Guide to Grant of Refund under MVAT Act

❖ *Introduction: -*

After introduction of VAT, a large quantum of refund application have been filled. The Department under going transition due to which business process have undergone many changes. As result, a number of circular were issued from time to time to lay down the procedure for the granting of refund. As a further step towards E-Governance, the refund applications are now taken electronically and Mahavikas module for refund is now operational. The entire processing of refunds has now shifted on electronic platform. Further, section 51 of MVAT Act is amended to provide for grant of part refunds. Of late, some irregularities are noticed in granting of refunds at Palghar. Due to all these changes, it becomes necessary to review the process of grant of refunds so as to speed up the process of disbursement of refunds after proper scrutiny. Also, due to the existence of number of circulars, it sometime becomes difficult for dealers as well as departmental officers to keep a track of the circulars. Here, I have tried to simplify consolidate various articles & circulars on the Refund Process,so that we all can understood the same in an easiest way.

❖ *Eligibility for Grant Of Refund:-*

The registered dealer may after the end of the year to which refund relates make an application in prescribed format to commissioner after receiving such application he may call any information required by him within 1 month.

If we do not adjust the refund in return the commissioner shall on an application made by dealer under the subjective rules & provisions of MVAT Act grant refund of such amount to said dealer.

❖ *Interest on amount of refund: -*

Where refund of any tax becomes due to a registered dealer, he shall, subject to rules, if any, be entitled to receive, in addition to the refund, *simple interest at the prescribed rate* on the amount of refund for the period commencing on the date next following the last date of the period to which the refund relates and ending on the date of the order sanctioning the refund or for a period of ***'Twenty Four'*** months, whichever is less by virtue of the provisions contained in section 51 or by virtue of an order passed under any other provision of this Act, is not so refunded to him *within ninety days* of the end of the respective period provided in section 51 or, as the case may be, of the date of the said order, the Commissioner shall pay such person simple interest at the prescribed rate on the said amount from the date immediately following the expiry of the period of ninety days to the date of the refund. The applicant dealer or person may supply to the said officer a certified copy of such order and if the copy is so furnished, interest shall become payable after the expiry of Period of ninety days from the date of such supply of copy of order.

- ***Time Limit For Application: -***

The said dealer may apply to commissioner at any time after the end of said succeeding year to which refund relates, provided where any return has been filled at any time after date prescribed for filing the last return of the said year then refund shall be granted within 18 months of date of filing of such belated return.

- ***Procedure For Filing Form 501: -***

The template of new form 501 available on the web *www.mahavat.gov.in* at *DOWNLODES-FORMS-FORM 501.* The said template is in the form of an Excel Work Book. The dealer should download it and fill offline data entry.

- ***Form 501: -***

To claim a refund under MVAT Act dealer has to fill the Form 501 which is available on department's website. As Per the Trade Circular No. 28T of 2009, dated 15.10.2009, it has been made mandatory for all the dealers, who desire to file refund application in Form 501 as per section 51 to file Form 501 electronically only.

- ***Time Limit For Filing 501: -***

The Filling shall be done within stipulated time limit of 18 months from the end of the financial year to which refund claim relates.

- ***Guide to fill Form 501 : -***

- The Form 501 is consist of four excel sheets namely Annexure A, B, C, & D.

- Accordingly in Form 501 dealer has to select the appropriate Category of dealer applicable to him. The Category of dealer are covered of following four dealers which are explained hereunder: -

Sr.No	Category Of Dealer	Meaning
1	Exporter	Exporter would mean an exporter, who himself exports the goods outside the territory of India u/s 5(1) or who effects deemed exports u/s 5(3) of the CST Act, 1956.
2	Unit specified in Section 8 (3)	Every dealer, who in the course of inter-State trade or commerce, sells to a registered dealer goods of the description referred to in sub-section (3), shall be liable to pay tax under this Act.
3.	PSI holding entitlement certificate	PSI dealers, holding the Entitlement Certificate are not eligible to claim the Input Tax Credit but may claim refunds in the returns during the year. In these cases, CQB is required to be calculated and hence refund in these cases shall be granted only after completion of the assessment, except in Fast Track Scheme.
4.	Dealer Claiming refund in last return of the financial year.	Claiming refund in last year returns as applicable.
5.	Newly registered dealer claiming refund at the end and second financial year.	Newly setup entity.

- Afterwards dealer has to furnish weather he is willing to furnish bank guarantee. If yes then under this scheme, the dealer can claim refund before refund audit. Henceforth, procedure for the same is hereunder: -

a) <u>Legal provision: -</u> as per provision of section 51(3)/b of the MVAT Act, 2002. Bank guarantee can be obtained from a dealer before granting refund. In case, the applicant dealer furnishes the bank guarantee, then the refund shall be granted within one month.
b) <u>Bank:-</u> Bank guarantee should be form any branch of a bank notified as a government treasury
c) <u>Period: -</u> Bank guarantee can be obtained for a maximum period of 36 months.

d) Amount: - Following parameters will be applied to the dealers willing to submit bank guarantee for refund.

Sr	Category of dealer	Result of previous audit	Amount of refund	Required Bank Guarantee
1.	Diplomatic Authorities consulate generals and international organisations	Not Relevant	100%	Nil
2.	Government organisation and psu's	Audit of immediately previous period completed without resulting into discrepancies more than 50% of the claim	100%	Nil
3.	all other dealers	Not relvelent unless specified by department	100%	100%

If dealer select 'No' in the field whether to provide bank guarantee, then nothing would be apply to him.

- Afterwards the dealer is required to first fill mandatory Annexure A & B for all dealers.

✓ ***Annexure A: -***In Annexure A dealer has to provide transaction wise vat purchases where dealer have to mention tax date and Sr. No for invoice/credit/debit note a dealer is also required to mention net taxable amount input tax and other non taxable charges collected in bills.

✓ ***Annexure B: -***In Annexure B dealer has to select applicable refund scheme. The Refund scheme has been explained below:-

▪ **Refund Schemes :-**

1) ***Fast track refund scheme:***

Some of the dealer have continues and large claim of refunds. These dealers are generally big manufactures and major exporter.

Salient features of this scheme are as follows: -

i. Scheme is optional for the dealers.

ii. Scheme is applicable to all the refund claims after 01/04/2009.
iii. Scheme is restricted for the specified dealers who fulfil certain criteria.
iv. Normally, manufacturers are eligible for this scheme; however commissioner may enrol any other dealer other than a manufacturer under this scheme.
v. After making application refund is granted within 10 days.
vi. Refund is granted without bank guarantee and without any audit.
vii. The refund audit is conducted immediately after the period of Form 704 is over.
viii. This scheme is open for the dealers with good reputation and standing. If any dealer is found to be otherwise then the enrolment under the scheme shall be cancelled immediately.
ix. The dealers, who were enrolled earlier need, not to enrol again, provided they fulfil the conditions, as laid down in this circular.

- ***Eligibility conditions for enrolment for the Scheme: -***

a) The dealer who is eligible for refund under section 51 (3) (a) of MVAT Act, shall only apply for the said refund under this scheme.

b) **Net worth:** - This scheme is applicable to the dealers, whose net worth of the business is more than Rs. 25 crore for the latest year for which the accounts have been finalized and audited.

c) ***Refund period: -*** This scheme shall be applicable to all the refund claims for periods starting from 1st April 2009.

d) ***Period:-*** Bank guarantee can be obtained for a maximum period of 36 months.

e) Nature of Business: - Only manufacturers are eligible under this scheme. In case, any dealer other than a manufacturer desires to enrol for the Scheme, the application shall be forwarded to the Commissioner by the relevant Joint Commissioner of Sales Tax.

f) Certain Dealers, not eligible:- The dealers, who are dealing in Iron and Steel, Dyes and Chemicals or edible oil by way of sales are not eligible to avail the benefit of this scheme.

g) Refund Audit of previous year: - At least one Refund Audit in respect of any of the previous year should have been completed and the differential demand, if any in respect of that year should not have exceeded 1% of the refund claim.

h) Refund Claim above 20%:- Refund claim should not exceed by an amount of more than 20% of the refund claim of the immediately preceding year, unless specifically permitted by the commissioner.

i) <u>Return filling of previous period</u>: - The claimant dealer should have filed all the returns and Form 704 due for the previous periods.

j) <u>Responsibility of ITC verification and payment:</u> - The claimant dealer is solely responsible for verification of the tax payments made by his vendors and has to ensure that his vendors have deposited the taxes in respect of his purchases from them. In case the vendors have not paid the tax, then the claimant dealer shall make the said payment along with the interest.

k) <u>A dealer in whose case major discrepancies</u> i.e. disallowance / differential demand exceeding 1 % in the refund audit have been noticed in the earlier periods, then the said dealer will not be continued to be enrolled under this scheme.

Applicability of the scheme to the newly registered dealers:

a) This scheme is applicable to the dealer even in the first year of registration, containing the effective date of registration.
b) Newly registered dealer shall be eligible under this scheme, as and when his net worth crosses Rs. 25 Crore.
c) In case of newly registered dealers, the net worth for the latest year for which accounts have been closed and adjusted may not be available. In such cases, net worth shall be calculated for each period of refund in the year of registration and shall be certified by Chartered Accountant/Cost Accountant. The basis for calculating the net worth shall, of course, be the standard accounting practice in India.
d) The condition regarding refund audit of the previous year shall not be applicable to the newly registered dealers for refund claim of first year.

<u>2. Export Refund Scheme</u>:

In most of the cases of exporters, due to absence of tax liability the claim of ITC does not get adjusted, and it results in refund. For this reason, the funds of these exporter's get blocked affecting their cash flow. In some cases, it could also affect the competitiveness of their products in the international market. In view of the above, a Special Refunds Scheme is being introduced for the disbursement of quick refunds to exporters.

<u>Salient features of the Scheme:</u>

i. This Scheme is restricted to exporters only. Exporter would mean an exporter, who himself exports the goods outside the territory of India u/s 5(1) or who effects deemed exports u/s 5(3) of the CST Act, 1956.

ii. Dealer shall be eligible for refund under this scheme, if exports sale in the preceding year was at least 50 % of the total turnover of sales.

iii. This scheme is applicable for the refund claims for the period from 1/4/ 2009 onwards. iv. Dealer eligible under the Scheme would be entitled to 95% of the refund amount. v. Refund shall be granted within 45 days from the date of the application for refund.

Eligibility Conditions for enrolling under this scheme:

a) The claimant dealer should be registered for more than 3 years under the MVAT Act 2002 before the date of his application for enrolment and should have filed all his returns.
b) The exporter should have actually effected sales u/s 5(1) or u/s 5(3) of the CST Act from Maharashtra during the period of refund and his exports sale in the preceding year was at least 50 % of the total turnover of sales.
c) Application for the refund claim needs to be made as per the returns periodicity and the dealer need not wait till the end of the year for claiming the refund.
d) The Claimant dealer who is liable to file the Audit Reports in Form 704 should have actually filed Audit Reports for the preceding two years prior to the refund period & should continue to file the Audit Report for the subsequent periods in order to continue to be eligible for refund under this scheme.
e) Dealer shall apply for enrolment under the Scheme to the Joint Commissioner of Sales Tax (Refund) in Mumbai or the Joint Commissioner of Sales Tax (VAT) Adm in Moffussil, as the case may be.
f) Certain dealers who are dealing in sales of iron and steel, dyes and chemicals and edible oil are not eligible under this Scheme.
g) The dealer should produce the proof of remittance of Export of earlier year before his year of enrolment.
h) If the Business Audit or refund audit or Investigation has been carried out in the last 5 years in vat period prior to enrolment and if it has resulted in any major discrepancy (Note:- Discrepancy – means the disallowance exceeding 5 % in the refund audit period of Rupees twenty five thousand whichever is more.), then the dealer shall not be eligible for refund under this scheme. Major discrepancies do not include the demand raised due to non production of CST declarations.

Procedure for Calculation and grant of part refunds to Exporters:

i. Refund processing officer shall ensure that the dealer has filed returns pertaining to refund period and his claim of refund in Form 501 is as per his returns.
ii. Dealer shall furnish a list of the CST declarations received and not received by him for the period of refund.
iii. Differential tax liability for the CST declarations not received by the claimant dealer would be worked out.
iv. Refund processing authority shall work out the tax liability, if any on the sales within Maharashtra and interstate sales on the basis of returns filed by the dealer for the refund period.
v. Refund processing authority shall check the return filing status of the vendors of the claimant dealer through Mahavikas utility or by using view rights of return module in Mahavikas system. If number of suppliers is very few then eligible ITC shall be accordingly worked out on the basis of report generated through Mahavikas utility.
vi. Refund processing authority shall work out the refund amount after considering tax liability and reductions, if any, and finalize the eligible refund amount.
vii. 95 % of the refund amount, so arrived at, shall be granted to the dealer as part refund based on partial refund audits. Comprehensive Refund Audits in these cases shall be done after the Audit Report in Form 704 is filed.
viii. The Refund Processing Authority shall submit refund processing report to the Refund Authorizing Authority, for authorization of such claim.
ix. After authorization, the concerned Refund Processing Authority shall pass Refund Sanctioning Order in Form 502 through Mahavikas system for such part refund.
x. Thereafter, proposal for issue of Refund Payment Order should be forwarded / submitted to the concerned RPO signing authority through Mahavikas system.
xi. The refunds in this manner will be granted till the date of filing of audit report in form 704. Further refunds after the date of filing of form 704 shall be granted only after completion of detailed refund audit of the period to which Form 704 relates.
xii. Refund processing authority shall inform the dealer about the detailed list of suppliers, who have not filed the returns or have not, disclosed the correct turnover of sales effected to the claimant dealer, along with Form 502.

xiii. If after the refund audit, the dealer has opted for assessment (Except on the point of un-received CST declarations) then further refunds under this scheme shall not be granted.

3. ***Part Refund Scheme for Annual Refund:***

One of the major reasons for pendency of refund applications is the time required for crosschecking of the transactions. Now, department has started collecting the audit reports in form 704 electronically. It is now possible to crosscheck the transactions electronically which will help in expediting the disbursement of refunds. In view of the above, the system of refund processing for the refund claims pertaining to financial year 08/09 and onwards has been modified. This scheme is applicable for the dealers whose refund claim pertains to full year and for which year the audit forms 704 have been received. There may be some cases where dealer has applied for refund in form 501 for part period which may not cover full financial year. Then in such cases if there is any refund in the returns for the remaining period, then dealer may be asked to file form 501 for that period so that detail audit of the full financial year may be done. If there is no refund for the balance period then also audit of that full financial year is to be conducted. For the refunds pertaining to period 1/4/08 onwards, pending detailed refund audit, part refund will be granted after conducting partial refund audit.

Procedure for partial refund audit:

a) Conduct Desk Audit*:* Upon receipt of application, Desk Audit shall be conducted by Refund Processing officer.

Desk Audit shall be conducted in the following manner:

i. Face checking of the refund application,
ii. Consolidation of the returns,
iii. Reconciliation of list of invoice wise purchases, list of CST declarations received and not received with consolidated return figures.
iv. Verification of the return filing status of the suppliers through MAHAVIKAS.
v. Face checking of the Audit Report in Form 704.

b) Partial Refund Audit procedure laid down below:

i. The yearly summary of the purchase data in annexure A of refund application in Form 501 submitted by the claimant dealer shall be compared with sales data Annexure J of e-704 of suppliers.

ii. In case of online refund applications, annexure A is being available with the department on Mahavikas system it need not be taken from the dealer.
iii. If refund application is filed physically before 01/12/2009 and annexure A is not available in soft format the officer then it may be obtained from the dealer and submitted to DC (desk audit cell Mumbai) in the format as prescribed as annexure 7.
iv. The DC (desk audit cell, Mumbai) shall obtain the dump of annexure A uploaded along with e -501 periodically from JC(Mahavikas) and after its matching the results along with certified hard copy of matched and unmatched ITC shall be given to JC (Refund) in Mumbai and JC (VAT Adm) for places other than Mumbai, in respect of cases pertaining to respective division.
v. The VAT paid on purchases i.e. Input Tax Credit (ITC) will be matched with VAT collected on sales during this comparison. To the extent of ITC matched, the claim of dealers ITC will be allowed. However this allowance shall be lesser of the amount which is claimed as ITC and the amount which is confirmed from supplier.
vi. If the difference between ITC shown by the suppliers and the ITC claimed by the claimant is between the range of Rs.(-)1000/- to Rs(+)5000/-, the same should be treated as matched transaction and entire claim of ITC in respect of that supplier shall be allowed.
vii. The amount of unmatched ITC for the suppliers who are not eligible to file audit form 704 shall be confirmed on Mahavikas utility and then allowed as matched ITC if confirmed.
viii. After calculation of ITC claim as above, the dealer's liability towards un-received CST declarations (as stated in refund application in Form 501) shall be reduced from his eligible refund.

4. ***General Refund Scheme***: - For all dealers other than above

✓ ***Annexure C & D:-*** Where the filling of Annexure C & D are mandatory in case dealer selects category of "Dealer Making Interstate sales"

Validation Process:

Annexure should be first validate before validation of form 501 and after validation of annexure entre information in form 501.

Up lode on MAHAVAT Web:

Use Login ID & Password after filling system shall generate an acknowledgment dealer should take print out of the said acknowledgement for further communication.

Help Desk:

In case any difficulty, the dealers are requested to approach the help desks ***Contact No.022-23760653 or e mail to erefund@mahavat.gov.in***

❖ ***Refund Audit Procedure:***

The refund audit process has two stages.

i) **Desk Audit:-** This involves face checking of the refund applications, consolidation of returns, reconciliation of list of invoice wise purchases (Annexure A), list of CST declarations received (Annexure D) and not received (Annexure C) with consolidated return figures and verification of the return filing status of the suppliers through MAHAVIKAS.

ii) **Field Visit: -** Visit to the place of business of the dealer & detailed scrutiny at the place of business of the claimant dealer. Desk Audit: - The desk audit of all refund application should be carried out as soon as the refund application is received.

During desk audit, the following procedure should be followed:

a) Face checking of the details received along with Form 501 i.e. annexure A, annexure B, annexure C and annexure D etc.

b) Consolidation of the returns should be made where in excess credit has been claimed and carried forward and to the return in which the excess credit is claimed as refund.

c) Reconciliation of the figures of purchase list (Annexure A) should be made with the figures of gross input tax credit arrived as per consolidation of returns. The difference if any should be noted and considered for working of refund.

d) The total amount of turnover of sales in respect of which declarations received (Annexure C) and not received (Annexure D) should be reconciled with the sales figures of interstate sales, branch transfer, deemed export, sales in transit reflected in books of accounts etc. The un reconciled difference should be noted and considered for working of tax liability or refund.

e) The return filing status of the suppliers should be confirmed through Mahavikas return module. Now the ITC verification utility is available in cross check module of Mahavikas application. In case of online Form 501, the invoice wise purchase list (Annexure A) data is processed through the

ITC verification utility and the results will be available at Radio Button of Annexure A in the refund module. In case of 501 received manually the results of the return confirmation can be obtained by uploading the purchase data from front end.

f) The refund history available at the button "Print Refund History" should be verified and conclusion regarding abrupt rise in refund or substantial reduction in refund should be made.

g) The consolidated return figures should be reconciled with the figures of the VAT audit report and annual financial statements. In case of a dealer not eligible for filing VAT audit report; it should be compared with the annual financial statements, where dealer has claimed refund for full financial year.

iii) **Field Audit:** The refund audit is to be completed by Field visits in the following cases:

a) All the cases wherein the pre audit refund cannot be granted either in any earlier Refund Scheme or the cases not qualifying the conditions for pre audit grant of refund.

b) All the cases where in the refund was granted against the Bank Guarantee.

c) All the cases where in the pre audit refunds were granted on the basis of selection criteria decided from time to time.

d) The cases where in the refunds were granted under Fast Track refund Scheme.

❖ ***Rule-60. Grant of Refund (Summary):***

- Application for refund under section 51 shall be made in form 501.
- When the Commissioner is satisfied that a refund is due, he shall pass an order in Form 502, showing the amount of refund due and shall
- When an order for refund has been made under any rule, the Commissioner shall first adjust the refundable amount against amount of penalty, sum forfeited and interest, if any and in any other case by way of cash payment, but before paying in cash.

Circular for Reference:

I have referred various Following circulars for the information Purpose you may refer the same as above explained is only an attempt to understand the concept & process of VAT Refund.

Sr.No	Trade Circular	Explanation
1.	Trade Circulars No. 33T of 2009	Filling of Refund Application in Form -501 Electronically
2.	Trade Circulars No. 22T of 2009	Grant of Refunds fresh Guidelines for Disbursement of Refunds
3.	Trade Circulars No. 56T of 2007	Refund under MVAT
4.	Internal Circular 13A of 2010	Grant of Refunds Fresh Guidelines
5.	Trade circulars No. 24T of 2009	Grant of Refunds under MVAT Act to specified category of dealers – Modification/ Clarification
6.	Trade Circulars No. 11T of 2012	Refund through Electronic Clearing Service

I have completed aforesaid article with guidance & valuable support where ever needed. I extremely thankful to my colleague & my friend Mr. Jagannath Gadekar who supported & inspired to do the glorious task.

I hope you find It helpful.

"Any suggestion and quires are always welcome"

<u>The Best Is Yet To Come</u>

<u>Thanks & Regards</u>

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