 20.9.2013, as amended from time to time

The Government brought the Amnesty Scheme (Delhi Tax Compliance Achievement Scheme, 2013) with the following objectives: -

- **To achieve the self compliances by the dealer:** Dealer (including trader, manufacturer, works contractor, builder, leasing company, etc.) or any other person, such as contractee, (hereinafter referred as "declarant"), who had not paid due taxes under the DVAT Act or under the CST Act as specified in the respective Statute for the period up to 31.3.2013, could pay tax under the Scheme. He would get immunity from payment of interest, penalty and prosecution.
- **To resolve disputes:** Where dispute in relation to tax, interest and penalty for the period up to 31.3.2013 was pending before any higher forum, such as the Objection Hearing Authority, the DVAT Tribunal, the Delhi High Court or the Supreme Court, the declarant could resolve his dispute under this Scheme by paying tax and interest stated in the assessment order. He would get immunity from payment of interest from the date of order till the date of declaration, and penalty in relation to such tax. The dispute might pertain to the DVAT Act, CST Act, or the erstwhile repealed Acts, that is, the Delhi Sales Tax Act, 1975 or the Delhi Sales Tax on Works Contract Act, 1999 or the Delhi Sales Tax on Right to Use Goods Act, 2002 or the Delhi Tax on Entry of Motor Vehicles into Local Areas Act, 1994.

Minimum 50% of the tax dues was required to be paid by 28.2.2014; and remaining amount of tax dues on or before 21.3.2014.

The Scheme commenced on 20.9.2013 and continued up to 28.2.2014

6. Quarterly return by banks – Notification No. F.3(341)/VAT/Policy/ 2013/242-252 dated 29.5.2013

All the Scheduled Banks, whether registered or not under the Act, having their branches in Delhi and engaged in the business of silver, gold, repossessed vehicles, are required to furnish the return on quarterly basis, in Form Bank-1 prescribed for this purpose.

Such return shall be furnished within 28 days of the end of the each quarter commencing from the quarter ending 30.6.2013.

7. Advance information and return by the banquets, marriage/party halls, etc. – Notification No. F.3(393)/Policy/VAT/2013/1086-1096 dated 19.12.2013

Details of programmes/ functions, to be organised in the Banquet Halls, Farm Houses, Marriage/ Party Halls, Hotels, Open Ground etc., where food and/or liquor items are to be supplied/provided and cost of booking exceeds Rs. one lakh per function, shall be submitted by the owner/lessee/ custodian of the venue through a return in Form BE-2 at least 3 days before the start of the fortnight. For example, return for the first fortnight of a month should be filed by 3 days before first day of a month and for second fortnight it should be filed by 12th of the month. Such persons shall also have to enrol themselves by filing information in Form BE-1.

Information of the booking/ cancellation done after filing of return should be provided by revising the relevant return within a week of such cancellation.

8. Composition scheme for all types of works contractors – Notification No. 3(5)/Fin.(Rev-I)/ 2013-14/dsvi/801 dated 30.9.2013

A comprehensive composition scheme was notified for works contract covering all type of contracts in place of existing composition scheme w.e.f. 1.4.2013 vide Notification No. 3(13)/Fin.(Rev-I)/ 2012-13/dsvi/180 dated 28.2.2013. Rate of tax under this scheme varies from 1% to 6% of the entire turnover, depending upon nature of contract and manner of purchases. Amendments were carried in the scheme through the said notification.

9. Submission of audit report u/s 49 in Form AR-1 by specified dealers has been withdrawn – Notification No. F.3 (384)/Policy/VAT/2013/1307-1319 dated 14.2.2014

Dealers are no longer required to furnish annual financial statements and audit report u/s 44AB of the Income Tax Act, 1961.

If the gross turnover of a dealer exceeds Rs. one crore, the powers have been given to the Commissioner to notify the form, manner and time for furnishing of audit report by the dealer. He may specify a simplified version of report for any dealer or a class of dealers, or may even exempt any dealer or class of dealers from furnishing of said audit report.

In exercise of his powers, the Commissioner notified that dealers, whose turnover has exceeded Rs. 10 crores during 2011-12 or any subsequent year (except 100% exporters and exclusive dealers in exempted goods), shall furnish audit report for 2012-13 and subsequent years in Form AR-1 up to 15th November of the following year. However, the current format in the said Form AR-1 has been withdrawn with effect from 14.02.2014.

No report has been prescribed for dealers having turnover between Rs.1 crore and Rs.10 crores.

10. Submission of online details of stock as on 31st March every year – Notification No.F.7(433)/ Policy-II/VAT/2012/PF/817-828 dated 23.9.2013

In accordance with the notification issued by the Commissioner, dealers were required to submit tax-rate wise details of closing stock as on 31st March every year online up to the 30th June of the next financial year in Form Stock-1. The said notification has been withdrawn w.e.f. 23.09.2013. This requirement has been made a part of return DVAT-16; and details of closing stock as on 31st March shall be furnished in the return for the quarter ending 30th September of the next year.

11. Online details of inward movement of goods in Delhi in Form T-2 - Notification No. F.7(433)/Policy-II/VAT/2012/1332-1342 dated 28.2.2014 as amended vide No. F.7(433)/Policy-II/VAT/2012/1016-1026 dated 5.3.2014

Dealers having GTO ≥ Rs.10 Crores (except the dealers exclusively dealing in tax free goods) were required to submit online details of invoice and goods receipt note in respect of all goods purchased/received as stock transfer from outside Delhi, using their login id and password, in Form T-2 w.e.f. 1.4.2013, before the goods physically enter the boundary of Delhi. However, the said requirement was kept in abeyance vide notification no. F.7(433)/Policy-II/VAT/2012/530-541 dated 29.7.2013.

The Commissioner vide present notification dated 28.2.2014 again required that all dealers, except dealers exclusively dealing in Tax Free Goods, having GTO> Rs. 1 crore in 2012-13 or on any date in the current financial year on which the dealer attained/attains the lower limit of GTO of Rs. 1 crore shall furnish online details in Form T-2 for each vehicle entering Delhi and by each dealer whose goods are carried in that vehicle w.e.f. 15.3.2014.

In case the goods are being imported from the National Capital Region (NCR) in goods vehicle owned by the supplier and where it is practically not possible to carry the GR No., then Form DVAT-32 would need to be filled and carried with the vehicle.

The transporter is required to carry a copy of the receipt generated on furnishing of T-2 details online or carry with him the unique ID generated and received through SMS on submitting the details *via* the mobile.

12. Submission of Central Declaration Forms and its details; Rule 4 of the CST (Delhi) Rules; Omission of Form DVAT-51 – Notification No. F. 3(27)/Fin.(Rev-I)/2013-14/dsVI/292 dated 5.3.2014

Dealers shall no longer be required to file quarterly Reconciliation Return in Form DVAT-51. In lieu of the same, every dealer shall furnish a Reconciliation Return for a year in Form 9 relating to receipt of central declarations/ certificates within a period of 6 months from the end of the year to which it relates. The return shall be filed electronically.

*(Also refer **Para No. 4** of this Paper)*

Further, the statutory forms received in original, in lieu of concessional sale or stock transfer shall be retained by the dealer with him. The Commissioner may direct the dealer to furnish such forms as and when required by him during a period of 7 years from the end of the year to which the forms relate.

13. Application for amendment/cancellation of Central Registration Certificate – Notification. No. F. 3(27)/Fin.(Rev-I)/2013-14/dsVI/292 dated 5.3.2014

The application for application for amendment of the central registration may be filed in Form 11 and for cancellation of central registration may be filed in Form 10. The applications shall be processed in the manner specified under the DVAT Act and Rules. [Rule 10A of the CST (Delhi) Rules]

14. Waiver of furnishing of security at the time of registration – Notification No. F.7(453)/Policy/VAT/2012/298-308 dated 18.6.2013

The Commissioner has waived the condition of furnishing of security at the time of registration under the DVAT Act from 1.7.2013 till further orders.

15. Delhi VAT Rates on "Sunglasses its parts and components" – Notification No. F.3(19)/Fin(Rev-I) 2013-14/dsVI/819 dated 4.10.2013

The commodities, "Sunglasses, its parts and components" shall fall within the scope of entry no. 115 of Schedule III of the DVAT Act during the period from 11.5.2005 to 10.6.2013. Thus, the DVAT rate of these goods shall remain at 5% during the said period.

16. Amendment/Substitution in DVAT and CST Forms

(i) Form DVAT-04 – Application for registration under the Delhi VAT Act: Substituted on 9.7.2013.

(ii) Form DVAT-16 – DVAT return by dealers other than composition dealers: Modified on 9.7.2013, 20.9.2013 and 5.3.2014.

(iii) Form DVAT-17 – DVAT return by composition dealers: Amended on 9.7.2013, 20.9.2013 and 5.3.2014.

(iv) Form DVAT-48 – TDS return: Substituted on 9.7.2013, and again on 20.9.2013.

(v) Form DVAT-30, DVAT-30A, DVAT-31, DVAT-31A: Records relating to sales, purchase and credit notes – Substituted on 20.9.2013.

(vi) DVAT- 38 – Objection form: Substituted comprehensively on 5.3.2014.

(vii) Form-1 (CST Return): Substituted comprehensively w.e.f. 20.09.2013, and again on 5.3.2014.

❑❑❑

***Disclaimer**: This Paper has been prepared for academic use only. For further details, please refer the original Notification.*