

Office of the Pr Accountant General (E&RSA)

Karnataka, Bangalore

**Manual
on
Value Added Tax**

PREFACE

The Karnataka Value Added Tax (KVAT) Act, 2003 came into force from 1st April, 2005. Value Added Tax (VAT) is a modern and progressive form of Sales Tax. It is an internationally recognised multipoint tax system providing for levy of tax on sale of goods on the value addition occurring at every stage of sale. This makes levy of tax transparent and removes cascading effect.

It is indeed a great pleasure to bring out the Manual on '**Value Added Tax**'. This manual is prepared keeping in view the INTOSAI/ASOSAI Standards intended for the guidance of the members of the Revenue Sector Audit Head Quarters Section and the Local Audit Parties. It contains directions and instructions for the efficient performance of local audit of the receipts under Value Added Tax. The instructions in the manual are to be treated as supplementary to the codes and manuals issued by the Comptroller and Auditor General of India.

This manual is not a substitute for the Karnataka Value Added Tax Act and Rules made thereunder and should not be quoted as an authority in any correspondence with persons and authorities outside this office. Those engaged in audit of Value Added Tax receipts, should acquaint themselves with the provisions of the Act, the Rules and other procedural instructions issued by the State Government.

RA-IV Section is responsible for keeping this Manual up-to-date.

Suggestions for the improvement of this Manual would always be appreciated.

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BANGALORE
DATED: MAY 2013

**THE KARNATAKA VALUE ADDED TAX ACT, 2005
AND CENTRAL SALES TAX, 1956**

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AUDIT OF STATE RECEIPTS

INTRODUCTION

- 1.1 With the enactment of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act 1971, the audit of the sales tax receipts and refunds has become a statutory responsibility of the Comptroller and Auditor General of India. But the audit of the sales tax receipts and refunds (now Value Added Tax) was commenced in the State of Karnataka in December 1962 itself with the approval of the Governor of Mysore (now Karnataka) under paragraph 13(2) of the Audit and Accounts Order 1936 read with Article 149 of the Constitution of India.
- 1.2 The audit of Value Added Tax receipts and refunds is regulated by the general principles governing the audit of receipts as laid down in Chapter 3 of Section II of the Comptroller and Auditor General's Manual of Standing Orders (Audit) and the provisions of this Manual. The broad principles of revenue audit are given in paragraphs 2.3.1 to 2.3.15.
- 1.3 The intention of the preamble to an enactment throws light on the intent and design of the Legislature and indicates the scope and purpose of the legislation itself. They give the reasons for passing the statute and afford the best aid for the interpretation of the Act.
- 1.4 A proviso carves out an area from the main section and must be limited to the class of cases dealt with therein. It provides an exception in respect of the matters dealt with by it from the generality of the main section and does not add anything to the main section. On the other hand, an Explanation's function is different from that of a proviso. An Explanation is intended to apply to the whole ambit of the section and throw light on the construction of the words used in the Section by the legislature. It is used, very often, to introduce the legal legislation and treat it as a reality. While a proviso carves out an exception, an explanation sometimes clarifies and expands the meaning of the main section. At times, however, an Explanation is inserted to restrict the meaning and the application of the main section.
- 1.5 Departmental circulars have no statutory value. An instruction issued by the executive Government cannot bind audit or a Tribunal or a quasi-judicial Tribunal. They are merely administrative directions issued by the Executive and must be within the ambit of the laws and the rules.
- 1.6 The most important function of audit is to see that adequate regulations and procedure have been framed by the Sales Tax Department to secure an effective check on the assessment, collection and proper accounting of sales tax and to satisfy itself that such regulations and procedure are actually being carried out. Audit should also make such examination, as it thinks fit with respect to the correctness of the sum brought to account in respect of sales tax.

- 1.7 It is primarily the responsibility of the departmental authorities to see that all revenue or other debts due to Government which have to be brought to account are correctly and promptly assessed, realised and credited to Government. During audit of receipts it should, however, be seen that all receipts due to Government are actually received and brought to account and that receipts which have entered in the books of the Department, are correctly calculated and are, credited to Government account in time. It should also be checked that the executive have not granted unjustified or unauthorized remissions to taxpayers.
- 1.8 Audit of revenue receipts differs from audit of expenditure in that, in the former, attention must be given not only to examining the records of amounts actually received but also to ascertaining that adequate precautions are taken to ensure that all the amounts received or due to be received in the period of the account are properly and promptly brought to accounts. Since the laws under which the revenue is collected provide for judicial remedy or judicial interpretation, the scrutiny by audit should be generally limited to those matters, which are not subjected to judicial processes.
- 1.9 The Audit Department should not in any way substitute itself for the revenue authorities in the performance of their statutory duties. But audit should satisfy itself in general that the departmental machinery is sufficiently safeguarded against errors and frauds and so far as can be judged, a procedure is evolved to give effect to the requirements of law.
- 1.10 Audit does not consider it the main part of its duties to review the judgment exercised or the decision taken in individual cases by officers entrusted with those duties, but it must be recognized that an examination of such cases may be important factor in judging the effectiveness of assessment procedure. Where, for example, the information received in any individual case is insufficient to enable audit to see how the requirement of law has been complied with, Audit may ask for further information to enable it to form the judgment required of it as to the effectiveness of the system. It is however, towards forming a general Judgment rather than to the detection of individual errors that the audit enquiries should be directed. The detection of individual errors is an incident rather than the object of audit.
- 1.11 Members of the Audit Department will have access to the relevant records and papers of the Commercial Tax Department, when dealing with general question of examining individual cases in their effect on any particular general issue. But they should observe secrecy in the same way as officers of the Commercial Taxes Department.
- 1.12 To sum up, the most important function of audit in relation to Sales Tax assessments and refunds is to satisfy itself by such test checks, as it may consider necessary, that the internal procedure adequately provides for and actually secures:
- the collection and utilisation of data necessary for computation of the demands, or refunds under the law;

- the prompt raising of demands on tax payers in the manner required by law;
- regular accounting of demands, collection and refunds;
- the correct accounting and allocation of collection and their credit to the consolidated fund;
- existence of proper safeguards to ensure that there is no willful omission to levy or collect taxes or to make refunds;
- that demands on tax payers are pursued with diligence and are not abandoned or reduced except with adequate justification and proper authority;
- that double refunds, fraudulent or forged refund orders or other losses of revenue through fraud, default or mistake are promptly brought to light and investigated, and
- that penalty recoverable from the assesseees for belated payment of tax is property calculated in accordance with law and there is no omission to levy or collect the penalty and in cases where levy of penalty is discretionary, whether such levy was considered by the assessing authority.

In the latter case, the quantum of penalty imposed would be outside the purview of audit. But having decided to levy penalty, the quantum of penalty should be as prescribed in the law.

(C & AG's Letter No.134Admn.I/1-61(III) dated 18-01-1962)

- 1.13 To discharge these functions effectively, the officers and the staff should be thoroughly conversant with the processes and procedures relating to the levy and collection of taxes and the laws and the rules governing such processes and procedures.
- 1.14 In the subsequent chapters, the basic provisions of law and the rules governing the assessment and collection of Sales tax are set out.

INTRODUCTION TO KARNATAKA VALUE ADDED TAX (KVAT)

HISTORICAL BACKGROUND

Ever since 1954, when the tax on value added was introduced in France it has spread to a large number of countries. This tax was proposed for the first time by Dr. Wilhelm Von Siemens for Germany in 1919 as an improved turnover tax. In 1921, VAT was suggested by Professor Thomas S. Adams for the United States of America who recommended “sales-tax with a credit or refund for taxes paid by the producer or dealer (as purchaser) on goods bought for resale or for necessary use in the production of goods for sales.

The Netherlands and Sweden imposed this tax in 1969 while Luxembourg adopted in 1970, Belgium in 1971, Ireland in 1972, and Italy, the United Kingdom, and Austria in 1973. Of the other members of the European Union, Portugal and Spain introduced VAT in 1986, Greece in 1987, while this tax was adopted by Finland in 1994. Many other European countries have adopted VAT. Similarly, many countries in the North and South America, Africa and Oceania have introduced VAT. VAT has been spreading in the Asian region as well. The Republic of Vietnam adopted VAT briefly in 1973. (VAT was abolished soon but it was reintroduced in 1999 in Vietnam.) South Korea introduced VAT in 1977, China in 1984, Indonesia in 1985, Taiwan in 1986, Philippines in 1988, Japan in 1989, Thailand in 1992, and Singapore in 1994 while Mongolia has been implementing this tax since 1998.

In the South Asian Association for Regional Cooperation (SAARC) region, VAT has been considered in great depth in India. In 1986, India introduced VAT in a different way under the name of Modified Value Added Tax (MODVAT). Unlike the VAT system of other countries, the Indian MODVAT system was designed to cover manufacturing of goods by giving credit of excise duty paid on inputs. The scope of MODVAT has been extended over the years and has since been renamed as Central Value Added Tax (CENVAT), which covers services also.

Pakistan adopted VAT in 1990, Bangladesh in 1991, and Nepal in 1997 while Sri Lanka introduced VAT in 1998.

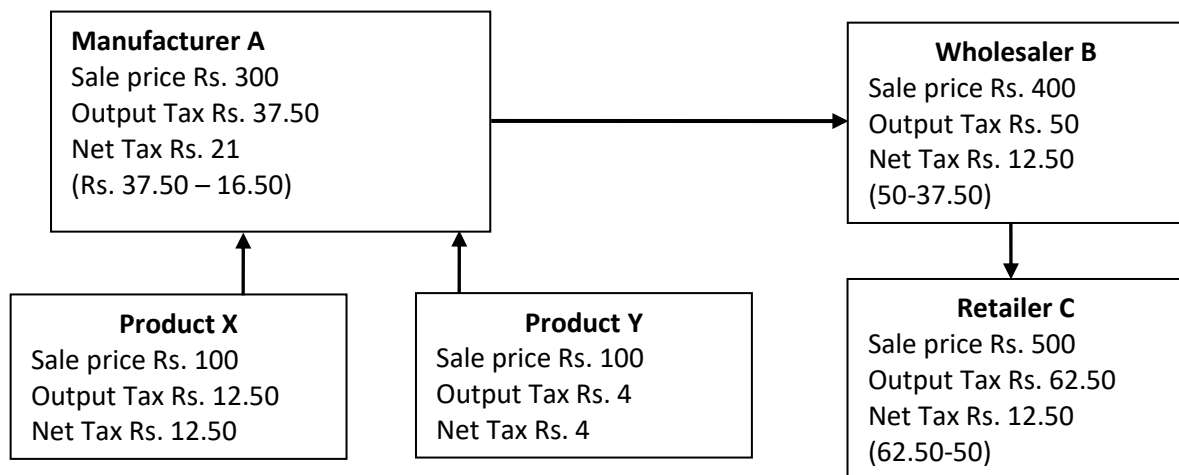
The Government of India introduced VAT on 01-04-2005.

As VAT is less distortive and more revenue-productive, it has been spreading all over the world. As on today, about 130 countries have adopted the same.

Calculation of VAT liability

Value Added Tax (VAT) is a modern and progressive form of sales tax. It is a multipoint tax with provision for granting setoff or credit of the tax paid on the purchases against the tax payable on sales. In simple terms 'value added' means the difference between the sale price and the purchase price. Goods pass through various stages in the manufacturing and the distribution chain till they reach the consumer. At each stage, some value is added. VAT works on the principle of tax on the value addition at each such stage. VAT is payable, when there is sale of taxable goods by a registered dealer within the state in course of his business. The tax so charged or collected is shown separately in the books of accounts and should not form a part of the turnover of the dealer. The flow chart given below explains the concept of VAT in a sample manner

To illustrate, a chart of transactions are given below:



Inputs for manufacturer

Note: The rate of tax is assumed to be 12.5% on the transactions relating to goods manufactured by A.

For a manufacturer A, inputs are product X and product Y which are purchased from a primary producer. In practice, even these producers use inputs. For example, a farmer would use seeds, feeds, fertilizer, pesticides, etc. However, for this example their VAT impact is not considered. B is a wholesaler and C is a retailer.

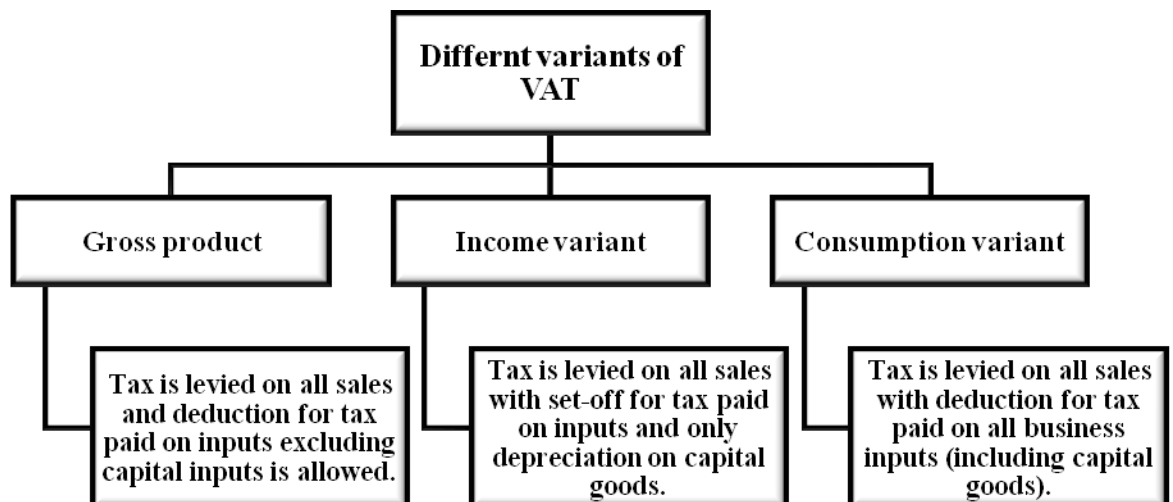
Taxation

The inputs X and Y are purchased at Rs. 100 each on which tax is paid @ 12.5% and 4% respectively. The manufacturer A would, therefore, take the credit for tax paid by him for use of such inputs. The inputs price of Rs. 200 plus tax would include wages, salaries and other manufacturing expenses. To all this, he would also add his own profit. Assuming that after the addition of all these costs his sale price is Rs. 300, the gross tax (at the rate of 12.5 per cent) would be Rs. 37.50. As manufacturer A has already paid tax on Rs. 200, he would get credit for this tax (i.e. $12.50+4=16.50$). Therefore, his net VAT liability would be Rs. 37.50 minus Rs. 16.50. Thus, manufacturer A would pay Rs. 21 only (because of this he would take the cost of his inputs to be only Rs. 200).

Similarly, the sale price of Rs. 400 fixed by wholesaler B would have net VAT liability of Rs. 12.50 ($\text{Rs. } 50 - 37.50 = \text{Rs. } 12.50$) and the sales price of Rs. 500 by Retailer C would also have net VAT liability of Rs. 12.50 ($\text{Rs. } 62.50 - 50 = \text{Rs. } 12.50$). Thus, VAT is collected at each stage of production and distribution process, and in principle, its entire burden falls on the final consumer, who does not get any tax credit. Thus, VAT is a broad-based tax covering the value added to each commodity by parties during the various stages of production and distribution.

Variants of VAT

VAT has three variants, viz (a) Gross Product Variant, (b) Income Variant, and (c) Consumption Variant. These variants are presented in a schematic diagram given below:



The **Gross Product Variant** allows deductions for taxes on all purchase of raw materials and components, but no deduction is allowed for taxes on capital inputs. That is, taxes on capital goods such as plant and machinery are not deductible from the tax base in the year of purchase and tax on the depreciated part of the plant and machinery is not deductible in the subsequent years. Capital goods carry a heavier tax burden as they are taxed twice. Modernization and upgrading of plant and machinery is delayed due to this double tax treatment.

The **Income Variant of VAT** on the other hand allows for deductions on purchases of raw materials and components as well as depreciation on capital goods. This method provides incentives to classify purchases as current expenditure to claim set-off. In practice, however, there are many difficulties connected with the specification of any method of measuring depreciation, which basically depends on the life of an asset as well as on the rate of inflation.

Consumption Variant of VAT allows for deduction on all business purchases including capital assets. Thus, gross investment is deductible in calculating value added. It neither distinguishes between capital and current expenditures nor specifies the life of assets of depreciation allowance for different assets. This form is neutral between the methods of production; there will be no effect on tax liability due to the method of production (i.e. substituting capital for labour or vice versa). The tax is also neutral between the decision to save or consume.

Among the three variants of VAT the consumption variant is widely used. Several countries of Europe and other continents have adopted this variant. The reasons for preference of this variant are:

Firstly, it does not affect decisions regarding investment because the tax on capital goods is also set-off against the VAT liability. Hence, the system is tax neutral in respect of techniques of production (labour or capital-intensive).

Secondly, the consumption variant is convenient from the point of administrative expediency as it simplifies tax administration by obviating the need to distinguish between purchase of intermediate and capital goods on the one hand and consumption goods on the other hand.

In practice, therefore, most countries use the consumption variant. Also, most VAT countries include many services in the tax base. Since the business gets set-off for the tax on services, it does not cause any cascading effect.

MERITS AND DEMERITS OF VAT

MERITS

1) No tax evasion: It said that VAT is a logical beauty. Under VAT, credit of duty paid is allowed against the liability on the final product manufactured or sold. Therefore, unless proper records are kept in respect of various inputs, it is not possible to claim credit. Hence, suppression of purchases or production will be difficult because it will lead to loss of revenue. A perfect system of VAT will be a perfect chain where tax evasion is difficult.

2) Neutrality: The greatest advantage of the system is that it does not interfere in the choice of decision for purchases. This is because the system has anti-cascading effect. How much value is added and at what stage it is added in the system of production/distribution is of no consequence. The system is neutral with regard to choice of production technique, as well as business organization. All other things remaining the same, the issue of tax liability does not vary the decision about the source of purchase. VAT facilities precise identification and rebate of the tax on purchases and thus ensures that there is no cascading effect of tax. In short, the allocation of resources is left to be decided by the free play of market forces and competition.

3) Certainty: The VAT is a system based simply on transactions. Thus there is no need to go through complicated definitions like sales, sales price, turnover of purchases and turnover of sales. The tax is also broad-based and applicable to all sale in business leaving little room for different interpretations. Thus, this system brings certainty to a great extent.

4) Transparency: Under a VAT system, the buyer knows, out of the total consideration paid for purchase of material, what is tax component. Thus, the system ensures transparency also. This transparency enables the State Governments to know as to what is the exact amount of tax coming at each stage. Thus, it is a great aid to the Government while taking decisions with regard to rate of tax etc.

5) Better revenue collection and stability: The Government will receive its due tax on the final consumer/retail sale price. There will be a minimum possibility of revenue leakage, since the tax credit will be given only if the proof of tax paid at an earlier stage is produced. This means that if the tax is evaded at one stage, full tax will be recoverable from the person at the subsequent stage or from a person unable to produce proof of such tax payment. Thus, in particular, an invoice of

VAT will be self enforcing and will induce business to demand invoices from the suppliers. Another attribute of VAT is that it is an exceptionally stable and flexible source of Government revenue.

6) Better accounting systems: Since the tax paid on an earlier stage is to be received back, the system will promote better accounting systems.

7) Effect on retail price: A persistent criticism of the VAT form has been that since the tax is payable on the final sale price, the VAT usually increases the prices of the goods. However, VAT does not have any inflationary impact as it merely replaces the existing equal sales tax. It may also be pointed out that with the introduction of VAT; the tax impact on raw material is to be totally eliminated. Therefore, there may not be any increase in the prices.

DEMERITS

1) *The merits accrue in full measure only under a situation where there is only one rate of VAT and VAT applies to all commodities without any question of exemptions whatsoever.* Once concessions like differential rates of VAT, composition schemes, distortions are bound to occur and the fundamental principal that VAT will totally eliminate cascading effects of taxes will also be subject to qualification.

2) In the federal structure of India in the context of sales-tax, so long as Central VAT is not integrated with the state VAT, it will be difficult to put the purchases from other State at par with the State purchases. *Therefore, the advantage of neutrality will be confined only for purchase within the State.*

3) For complying with the VAT provisions, the accounting cost will increase. The burden of this increase may not be commensurate with the benefit to traders and small firms.

4) Another possible weak point in the introduction of VAT, which will have an adverse impact on it, is that, since the tax is to be imposed or paid at various stages and not on last stage, it would increase the working capital requirements and the interest burden on the same. In this way it is considered to be non-beneficial as compared to the single stage-last point system.

5) VAT is a form of consumption tax. Since, the proportion of income spent on consumption is larger for the poor than for the rich, VAT tends to be regressive. However, this weakness is inherent in all the forms of consumption tax. While it may be possible to moderate distributions through other programmes rather than concessions or exemptions, which create complications for administration.

6) As a result of introduction of VAT, the administration cost to the State can increase as the number of dealers to be administered will go up significantly.

INTRODUCTION TO THE DEPARTMENT

The Commercial Taxes Department (C.T.D) administers the following nine enactments:-

- 1) **The Karnataka Value Added Tax Act, 2003.**
- 2) **The Karnataka Sales Tax Act, 1957**
- 3) **The Central Sales Tax Act, 1956.**
- 4) **The Karnataka Tax on Entry of Goods Act, 1979.**
- 5) **The Karnataka Entertainments Tax Act, 1958.**
- 6) **The Karnataka Tax on Luxuries Act, 1979.**
- 7) **The Karnataka Tax on Professions, Trades, Callings and Employments Act, 1976.**
- 8) **The Mysore Betting Tax Act, 1932.**
- 9) **The Karnataka Agricultural Income Tax Act, 1957.**

Note: The VAT Act was introduced with effect from 1.4.2005 and is applicable to all commodities except petrol, Aviation Turbine Fuel, diesel and sugarcane on which the earlier Karnataka Sales Tax Act is still applicable.

2. ORGANISATION OF THE DEPARTMENT:

The Commercial Taxes Department is headed by the Commissioner of Commercial Taxes at the State level. He is assisted by **7 Additional Commissioners** and **5 Joint Commissioners** in the head office. For effective administration of the department, the functions of the Department are broadly divided into three categories :-

- a) Administration;
- b) Enforcement and Vigilance; and
- c) Appeals;

In all, there are **14 Additional commissioners** including 4 in the Karnataka Appellate Tribunal (Adcoms) **41 Joint Commissioners (JCs)**, **123 Deputy Commissioners (DCs)**, **317 Asst. Commissioners (ACs)**, and **522 Commercial Tax Officers (CTOs)**.

2.1 **Administrative Wing:**

The State is divided into 13 VAT administrative divisions and 1 Minor Acts Division of which the *headquarters of 6 VAT divisions and Minor Acts Division are in Bangalore City. Headquarters of other 7 divisions are located at Mysore, Mangalore, Shimoga, Dharwad, Belgaum, Davanagere, and Gulbarga.* The VAT divisions are headed by the Divisional VAT officers (officer of the rank of Joint Commissioner) to administer the VAT Act and other Minor Acts. Administration relating to Minor Acts in Bangalore is entrusted to the Joint Commissioner (Minor Acts), Bangalore.

The Department has three Zonal Additional Commissioners, at the State level located in Bangalore, to examine and take up in revision of such orders made by JCCT (Admn) and JCCT (Appeals) that are found to be incorrect and prejudicial to the interest of revenue. For better co-ordination between the trade bodies and the department, Divisional Level Consultative Committees consisting of representatives of trade and industry and senior officers of the Department, have been constituted in all the Divisions.

2.2 **Enforcement and Vigilance wing:-**

To prevent evasion of tax and to detect tax evasion, the department has 8 Enforcement Zones. These are *South Zone, North Zone, East Zone, West Zone, Bellary, Mysore, Hubli and Shimoga Zones with headquarters at Bangalore, Belgaum, Gulbarga, Mangalore, Bellary, Mysore, Hubli and Shimoga respectively.* Each Enforcement Zone is headed by a Joint Commissioner of Commercial Taxes who is responsible for Intelligence and other related activities including road vigilance within their respective jurisdictions. South Zone is headed by an Additional Commissioner. In Bangalore City, however, where the volume of movement of goods is high there is a separate vigilance division. An Officer of the rank of Joint Commissioner heads this division.

To curb the clandestine transportation of goods and evasion of tax thereon, *15 border static check-posts and 6 intermediate static check – posts and 1 temporary static check-posts and 35 Mobile check posts / squads have been established in the State.* Static check-posts are set up at inter-State borders and around important commercial centers. Mobile check-posts and squads are

deployed in prominent trade centers. Static check-posts as well as the mobile check-posts/squads function round the clock.

Administration relating to KST and Minor Acts are entrusted to the Joint Commissioners (Admn.) Divisional VAT Office, in their respective Divisions.

2.3 Appellate Wing

The orders or any proceedings under the taxation enactments administered by the Department cannot be challenged directly in any of the civil or criminal courts. The relevant laws contain provisions for first appeal by the aggrieved person before the designated appellate authorities. Accordingly, for each VAT Division, there is an Appellate Authority of the rank of Joint Commissioner. Thus there are 13 JCCT Appeals.

Persons aggrieved by the orders of the Appellate Authority may prefer second appeal before the Karnataka Appellate Tribunal. At present there are 4 benches for Commercial Tax disputes in the Tribunal. Each Tribunal bench consists of two members, one of whom is from the Department of Commercial Taxes, of the rank of the Additional Commissioner and the other from the judiciary of the rank of a Senior District Judge.

CHAPTER – I

DEFINITIONS (SECTION 2): -

- (1) ‘**Agriculture**’ with its grammatical variations includes horticulture, the raising of crops, grass or garden produce and grazing but does not include dairy farming, poultry farming, stock breeding and mere cutting of wood.
- (2) ‘**Agriculturist**’ means a person who cultivates land personally.
- (3) ‘**Agricultural produce or horticultural produce**’ shall not be deemed to include tea, beedi leaves, raw cashew, timber, wood, tamarind and such produce, except coffee as has been subject to any physical, chemical or other process for being made fit for consumption, save mere cleaning, grading, sorting or drying.
- (4) ‘**Appellate Tribunal**’ means the Karnataka Appellate Tribunal constituted under the Karnataka Appellate Tribunal Act, 1976 (Karnataka Act 59 of 1976).
- (5) ‘**Assessment**’ means an assessment made or deemed to have been made under this Act and includes a re-assessment.
- (6) ‘**Body corporate**’ means a corporation, a company as defined under the Companies Act, 1956 (Central Act 1 of 1956) and a company incorporated outside India but does not include.-
 - (a) a corporation sole;
 - (b) a co-operative society registered under any law relating to co-operative societies; and
 - (c) any other body corporate, not being a company as defined in the Companies Act, 1956, which the State Government may, by notification in the Official Gazette, specify in this behalf.
- (7) ‘**Branded**’ means any goods sold under a name or trade mark registered or pending registration or pending registration of transfer under the Trade and Merchandise Marks Act, 1958
- (8) ‘**Business**’ includes:-
 - (a) any trade, commerce, manufacture or any adventure or concern in the nature of trade, commerce or manufacture, whether or not such trade, commerce, manufacture, adventure or concern is carried on in furtherance of gain or profit and whether or not any gain or profit accrues there from; and
 - (b) any transaction in connection with, or incidental or ancillary to, such trade, commerce, manufacture, adventure or concern.

(9) “**Capital goods**” for the purposes of section 12 means plant, including cold storage and similar plant, machinery, goods vehicles, equipments, moulds, tools and jigs, and used in the course of business other than for sale.

(10) ‘**Commissioner**’ means any person appointed to be a Commissioner of Commercial Taxes under Section 3 of the Karnataka Sales Tax Act, 1957 (Karnataka Act 25 of 1957).

(11) ‘**Dealer**’ means any person who carries on the business of buying, selling, supplying or distributing goods, directly or otherwise, whether for cash or for deferred payment, or for commission, remuneration or other valuable consideration, and includes-

- (a) an industrial, commercial or trading undertaking of the Government, the Central Government, a State Government of any State other than the State of Karnataka, a statutory body, a local authority, company, a Hindu undivided family, an Aliyasanthana Family, a partnership firm, a society, a club or an association which carries on such business;
- (b) a casual trader, a person who has, whether as principal, agent or in any other capacity, carries on occasional transactions of a business nature involving the buying, selling, supply or distribution of goods in the State, whether for cash or for deferred payment, or for commission, remuneration or other valuable consideration;
- (c) a commission agent, a broker or del credere agent or an auctioneer or any other mercantile agent by whatever name called, who carries on the business of buying, selling, supplying or distributing goods on behalf of any principal;
- (d) a non-resident dealer or an agent of a non-resident dealer, a local branch of a firm or company or association situated outside the State
- (e) a person who sells goods produced by him by manufacture or otherwise;
- (f) a person engaged in the business of transfer otherwise than in pursuance of a contract of property in any goods for cash deferred payment or other valuable consideration.
- (g) a person engaged in the business of transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract;
- (h) a person engaged in the business of delivery of goods on hire purchase or any system of payment by installments;
- (i) a person engaged in the business of transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration;

(12) **‘Electronic tax register’** means a secure fiscal electronic device meant to issue tax invoices or bills of sale and record the details of such sales, and includes a printer and a device to affix signature of the dealer or his agent.

(13) **‘Export’** means a sale of goods taking place in the course of export of the goods out of the territory of India only if the sale either occasions such export or is effected by a transfer of documents of title to the goods after the goods have crossed the customs frontiers of India and includes the last sale of any goods preceding the sale occasioning the export of those goods out of the territory of India, if such last sale took place after, and was for the purpose of complying with the agreement or order for or in relation to such export.

(14) **‘Goods’** means all kinds of movable property (other than newspaper, actionable claims, stocks and shares and securities) and includes livestock, all materials, commodities and articles (including goods, as goods or in some other form) involved in the execution of a works contract or those goods to be used in the fitting out, improvement or repair of movable property, and all growing crops, grass or things attached to, or forming part of the land which are agreed to be severed before sale or under the contract of sale.

(15) **‘Goods vehicle’** means any kind of vehicle used for carriage of goods either solely or in addition to passengers (other than aeroplanes and rail coaches) and includes push cart, animal drawn cart, tractor-trailer and the like.

(16) **‘Import’** means sale or purchase in the course of the import of goods into the territory of India if the sale or purchase either occasions such import or is effected by transfer of documents of title to the goods before the goods have crossed the customs frontiers of India and includes procurement of goods from outside the State either as a result of purchase or otherwise.

(17) **‘Input’** means any goods including capital goods purchased by a dealer in the course of his business for re-sale or for use in the manufacture or processing or packing or storing of other goods or any other use in business.

(18) **‘Input tax’** has the meaning assigned to it in Section 10.

(19) **‘Maximum retail price’ or ‘MRP’** shall mean the price marked on the package in which the goods are contained.

(20) **‘Output tax’** has the meaning assigned to it in Section 10.

(21) **‘Place of business’** means any place where a dealer purchases or sells goods and includes, -

- (a) any warehouse, godown or other place where a dealer stores or processes his goods;
- (b) any place where a dealer produces or manufactures or processes goods;
- (c) any place where a dealer keeps his accounts including documents and in a case where a dealer carries on business through an agent (by whatever name called), the place of business of such agent.

(22) **‘Prevailing market price’** shall mean the published wholesale price in force in the market and in cases where there is no such published wholesale price, the prevailing market price of any goods.

(23) **‘Registered dealer’** means a dealer registered under this Act.

(24) **‘Return’** means any return including a revised return prescribed or otherwise required to be furnished by or under this Act.

(25) **‘Sale’** with all its grammatical variation and cognate expressions means every transfer of the property in goods (other than by way of a mortgage, hypothecation, charge or pledge) by one person to another in the course of trade or business for cash or for deferred payment or other valuable consideration and includes,-

- (a) a transfer otherwise than in pursuance of a contract of property in any goods for cash, deferred payment or other valuable consideration;
- (b) a transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract;
- (c) a delivery of goods on hire purchase or any system of payment by installments;
- (d) a transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration.

Explanations.- (1) A transfer of property involved in the sale or distribution of goods by a society (including a co-operative society), club, firm, or any association to its members, for cash, or for deferred payment or other valuable consideration, whether or not in the course of business, shall be deemed to be a sale for the purposes of this Act.

(2) Every transaction of sale by way of or as a part of any service or in any other manner whatsoever, of goods, being food or any other article of human consumption or any drink (whether or not intoxicating) where such sale or

service is for cash, deferred payment or other valuable consideration, shall be deemed to be a sale of those goods by the person making the sale and purchase of those goods by the person to whom such sale is made.

(3) Notwithstanding anything to the contrary contained in this Act or any other law for the time being in force, two independent sales or purchases shall, for the purposes of this Act, be deemed to have taken place,

(a) when the goods are transferred from a principal to his selling agent and from the selling agent to the purchaser, or

(b) when the goods are transferred from the seller to a buying agent and from the buying agent to his principal, if the agent is found in either of the cases aforesaid,-

(i) to have sold the goods at one rate and to have passed on the sale proceeds to his principal at another rate, or

(ii) to have purchased the goods at one rate and to have passed them on to his principal at another rate, or

(iii) not to have accounted to his principal for the entire collections or deductions made by him in the sales or purchases effected by him on behalf of his principal, or

(iv) to have acted for a fictitious or non-existent principal.

(4) Every transfer of property in goods by the Central Government, any State Government, a statutory body or a local authority for cash or for deferred payment or other valuable consideration, whether or not in the course of business, shall be deemed to be a sale for the purposes of this Act.

(26) '**Taxable sale**' means any sale of goods, which is taxable under the provisions of this Act.

(27) '**Tax invoice**' means a document specified under Section 29 listing goods sold with price, quantity and other information as prescribed.

(28) '**Tax period**' means such periods as may be prescribed.

(29) '**Taxable turnover**' means 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 purchase or sale in the course of interstate trade or commerce or in the course of export of the goods out of the territory of India or in the course of import of the goods into the territory of India and the value of goods transferred or despatched outside the State otherwise than by way of sale.

(30) **‘Total turnover’** means the aggregate turnover in all goods of a dealer at all places of business in the State, whether or not the whole or 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 in the course of export of the goods out of the territory of India or in the course of import of the goods into the territory of India and the value of goods transferred or despatched outside the State otherwise than by way of sale.

(31) **‘Turnover’** means the aggregate amount for which goods are sold or distributed or delivered or otherwise disposed of in any of the ways referred to in clause (29) by a dealer, either directly or through another, on his own account or on account of others, whether for cash or for deferred payment or other valuable consideration, and includes the aggregate amount for which goods are purchased from a person not registered under the Act and the value of goods transferred or despatched outside the State otherwise than by way of sale, and subject to such conditions and restrictions as may be prescribed 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.

Explanation: - The value of the goods transferred or despatched outside the State otherwise than by way of sale, shall be the amount for which the goods are ordinarily sold by the dealer or the prevailing market price of such goods where the dealer does not ordinarily sell the goods.

(32) **‘Works contract’** includes any agreement for carrying out for cash, deferred payment or other valuable consideration, the building, construction, manufacture, processing, fabrication, erection, installation, fitting out, improvement, modification, repair or commissioning of any movable or immovable property.

Brief on ‘Duty Entitlement Pass Book’ (DEPB) is an export incentive provided in Import and Export policy. Under the scheme, the exporter is eligible to claim credit as special percentage of value of exported product as determined by Director General of Foreign Trade (DGFT). The credit amount in DEPB entitles the exporter to adjust that amount for payment of customs duty. DEPB credit is transferrable and tradable.

As per Accounting Standard (AS)-12, DEPB credit earned during the year in respect of exports made is shown as “Other income” in the P & L Account.

CHAPTER – II

LEVY AND INCIDENCE OF TAX

2.1 LEVY OF TAX (SECTION 3)

(1) *The tax shall be levied on every sale of goods in the State* by a registered dealer or a dealer liable to be registered, in accordance with the provisions of this Act.

(2) The tax shall also be levied, and paid by every registered dealer or a dealer liable to be registered, *on the sale of taxable goods to him, for use in the course of his business, by a person who is not registered under this Act.*

(Note: Section 3(2): Tax on URD Purchases)

2.2 LIABILITY OF TAX AND RATES THEREOF (SECTION 4)

(1) Every dealer who is or is required to be registered as specified in Sections 22 and 24, shall be liable to pay tax, on his taxable turnover,

(a) in respect of goods mentioned in,-

(i) *Second Schedule*, at the rate of one per cent,

(ii) *Third Schedule*, at the rate of five per cent (4% up to 31-03-2010)

(iii) *Fourth Schedule*, at the rate of twenty per cent.

(b) in respect of .-

(i) cigarettes, cigars, gutkha, and other manufactured tobacco at the rate of 17% w.e.f 01-04-2012

NOTE: -

(1) Additional Excise Duty (AED) on tobacco was abolished w.e.f 01-04-2007 so as to bring it into VAT scheme. The rate of tax on cigarettes, cigars, gutkha and other manufactured tobacco is given below:

| <u>Period</u> | <u>Rate of tax</u> |
|-------------------------------|--------------------|
| 01-4-2007 to 31-3-2010 | 12.5% |
| 1-4-2010 to 31-3-2012 | 15% |
| From 01-4-2012 | 17% |

(2) Under the provisions of the Additional Duties of Excise (Goods of Special Importance) Act, 1957, AED was being levied in lieu of Sales tax/VAT on tobacco, sugar and textiles as part of tax rental arrangements with the States. This tax rental agreement does not take away the powers of the States to levy tax on AED items. As part of the ongoing tax reforms and after agreement with the Empowered Committee of State Finance Ministers, the Additional Excise Duty (ADE) on tobacco was abolished wef 01-4-2007 so as to bring it into VAT scheme.

(ii) other goods at the rate of **14%** w.e.f 01-04-2011

(13.5% up to 31-03-2011 & 12.5 % up to 31-03-2010)

(c) **in respect of transfer of property** in goods (whether as goods or in some other form) involved in the execution of works contract specified in column (2) of the *Sixth Schedule*, subject to Sections 14 and 15 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956), at the rates specified in the corresponding entries in column (3) of the said Schedule.

(2) Where goods sold or purchased are contained in containers or are packed in any packing material liable to tax under this Act, the rate of tax applicable to taxable turnover of such containers or packing materials shall, whether the price of the containers or packing materials is charged for separately or not, be the same as the rate of tax applicable to such goods so contained or packed, and where such goods sold or purchased are exempt from tax under this Act, the containers or packing materials shall also be exempt.

(3) The State Government may, by notification, reduce the tax payable under subsection (1) in respect of any goods subject to such restrictions and conditions as may be specified in the notification.

(4) Notwithstanding anything contained in sub-section (1), subject to such conditions as may be prescribed, a registered dealer, if he so elects, may pay tax on the sale of goods specified in Sl. No. 60 of the Third Schedule, on the Maximum Retail Price indicated on the label of the container or pack thereof or on such Maximum Retail Price reduced by an amount equal to the tax payable.

2.3 EXEMPTION OF TAX (SECTION 5)

Goods specified in the First Schedule and any other goods as may be specified by a notification by the State Government shall be exempt from the tax payable under this Act subject to such restrictions and conditions as may be specified in the notification.

2.4 PLACE OF SALE OF GOODS (SECTION 6)

(1) The sale or purchase of goods, other than in the course of inter State trade or commerce or in the course of import or export, shall be deemed, for the purposes of this Act, to have taken place in the State irrespective of the place where the contract of sale or purchase is made, if the goods are within the State

(a) in the case of specific or ascertained goods, at the time the contract of sale or purchase is made; and

(b) in the case of unascertained or future goods, at the time of their appropriation to the contract of sale or purchase by the seller or by the purchaser, whether the assent of the other party is prior or subsequent to such appropriation.

(2) Where there is a single contract of sale or purchase of goods situated at more places than one, the provisions of clause (a) shall apply as if there were separate contracts in respect of goods at each of such places.

(3) Notwithstanding anything contained in the Sale of Goods Act, 1930 (Central Act 3 of 1930), for the purpose of this Act, *the transfer of property of goods (whether as goods or in some other form) involved in the execution of a works contract shall be deemed to have taken place in the State, if the goods are within the State at the time of such transfer, irrespective of the place where the agreement for works contract is made, whether the assent of the other party is prior or subsequent to such transfer.*

(4) Notwithstanding anything contained in the Sale of Goods Act, 1930 (Central Act 3 of 1930), for the purpose of this Act, *the transfer of the right to use any goods for any purpose (whether or not for a specified period) shall be deemed to have taken place in the State, if such goods are for use within the State irrespective of the place where the contract of transfer of the right to use the goods is made.*

2.5 TIME OF SALE OF GOODS (SECTION 7)

(1) Notwithstanding anything contained in the Sale of Goods Act, 1930 (Central Act 3 of 1930), for the purpose of this Act, and subject to sub-section (2), the sale of goods shall be deemed to have taken place at the time of transfer of title or possession or incorporation of the goods in the course of execution of any works contract whether or not there is receipt of payment:

Provided that where a dealer issues a tax invoice in respect of such sale within fourteen days from the date of the sale, the sale shall be deemed to have taken place at the time the invoice is issued.

(2) Where, before the time applicable in sub-section (1), the dealer selling the goods issues a tax invoice in respect of such sale or receives payment in respect of such sale, the sale shall, to the extent that it is covered by the invoice or payment, be deemed to have taken at the time the invoice is issued or the payment is received.

(3) The Commissioner may on an application of any dealer exempt such dealer subject to such conditions as he may specify, from the time specified in sub-section (1).

2.6 DEDUCTION OF TAX AT SOURCE: -

1) IN CASE OF WORKS CONTRACT (SECTION 9-A)

Notwithstanding anything contained in this Act, the Central Government, or any State Government, or an industrial, commercial or trading undertaking of the Central Government or of any State, or any such undertaking in joint sector or any other industrial, commercial or trading undertaking or any other person or body as may be notified by the Commissioner from time to time or a local authority or a statutory body, shall deduct out of the amounts payable by them to a dealer in respect of any works contract executed for them in the State, *an amount equivalent to the tax payable by such dealer under the Act.*

The authority making deduction shall send every month to the prescribed authority a statement in the prescribed form containing particulars of tax deducted during the preceding month and *pay full amount of the tax so deducted by it within twenty days after the close of the preceding month in which such deductions were made* and the amount so payable shall for the purposes of Section 42 be deemed to be an amount due under this Act.

If default is committed in the payment of tax deducted beyond ten days after the expiry of the period specified, the authority making deductions *shall pay, by way of interest, a sum equal to the interest specified under sub-section (1) of Section 37 during the period in which such default is continued.*

2) IN THE CASE OF CANTEENS (SECTION 18)

Notwithstanding anything contained in this Act, a factory or other industrial concern or any other establishment, in which a canteen or cafeteria or restaurant or other similar facility is run, through a dealer, as an amenity provided for the employees of such factories or concerns or establishments, shall deduct out of any amounts payable by them to such dealer as their contribution by whatever name called, in respect of sale of articles of food and drinks to their employees, an amount at the rate of four percent of the aggregate of the sale prices received or receivable by such dealer from the employees and contribution paid or payable by such factories or concerns or establishments to such dealer.

No deduction shall be made under sub-section (1) if the aggregate of the sale prices received or receivable by and contribution paid or payable to such dealer in respect of sale of articles of food and drinks to the employees is less than five lakh rupees in a year.

3) IN THE CASE OF CERTAIN GOODS (SECTION 18 A)

Notwithstanding anything contained in this Act, every registered dealer purchasing oil seeds or non-refined oil or oil cake or scrap of iron and steel or any other goods as may be notified by the Commissioner, for use in the manufacture or processing or any other purpose as may be notified by the Commissioner shall deduct out of the amounts payable by him to the registered dealer selling such goods to him, an amount equivalent to tax payable on the sale of goods under Section 4.

The provision U/s 9-A in respect of remittance of TDS to the prescribed authority and penal provisions shall apply to this section also.

NOTE: - This provision which provides for deduction of tax at source (by the purchaser) in the case of certain goods like oil seeds etc., has been omitted w.e.f 01-04-2012. This provision was inoperative in view of the judgement of the Hon'ble High Court of Karnataka in the case of M/s Suman Enterprises, Shimoga (vide order dated 16-6-2010 in WP No.10183/ 2007/T-RES).

2.7 OUTPUT TAX, INPUT TAX AND NET TAX (SECTION 10)

(1) **Output tax** in relation to any registered dealer means the tax payable under this Act in respect of any taxable sale of goods made by that dealer in the course of his business, and includes tax payable by a commission agent in respect of taxable sales of goods made on behalf of such dealer subject to issue of a prescribed declaration by such agent.

(2) Subject to **input tax** restrictions specified in Sections 11, 12, 14, 17 and 18, input tax in relation to any registered dealer means the tax collected or payable under this Act on the sale to him of any goods for use in the course of his business, and includes the tax on the sale of goods to his agent who purchases such goods on his behalf subject to the manner as may be prescribed to claim input tax in such cases.

(3) Subject to **input tax** restrictions specified in Sections 11, 12, 14, 17, 18 and 19, **the net tax** payable by a registered dealer in respect of each tax period shall be the amount of output tax payable by him in that period less the input tax deductible by him as may be prescribed in that period and shall be accounted for in accordance with the provisions of this Act.

(4) For the purpose of calculating the amount of **net tax** to be paid or refunded, no deduction for **input tax** shall be made unless a tax invoice, debit note or credit note, in relation to a sale, has been issued in accordance with Section 29 or Section 30 and is with the registered dealer taking the deduction at the time any return in respect of the sale is furnished, except such tax paid under sub-section (2) of Section 3.

(5) Subject to input tax restrictions specified in Sections 11, 12, 14, 17, 18 and 19, where under sub-section (3) the input tax deductible by a dealer exceeds the output tax payable by him, *the excess amount shall be adjusted or refunded together with interest*, as may be prescribed.

2.8 INPUT TAX RESTRICTIONS (SECTION 11)

(1) While Section 10 of the KVAT Act, 2003 provides for the rebate scheme, the conditions and restrictions for such input tax rebate/deduction scheme are provided in Sections 11, 12, 13, 14 and 19. *The main principle of the conditions/restrictions on rebating is the dealer should be liable to pay tax on*

his sales (intra-State or inter-State) or should be exporting goods outside the country.

(2) The conditions/restrictions on input tax rebate/deduction under the different provisions, in brief are as follows:-

(i) **Section 11(a) (1):** Tax paid on goods purchased for use in sale of exempted goods is not eligible for rebating. However, if such goods are exported, then input tax rebating is available.

For example, tax paid on yarn purchased in the manufacture of textiles is not eligible for rebating, if textiles are sold within the State or in the course of inter-State trade. However, if such textiles are sold in the course of export out of the territory of India, then input tax rebating is available.

(ii) **Section 11(a) (2):** *Tax paid on purchase of goods specified in Fifth Schedule is not eligible for rebating.* However, if such goods are, sold as it is or after processing or used as raw material or component or as capital goods in the manufacture or any other process of other goods for sale, then input tax rebating is available. Tax paid on electrical or electronic goods for use in computing, issuing tax invoices or sale bills, security and storing information would be eligible for rebating even though they are listed in the Fifth Schedule.

For example, tax paid on rubber tyres purchased by a textile manufacturing unit for use in its cargo/passenger carrying vehicles is not eligible for input tax rebate. However, the tax paid on rubber tyres purchased by a motor car manufacturing unit for use as a component/part in the car being manufactured is eligible for input tax rebate. Similarly, while tax paid on biscuits purchased by a dealer in stationery for his consumption or his customers' consumption is ineligible for input tax rebate, tax paid on biscuits purchased by a hotelier for sale to his customers would be eligible for input tax rebate.

(iii) **Section 11(a) (3):** Tax paid on purchase of goods notified by the Government is not eligible for rebating.

For example, in terms of the Notification No. FD 110 CSL 2006 (10), dated 31.03.2006 issued by the Government, tax paid on cement used in the manufacture of mosaic tiles is eligible for input tax rebate. However, tax paid on cement used in the manufacture of cement pipes and fittings is ineligible for input tax rebate.

(iv) Sections 11(a) (4) and 12: Tax paid on purchase of capital goods would be eligible for rebating only when they are used in the business of taxable goods, and only after commencement of commercial production. However, if they are used in exempted goods that are exported outside the territory of India, then input tax rebate is available.

For example, tax paid on machinery purchased by a textile manufacturing unit would not be eligible for input tax rebate, if the unit is selling textiles only within the State or in the course of inter-State trade. However, if the unit is exporting textiles outside the country, then tax paid on machinery would be available for input tax rebate. Further, if the unit has purchased machinery in December, 2005 and has commenced commercial production in April, 2006, then input tax rebate relating to the machinery can be claimed in the return filed for the month of April, 2006 and not in the return filed for the month of December 2005.

(v) Sections 11(a) (5) and 14: Tax paid on purchase of goods that are despatched as such to a place outside the State as result of branch/consignment transfer and also tax paid on purchase of goods used in the manufacture, processing or packing of taxable goods, if the taxable goods, manufactured goods are despatched not as a result of sale, input Tax Credit (ITC) is available to the extent of tax paid in excess of Central Sales Tax (CST) rate (i.e., CST rate 4% up to 2006-07, 3% from 1-4-07 to 31-5-08 and at 2% from 1-6-08).

Example is given below:

| Tax period | 2006-07 | | 2007-08 and from 1-4-08 to 31-5-08 | | 2008-09 (from 1-6-08) | |
|------------------|---------|-------|--|-------|--------------------------|-------|
| | 4% | 12.5% | 4% | 12.5% | 4% | 12.5% |
| Tax paid | 4% | 12.5% | 4% | 12.5% | 4% | 12.5% |
| ITC allowable | Nil | 8.5% | 1% | 9.5% | 2% | 10.5% |
| ITC disallowable | 4% | 4% | 3% | 3% | 2% | 2% |

(vi) Sections 11(a) (6) and 14 : Tax paid on purchase of petroleum products for use as fuel in motor vehicles is not eligible for rebate. However, tax paid on petroleum products for use as fuel in, the production of goods that are exported outside the country, the production of taxable goods and the generation of captive

power is eligible for rebate. But, such rebate is restricted to tax paid in excess of CST rate.

For example, out of tax paid at 12.5% on furnace oil used by a steel manufacturing unit either in its furnace or in its captive power generation set, tax paid at 8.5% is available for input tax rebate. (Assuming CST rate was 4%)

(vii) Section 11(a) (7): Tax paid on purchase of fuel made from unregistered dealers is not eligible for rebate.

For example, tax paid on saw dust purchased by an earthen tile manufacturing unit from un-registered dealers for use it as fuel is not eligible rebate. However, tax paid on such dust when purchased from a registered dealer, would be eligible for input tax rebate.

(viii) Section 11(a) (8): Tax paid on purchase of goods (other than fuel) made from unregistered dealers is available for rebate only when tax is payable on the subsequent sale of such goods or subsequent sale of goods in which it is used. However, is such goods purchased are exported outside the country, then input tax rebate is available immediately.

For example, if coffee seeds are purchased from growers (who are unregistered dealers) in the month of January, 2006, and such coffee seeds are sold within the State or in the course of inter-State trade in the month of March, 2006, then the tax paid on the purchase in the return filed for the month of January, 2006, can be taken as input tax rebate only in the return filed for the month of March, 2006, by the dealer concerned. However, if the dealer had exported the coffee seeds in January, 2006, then he could have claimed input tax rebate in the monthly return of January, 2006.

(ix) Section 11(a) (9): Tax paid on purchases made by a dealer who is required to get registered but has failed to get himself registered under the Act is not eligible for rebate.

For example, if on inspection of a business premises in March, 2006, the dealer concerned is found to have a taxable turnover of Rs.5 lakh relating to sale of toilet articles for the period from April 2005 to March 2006 (with monthly turnovers exceeding Rs.15,000 each), then the dealer would be liable to pay tax on his sales of goods without any input tax rebate even if such goods had been purchased from other registered dealers in the State by paying the applicable tax.

(x) **Section 11(b):** Tax paid on purchase of goods made by an agent who is purchasing or selling goods on behalf of others is not eligible for rebate. However, if the agent is acting on behalf of a non-resident principal, then input tax rebate is available to him.

For example, if a commission agent has purchased Rs.1 lakh worth cotton from another registered dealer on behalf of a textile mill located in the State by paying Rs.4,000 as tax and had also sold cotton for Rs.1 lakh on behalf of growers, then while paying his output tax he cannot take rebate of Rs.4,000 paid on purchase made on behalf of the local textile mill. However, if such commission agent has also purchased timber of Rs.1 lakh at Forest Department auction on behalf of a principal in Chennai by paying Rs.12,500 as tax and transferred the timber purchased to the non-resident principal, then while paying his output tax on cotton sold, he can take deduction towards the tax paid on timber in excess of 4% i.e., Rs.8,500 (the balance tax of 8.5%) (assuming CST was 4%)

(x) **Section (11) (c): W.e.f 01-04-2012** input tax shall not be deducted by any dealer executing a works contract,

(i) in respect of the amount paid or payable to any sub-contractor as the consideration for execution of part or whole of such works contract for him, that is claimed as deduction; and

(ii) in respect of the amount actually expended towards labour and other like charges not involving any transfer of property in goods in connection with the execution of works contract, that is claimed as deduction

(xi) **Section 13:** Tax paid on purchases made during the period of three months prior to the date of his registration by a registered dealer is eligible for rebate, subject to the conditions provided in Section 11 as discussed above. However, if the goods purchased during such three months period are sold before the date of registration, then no input tax rebate would be available.

2.9 DEDUCTION OF INPUT TAX IN RESPECT OF CAPITAL GOODS (SECTION 12)

Deduction of input tax shall be allowed to the registered dealer in respect of the purchase of capital goods on or after the commencement of this Act for use in the business of sale of any goods in the course of export out of the territory of India and in the case of any other dealer in respect of the purchase of capital goods wholly or partly for use in the business of taxable goods.

Deduction of input tax under this Section shall be allowed only after commencement of commercial production, or sale of taxable goods or sale of any goods in the course of export out of the territory of the India by the registered dealer.

2.10 PRE-REGISTRATION PURCHASES (SECTION 13)

Deduction of input tax shall be allowed to the registered dealer, subject to the restrictions of Section 11, in respect of tax charged to him by a seller on taxable sale of goods made to him for the purpose of the business within three months prior to the date of his registration provided that no input tax shall be allowed in respect of goods which have been sold or otherwise disposed of prior to the date of registration.

2.11 SPECIAL REBATING SCHEME (SECTION 14)

Deduction of input tax shall be allowed on purchase of goods, specified in clauses (5) and (6) of sub-section (a) of Section 11, *to the extent of the input tax charged at a rate higher than four per cent or any lower rate as may be notified by the Government.*

2.12 COMPOSITION OF TAX (SECTION 15)

1. Subject to such conditions and in such circumstances as may be prescribed, any dealer other than a dealer who purchases or obtains goods from outside the State or from outside the territory of India, liable to pay tax as specified in Section 4 and,

- (a) whose total turnover in a year does not exceed an amount as may be notified by the State Government which shall not exceed fifty lakh rupees, and who is not a dealer falling under clause (b) or (c) or (d) below
- (b) who is a dealer executing works contracts; or

- (c) who is a hotelier, restaurateur, caterer; or dealer running a sweetmeat stall or an ice cream parlour or bakery or any other class of dealers as may be notified by the Government
- (d) who is a mechanised crushing units producing granite or any other metals

may elect to pay in lieu of the net amount of tax payable by him under this Act by way of composition, an amount at such rate not exceeding five per cent on his total turnover or on the total consideration for the works contracts executed or not exceeding two lakh rupees for each crushing machine per annum as may be notified by the Government.

2. A dealer whose nature of business is of a type falling under more than one clause of sub-section (1) of Section 15, shall be eligible to opt for composition in respect of tax payable on his turnover relating to any or all of such types of business subject to the conditions specified under the said sub-section.

3. A dealer eligible for composition of tax under sub-section (1) may report, to the prescribed authority, the exercise of his option and he shall pay such amount due and furnish a return in such manner as may be prescribed.

4. A dealer opting for composition of tax under this section ***shall not be permitted to claim any input tax on any purchases made by him.***

5. (a) a dealer executing works contracts and who purchases goods from outside the State/India shall be eligible to opt for composition if the property in such goods is transferred in any works contract executed by him, the dealer shall be liable to pay tax on the value of such goods at the rate specified in section 4.

(b) ***all amounts paid to the sub-contractors are eligible for deduction*** subject to production of proof that such sub-contractor is a registered dealer liable to tax under the Act and that such amounts are included in the return filed by such sub-contractor.

(c) a works contractor, opted for composition of tax, who effects sale of any goods liable to tax under the Act other than by transfer of the property in such goods in any works contract executed by him, shall be liable to pay tax on the value of such goods at the rate specified in section 4

(d) a dealer opting for composition of tax under clause (a) or (c) of sub-section (1), the turnover on which the tax is leviable on URD purchases, shall be

deducted from the total turnover and tax levied on URD purchases at the rates specified.

(e) a works contractor who opted for composition of tax, *shall be liable to pay tax on URD purchases, in addition to tax by way of composition on the total consideration for the works contracts executed.*

Note: The Works Contractor who has opted for Composition shall collect taxes on sale w.e.f 01-04-2007 and other COT dealers shall not collect taxes.

2.13 SPECIAL ACCOUNTING SCHEME (SECTION 16)

A dealer liable to pay tax under Section 4 is unable to identify each individual sale, its value or the rate of tax, or is unable to issue a tax invoice as specified in section 29 for each individual sale, he may apply to the prescribed authority to pay net tax under Section 10 under a special method to be mutually agreed by such authority in such manner as may be prescribed.

2.14 PARTIAL REBATE (SECTION 17)

Where a registered dealer deducting input tax.-

- (1) makes sales of taxable goods and goods exempted under Section 5 or
- (2) in addition to sale of goods referred under clause(1), despatches taxable goods/ goods exempted under Section 5 outside the State not as a direct result of sale or purchase in the course of inter-State trade, or
- (3) uses the inputs purchased in any other purpose other than sale, manufacturing, processing, packing or storing of goods, or
- (4) falls under any of the above clauses and also purchases any petroleum product for use as fuel in production of any goods or captive power.

apportionment and attribution of input tax deductible between such sales and despatches of goods or such purpose shall be made in accordance with Rule 131 of KVAT Rules as shown below and any input tax deducted in excess shall become repayable forthwith.

Non-deductible

input tax = $\frac{(\text{Sales of exempt goods} + \text{non taxable transactions}) \times \text{total input tax}}{(\text{Total sales (including non taxable transactions)})}$

2.15 TRANSITIONAL RELIEF/REBATE (SECTION 18)

(Section omitted from 01-4-2006)

Transitional rebate is allowed on the stock of goods subjected to tax under the Karnataka Sales Tax (KST) Act, 1957, held in closing stock as on 31-3-2005, in respect of goods purchased under the KST Act from 01-4-2004 to 31-3-2005. Detailed stock statement was required to be submitted to the Prescribed Authority. This credit will be available over a period of six months.

Transitional rebate is available for the stock of goods which are taxable both under KST Act, 1957 as well as KVAT Act, 2003. Different circumstances are illustrated as under:

| Sl No | Circumstances | | Remarks |
|--------------|-----------------------------|------------------------------|--|
| 1 | Goods taxable under KST Act | Goods taxable under KVAT Act | Transitional rebate available at the rate whichever is lower |
| 2 | Goods taxable under KST Act | Exempt under KVAT Act | Transitional rebate is not available |
| 3 | Exempt under KST Act | Goods taxable under KVAT Act | Transitional rebate is not available |
| 4 | Exempt under KST Act | Exempt under KVAT Act | Transitional rebate is not available |

2.16 CHANGES IN USE OR TAX PAYMENT SCHEME AFTER DEDUCTION OF INPUT TAX (SECTION 19)

1. Where a registered dealer has deducted input tax on any goods and those goods are not used in the course of his business or lost or destroyed, any input tax deducted becomes repayable in the period following the date on which those goods were put to such other use.

2. Where such goods have been wholly or mainly used or are intended for use in sale of taxable goods or in sale of any goods in the course of export out of the territory of India prior to the change of use, input tax repayable shall be calculated on the prevailing market value of such goods at the time of change of use.

3. Where a registered dealer after deducting input tax on any goods used in the course of his business, opts for composition of tax under section 15, the input tax deducted on the goods held in stock on the date on which the dealer so opts shall be repayable by the dealer in the tax period following

such date and the input tax so repayable shall be calculated on the market value of such goods on such date

Deduction of Input Tax on Exports & Interstate Sales, & to Special Economic Zone Units & Developers Etc., (Section 20)

(1) Tax paid under this Act by any dealer on purchase of inputs in respect of,-

(a) any goods sold in the course of export out of the territory of India, or

(b) any goods taxable under the Act, sold in the course of interstate trade or commerce

shall be deducted as provided under Section 10, subject to such conditions as may be prescribed from output tax payable by such dealer.

(2) Tax paid under this Act on purchase of inputs by a registered dealer who is a developer of any Special Economic Zone (SEZ) or an unit located in any special economic zone established under authorization by the authorities specified by the Central Government in this behalf, shall be refunded or deducted from the output tax payable by such dealer, subject to such conditions and in the manner as may be prescribed.

2.17 REIMBURSEMENT OF TAX (SECTION 21)

Tax collected under this Act on such class of purchases as may be prescribed, made by specialised agencies of the United Nations Organisation, Multilateral Financial Institution, and Organisations notified under the United Nations (Privileges and Immunities) Act, 1947 (Central Act 46 of 1947) and Consulates or Embassies of any other country but excluding consulates or embassies as may be notified shall be reimbursed, in such manner and subject to such conditions as may be prescribed.

CHAPTER – III
REGISTRATION

3.1 LIABILITY TO REGISTER (SECTION 22 to 24)

1. Every dealer is liable to be registered, whose: -
 - i) taxable turnover is likely to exceed *five lakh rupees* during any year (*two lakh rupees* up to 31-03-2010) **(Section 22 (2))**
 - ii) taxable turnover exceeds *forty thousand rupees* in any one month after the date from which the tax shall be levied, in accordance with Section 3; **(Section 22 (3))**
 - iii) business or part of business is transferred by another dealer, if not registered earlier. **(Section 22 (4))**
2. A dealer who obtains or brings taxable goods from outside the State, whether as a result of purchase or otherwise, shall be liable to be registered after such first purchase or procurement irrespective of the value of goods purchased or procured. **(Section 22 (6))**
3. A dealer who exports taxable goods is liable to register after the first export and shall report such liability at the end of the month in which such export takes place. **(Section 22 (7))**
4. A dealer who effects sale of taxable goods in the course of interstate trade or commerce or dispatches taxable goods to a place outside the State is liable to register after the first sale or dispatch. **(Section 22 (8))**
5. A casual trader and every non-resident dealer or his agent shall be liable to register before the commencement of his business irrespective of the value of the taxable goods sold. **(Section 22 (9))**
6. Every dealer engaged in the execution of works contract shall be liable to register and shall report such liability after the end of the month in which execution of any works contract is undertaken. **(Section 22 (9-A))**
7. A dealer who sells taxable goods, though not liable to register under Section 22 but who desires to register *voluntarily* shall himself get registered. **(Section 23)**
8. Where a dealer liable to be registered has failed to inform the competent authority of his liability to be registered, the competent authority may after conducting such survey, inspection or enquiry as may be prescribed, proceed to register on *suo-motu* basis. **(Section 24)**

3.2 CANCELLATION OF REGISTRATION (SECTION 27)

- (1) In any case where,
 - (a) any business of a registered dealer has been discontinued, transferred fully or otherwise disposed of; or
 - (b) there is any change in the status of the ownership of the business; or
 - (c) the taxable turnover of sale of goods of a registered dealer has, during any period of twelve consecutive months not exceeded five lakh rupees; or
 - (d) a dealer issues tax invoices without effecting any taxable sales; or
 - (e) a dealer being an individual, registered under this Act dies.
- (2) The cancellation of a certificate of registration under this Section shall not affect the liability of the dealer to pay tax, any penalty and interest due for any period prior to the date of cancellation whether or not such tax, penalty and interest is assessed before the date of cancellation but remains unpaid, or is assessed thereafter.
- (3) *On cancellation of registration, except where the business is transferred as a whole to another registered dealer as specified, a dealer who has availed deduction of input tax, shall be liable to repay such input tax on any taxable goods held by him calculated on at their prevalent market price.*

3.3 OBLIGATION OF REGISTERED DEALER TO INFORM CHANGES AFTER REGISTRATION (SECTION 28)

- (1) Where.-
 - (a) a registered dealer sells or otherwise disposes of his business or any part thereof, or
 - (b) there is any other change in the ownership of the business including any change in the status, or
 - (c) a registered dealer discontinues his business or changes his place of business or opens a new place of business, or
 - (d) a registered dealer changes the name or nature of the business,such registered dealer or, in case of his death his legal representative, shall within the prescribed time, inform the prescribed authority in respect of categories (a) to (d) and surrender the certificate of registration in respect of categories (b) & (d).

(3) On any application for amendment of a certificate of registration or upon his own motion, the prescribed authority may amend the registration certificate of a dealer or reject the application within thirty days of the date of receipt of such application, after making such enquiry as it deems fit and after giving the dealer the opportunity of showing cause in writing against such amendment or rejection.

(4) Any amendment of a certificate shall take effect from the date of the event referred to in sub-section (1) where applicable and in all other cases the amendment shall take effect from the date of application.

(5) Where any change in registration other than of death of the registered dealer is not reported to the prescribed authority within the prescribed time, it shall be deemed that no such change has occurred and the dealer as registered shall be liable to tax that is payable in respect of any business carried on.

CHAPTER – IV
ACCOUNTS AND DOCUMENTS

4.1 TAX INVOICES AND BILLS OF SALE (SECTION 29)

(1) A registered dealer effecting a sale of taxable goods or exempt goods along with any taxable goods, in excess of the prescribed value shall issue a tax invoice.

(2) A registered dealer,-

(a) selling non-taxable goods; or

(b) opting to pay tax by way of composition under section 15 and selling any goods; or

(c) permitted to pay tax under section 16 and selling any goods;

in excess of the prescribed value, shall issue a bill of sale.

(3) A registered dealer executing civil works contracts shall issue a tax invoice or bill of sale at such time and containing such particulars as may be prescribed.

4.2 CREDIT AND DEBIT NOTES (SECTION 30)

(1) Where a tax invoice has been issued for any sale of goods and within six months from the sale of the amount shown tax charged in that tax invoice is found to exceed tax payable in respect of sale effected or is not payable on account of goods sold being returned within the prescribed period, the registered dealer effecting the shall issue forthwith to the purchaser as a credit note.

(2) Where a tax invoice has been issued for the sale of any goods and the tax payable in respect of the sale exceeds the amount shown as tax charged in such tax invoice, the registered dealer making the sale, shall issue to the purchaser a debit note.

NOTE: - The provision which provided for issue of credit and debit notes by dealers where the tax amount shown in tax invoice was higher or lower or was not payable has been omitted w.e.f 01-04-2012. It may be noted that now in the absence of this specific provision, any document issued by dealers as required under any law or accounting standards would be sufficient to explain any subsequent changes in the amounts shown in the tax invoice.

4.3 ACCOUNTS (SECTION 31)

(1) Every registered dealer and every dealer liable to pay tax under this Act shall keep and maintain a true and correct account of all his purchases, receipts, sales, other disposals, production, manufacture and stock showing the values of goods subject to each rate of tax under this Act including input tax paid and output tax payable.

(2) If the Commissioner or prescribed authority is of the opinion that the accounts kept and maintained by any dealer or any class of dealers do not sufficiently enable him or it to verify the returns required under this Act or to make any assessment under it, he or it may, by order, require any dealer or class of dealers, to keep such accounts and records including tax invoices of manufacture, sales, purchases, disposals or transfers of stock other than by way of sales in such form and in such manner as he or it may direct. (2-A) The Commissioner may require every registered dealer belonging to a class of dealers as may be notified by him to install and use any electronic tax register of such type and description and secured in such manner as may be prescribed, for the purpose of accessing information regarding any matter or transaction which may affect the tax liability of such dealer.

(2-B) Notwithstanding anything contained in sub-sections (1) to (3) of Section 29, every registered dealer falling under sub-section (2-A), shall issue tax invoices or bills of sale, through the electronic tax register, irrespective of the value of the goods sold and such dealer shall be allowed to recover the cost of the electronic tax register, in the manner and subject to such conditions as may be prescribed.

(3) If the Commissioner considers that any class of dealers is not in a position to keep and maintain accounts in accordance with the provisions of this Section, he may, for reasons to be recorded in writing, permit such class of dealers to maintain accounts in the prescribed manner.

(4) Every dealer whose total turnover in a year exceeds hundred lakh rupees w.e.f 01-04-2011 (*twenty five lakh rupees up to 31-03-2009; forty lakh rupees up to 31-03-2010 and sixty lakh rupees up to 31-03-2011*) shall have his accounts audited by a Chartered Accountant or a Cost Accountant or a Tax

Practitioner and submit to the prescribed authority a copy of the audited statement of accounts and prescribed documents in the prescribed manner.

(5) Every registered dealer shall file annual return in Form VAT 115 within 60 days from the end of the relevant year. **(Omitted w.e.f 01-08-2008)**

(6) Every registered dealer and every dealer including owner of a land, liable to get registered under this Act, entering into a written agreement during any tax period for executing, partly or wholly, a works contract of construction of a building or other civil work either by himself or through another, shall submit a copy of such agreement within the end of the subsequent tax period to the prescribed authority to whom he is required to submit a return.

4.4 ELECTRONIC RECORDS (SECTION 33)

Every dealer required keeping and maintaining records and accounts pursuant to Section 31 and who does so by electronic means shall retain them in an electronically readable format for the retention period of five years specified in Section 32.

CHAPTER – V

ADMINISTRATION AND COLLECTION OF TAX

5.1 RETURNS (SECTION 35)

(1) Every registered dealer, and the Central Government, a State Government, a statutory body and a local authority liable to pay tax collected under sub-section (2) of Section 9, shall furnish a return in such form and manner, including electronic methods, as detailed below:

| Nature of Dealer | Type of Returns | Due date for Filing Original Returns within |
|--|------------------------|--|
| VAT Dealers | Monthly | 20 days after the end of month |
| COT Dealers: Works Contractors/ Hoteliers etc./Mechanised Crushing Units | Monthly | 15 days after the end of month |
| COT Dealers whose total turnover does not exceed 25 lakh rupees | Quarterly | 15 days after the end of month |

NOTE: The Hon'ble KAT, Bangalore in the case of M/s Centum Industries (P) Ltd., had held that there is nothing in the law stipulating that the dealer would forfeit the input tax, if input tax is not claimed during the month in which purchases are effected. Further, held that the rejection of ITC of the dealer's claim preferred after a period of 6 months on the ground of delay is unjustified.

5.2 REVISED RETURNS

If any dealer having furnished a return under this Act, other than a return furnished under sub-section (3) of Section 38 after the best judgement, discovers any omission or incorrect statement therein, other than as a result of an inspection or receipt of any other information or evidence by the prescribed authority, shall furnish a revised return *within 6 months* from the end of the relevant tax period.

With effect from 01-04-2012,

(a) he shall furnish a revised return within the time prescribed for filing the return for the succeeding tax period; and

(b) he shall furnish a revised return any time thereafter but within six months from the end of the relevant tax period, if so permitted by the prescribed authority.

5.3 INTEREST IN CASE OF FAILURE TO FURNISH RETURNS OR TO PAY TAX DECLARED ON RETURNS OR OTHER AMOUNTS PAYABLE (SECTION 36 & 37)

Every dealer is liable to pay simple interest at the rate of 1.5% per month w e f 01-4-2011 and 1.25 % per month up to 31-3-2011 on any amount of tax omitted to have been declared in a return and also for default in payment of tax wrongly collected. Further, interest shall also be demanded on additional tax liability determined on re-assessment.

NOTE: The Hon'ble Karnataka Appellate Tribunal (KAT) in the case of M/s Bharath Heavy Electricals Ltd., Vs The State of Karnataka (dated 04-08-2011), the order levying interest u/s 36(2) of KVAT Act on additional demand of tax due to higher rate of tax for non submission of C-Forms has been set aside.

5.4 ASSESSMENT OF TAX (SECTION 38)

Every dealer is deemed to have been assessed to tax based on the returns, as tax assessment period being one month.

5.5 SCRUTINY/RE-ASSESSMENT OF TAX (SECTION 39)

Scrutiny of cases assigned by the Divisional VAT Officers/Commissioner after verification of returns filed by the dealers with reference to the records kept by them, reassessment orders will be issue and a copy of the same will be sent to the LVOs concerned for collection of additional tax, if any.

5.6 PERIOD OF LIMITATION FOR ASSESSMENT (SECTION 40)

(1) An assessment under section 38 or re-assessment under Section 39 of an amount of tax due for any prescribed tax period shall not be made after the following time limits: -

(a) five years after the end of the prescribed tax period; or

(b) three years after evidence of facts, sufficient in the opinion of the prescribed authority to justify making of the re-assessment, comes to its knowledge, whichever is later.

The revised time limits w.e.f 01-04-2012 are as follows:

| Assessment Year | Period of Limitation | |
|--------------------------|-----------------------------|--|
| 2005-06 & 2006-07 | 8 years | 10 years (in case of URD liable to pay tax or a dealer found to be fraudulently evading tax) |
| 2007-08 to 2011-12 | 7 years | 8 years(in case of URD liable to pay tax or a dealer found to be fraudulently evading tax) |
| 2012-13 onwards | 5 years | 8 years(in case of URD liable to pay tax or a dealer to be fraudulently evading tax) |

5.7 PAYMENT AND RECOVERY OF TAX, PENALTIES, INTEREST AND OTHER AMOUNTS (SECTION 42)

Any tax due or assessed, or any other amount due under this Act from a dealer, or any other person, may without prejudice to any other mode of collection be recovered.-

- (a) as if it were an arrears of land revenue; or
- (b) by attachment and sale or by sale without attachment of any property of such dealer or any other person by the prescribed authority, or
- (c) on application to any Magistrate, by such Magistrate as if it were a fine imposed by him.

5.8 TAX PAYABLE ON TRANSFER OF BUSINESS, ASSESSMENT OF LEGAL REPRESENTATIVES, ETC (SECTION 46)

When the ownership of the business of a dealer is transferred, the transferor and the transferee shall jointly and severally be liable to pay any tax or penalty or any other amount remaining unpaid at the time of transfer or that may become payable in respect of such business after the date of transfer but relating to the years up to the date of transfer and for the purpose of recovery from the transferee, such transferee shall be deemed to be the dealer liable to pay the tax or penalty or other amount due under this Act. **(SECTION 46(1))**

When a firm liable to pay the tax or penalty is dissolved, the assessment of the tax and imposition of penalty shall be made as if no dissolution of the firm had taken place, and every person who was at the time of dissolution a partner of the firm and the legal representative of any such person who is deceased shall be jointly and severally liable to pay the tax or penalty assessed or imposed. **(SECTION 46(2))**

Where the business of a registered dealer is transferred as a whole on account of change in ownership, sale, merger, amalgamation, lease or transfer of the business to a joint venture, on cancellation of registration, subject to such restrictions and conditions as may be prescribed, the registered dealer may opt to transfer any excess input tax that has not been adjusted by him or refunded to him, to the transferee. **(SECTION 46(2-A))**

5.9 PAYMENT AND DISBURSEMENT OF AMOUNTS WRONGLY COLLECTED BY DEALER AS TAX (SECTION 47)

Where any amount is collected by way of tax or purporting to be way of tax from any person by any dealer, whether knowingly or not, such dealer shall pay the entire amount so collected, to the prescribed authority within twenty days after the close of the month in which such amount was collected.

If default is made in payment of the amount, the dealer liable to pay the amount shall pay interest at the rate of **1.5% per month w e f 01-4-2011 and 1.25 % per month up to 31-3-2011** of such amount for each month of default.

Note: The Hon'ble High Court of Karnataka in the case of Wipro Limited Infotech Group Vs. The State of Karnataka reported in 2011(70) KLJ 556, (HC) (DB) has held that "when a dealer expressly declared the amount of tax collected from the buyers and went even further by claiming 'corresponding deduction' from out of the Total turnover for the purpose of computing the taxable turnover, and it is in these circumstances, it is not open for the dealer to assert the amount on to the contrary was not actually collected."

5.10 PERIOD OF LIMITATION FOR RECOVERY OF TAX (SECTION 49)

No proceedings for the recovery of any amount under this Act shall be initiated after the expiry of twelve years from the end of the relevant tax period or from the date of the relevant assessment, provided that when an appeal or application for revision has been filed, the period of limitation shall run from the date on which the amount due is finally determined.

5.11 PAYMENT OF INTEREST ON REFUNDS (SECTION 50)

Where any amount refundable to any person under an order made, or proceedings taken, under any provision of this Act or Rules made there under is not refunded to him within thirty five days,

(a) of the date of such order, if that order is made by the refunding authority, or

(b) of the date of receipt of such order by the refunding authority, if that order is made by an authority other than the refunding authority,

the refunding authority, being any officer of the Commercial Taxes Department authorized to make any refund under this Act, shall pay such person simple

interest at the rate of Six percent per annum (w.e.f 19-03-2005) on the said amount/ balance of the amount remaining after adjusting out of the refundable amount any tax, interest or other amount due under this Act, for any year by the person on the date from which such interest is calculable from the day immediately following the expiry of the said thirty five days to the day of the refund.

5.12 CHECK POSTS & INSPECTION OF GOODS IN MOVEMENT (SECTION 53 & 54)

Under the Karnataka Sales Tax Act, 1957 and Karnataka Value Added Tax, 2003 and rules made there under, a vehicle carrying goods under the said Acts from any place outside the state and bound for any place outside the State pass through the State, the driver or any other person incharge of such vehicle is required to furnish the necessary information and obtain a Transit Pass (TP) in duplicate from the officer incharge of the first Check Post (CP) after his entry into the State or after the movement has commenced in the State. The duplicate copy of TP shall be surrendered to the officer in charge of the last CP before his exit from the State. The surrendered TP's are sent back by the exit CPs with their seal and signature with the concerned entry CP. If the driver or any other person incharge of the vehicle does not surrender the TP at the exit CP within stipulated time, it shall be presumed that the goods carried thereby have been sold within the State by the owner of the vehicle and shall, irrespective of whether he is taxable person, be assessed to tax by the officer empowered in this behalf in the prescribed manner. If the owner of the vehicle having obtained the TP fails to deliver the same he shall be liable to pay by way of penalty a sum not exceeding the twice the amount of tax levied on the goods transported.

5.13 'E-TRANSIT PASS' OR 'E-SIMPLY UPLOAD VEHICLE ON ENTRY AND GO ACROSS' (E-SUVEGA)

Upto 30th June 2011, transit passes were being issued manually. From 1st July 2011 onwards, '**e-Transit Pass**' or '**e-Simply Upload Vehicle on Entry and Go Across**' (**e-SUVEGA**) was introduced which is an internet based system and transporters/ traders can down load the 'Transit Pass application' containing system generated unique number online by entering the required information. Upon verification of the contents of the 'Transit Pass application' with reference

to the goods under transport, the Entry Check Post Officer (CPO) would approve the application electronically and issue Transit Pass (TP).

5.14 CLARIFICATION AND ADVANCE RULINGS (SECTION 60)

With effect from 01-04-2010 provision has been made for constitution of an Authority for Clarification and Advance Rulings by the Commissioner. It may be stated that unlike the earlier provision existed till 31-03-2007, the authority is empowered to clarify the rate of tax in respect of any goods or the exigibility of any transaction or eligibility of deduction of input tax or liability of deduction of tax at source under the Act. Further, the Commissioner may constitute the Authority in respect of a single case or a class of cases. The clarification issued by the authority would be binding on the officers/authorities dealing with any relevant proceedings in the case of the dealer who has sought clarification and not on other officers/authorities dealing with other similar cases.

CHAPTER VI

APPEALS AND REVISION

6.1 APPEALS (SECTION 62)

Any person aggrieved by an order of an assessing authority may appeal to the Appellate Authority of the area concerned within 30 days of receipt of the demand notice or the order against which the appeal is intended.

Where an order staying proceedings of recovery of any tax or other amount is passed in any proceedings relating to an appeal, the appellate authority shall dispose of the appeal within a period of two hundred forty days (w.e.f. 01-04-2011) from the date of such order. If the appeal filed is not disposed within a period of 240 days from the date of issue of an order staying recovery of disputed tax in such case would automatically vacated.

6.2 APPEAL TO THE APPELLATE TRIBUNAL (SECTION 63)

Any officer or any other person objecting to an order passed by the Appellate Authority under Section 62 may appeal to the Tribunal within sixty days from the date on which the order was communicated to him.

6.3 REVISION (SECTION 63-A & 64)

The Joint Commissioners, Additional Commissioners and the Commissioner of Commercial Tax department have been empowered to call for and examine the record of any proceeding under this Act, and if he considers that any order passed therein by any assessing authority subordinate to him is erroneous in so far as it is prejudicial to the interest of revenue he may, if necessary, stay the operation of such order for such period as he deems fit and after giving the assessee an opportunity of being heard and after making or causing to be made such inquiry as he deems necessary, pass such order thereon as the circumstances of the case justify, including an order enhancing or modifying the assessment or cancelling the assessment or directing a fresh assessment.

6.4 REVISION BY HIGH COURT IN CERTAIN CASES (SECTION 65)

Within 180 days from the date on which an order passed by Appellate Tribunal under section 63 of the Act was communicated to him, the appellant or the respondent may prefer a petition to the High Court against the order on the ground that the Appellate Tribunal has either failed to decide or decided erroneously any question of law.

6.5 APPEAL TO HIGH COURT (SECTION 66)

Any assessee objecting to an order passed by the Commissioner/Additional Commissioner under Section 64 may appeal to the High Court within sixty days from the date on which the order was communicated to him.

CHAPTER VII

PENALTIES, OFFENCES AND POWER TO MAKE RULES

7.1 PENALTIES RELATING TO RETURNS AND ASSESSMENT

SECTION 72(1):

(1) w.e.f 01-04-2007 a dealer who fails to furnish a return or who fails to pay the tax due on any return furnished as required under the Act shall be liable to pay together with any tax or interest due,

(a) a penalty of fifty rupees for each day of default and where such default is more than five days, such penalty: -

(i) shall not exceed two hundred and fifty rupees if the tax due is less than the said amount;

(ii) shall be calculated at fifty rupees per day not exceeding the amount of tax due, if the tax due is more than two hundred and fifty rupees; and

(b) w.e.f 01-08-2008 a further penalty equal to: -

(i) five percent of the amount of tax due or fifty rupees whichever is higher, if the default is not for more than ten days, and

(ii) ten percent of the tax due, if the default is for more than ten days.

Note:

(1) The Hon'ble High Court of Karnataka (Single judge Bench) vide Judgement dated 02-01-2009 in the case of M/s Philips Electronics Ltd Vs The State of Karnataka had quashed the penalty provision u/s 72(1) of KVAT Act as unconstitutional and ordered to refund the penalty if any collected from the dealers.

(2) The Hon'ble High Court of Karnataka (Division Bench) vide Judgement dated 10-02-2011 in the case of M/s Pink City & others Vs The State of Karnataka had stated that the circumstances under which the *benefit of not to impose penalty* could be given to the assessee as under:-

1. Death of the proprietor/proprietrix.
2. Death or incapacitation of any person authorized to file returns in the case of tax payers who are firms or companies.

3. Natural calamities including fire accidents.
4. Seizure of books of accounts and other documents of the tax payer by any statutory authority.
5. Sealing or closure of business premises of the tax payer by any statutory authority.
6. Non-issue of TDS certificate by Government departments and other authorities to the tax payers who are works contractors
7. Transfer of the tax payer's life from the jurisdiction to another authority without prior intimation to the tax payer. If in law they are not liable to file return or not liable to pay tax under the Act.

Thus, the Court concluded that when once there is a non-compliance with the statutory requirements of not furnishing returns within the stipulated time or after furnishing the returns, non-payment of tax along with the returns, the penalty should follow as a rule. However, only in exceptional cases falling under the aforesaid circumstances, the authority may in its discretion for reasons to be recorded in writing, showing the application of mind by them and their satisfaction, exercise that discretion and waive the penalty either fully or partially.

SECTION 72(2):

A dealer who for any prescribed tax period furnishes a return which understates his liability to tax or overstates his entitlement to a tax credit by more than five per cent of his actual liability to tax, or his actual tax credit, as the case may be shall after being given the opportunity of showing cause in writing against the imposition of a penalty, be liable to a penalty equal to ten per cent w.e.f 01-04-2006 (20% up to 21-03-2006) of the amount of such tax under or overstated.

NOTE: The Hon'ble Karnataka Appellate Tribunal (KAT) in the case of M/s Lease Plan India Ltd., Vs The State of Karnataka (dated 27-08-2010) had held that penalty u/s 72(2) of KVAT Act cannot be levied if for a given tax period , there is no liability to net tax by virtue of the fact that the input tax credit available to the assessee in the tax period is more than the output tax payable for that tax period because there will not be any net tax liability (instead a refund will have to be given).

(3) A dealer who furnishes a return which is incomplete or incorrect in any material particular, as informed in a notice issued to him shall be liable to a penalty of fifty rupees for each day the return remains incomplete or incorrect.

(4) In any case where a dealer who has failed to furnish a return has been issued with an assessment showing less than his actual liability to tax and he pays such tax as assessed, such dealer, after being given the opportunity of showing cause in writing against the imposition of a penalty, shall be liable to a penalty of ten per cent of the amount of the tax under-assessed.

(5) A dealer who fails, within the time specified, to get registered though liable to do so, after being given an opportunity of showing cause in writing against the imposition of a penalty, shall be liable to pay penalty of thirty percent of the amount of tax payable by him as assessed under section 38 or re-assessed under section 39.

(6) The power to levy the above penalties shall be vested in the prescribed authority to which returns are required to be furnished or the prescribed authority making an assessment or re-assessment

7.2 PENALTIES IN RELATION TO UNAUTHORISED COLLECTION OF TAX (SECTION 73)

If any dealer, not being registered under this Act, collects any amount by way of tax or purporting to be by way of tax under this Act, he shall be liable to remit to the prescribed authority such amount, whether or not that amount would be payable under the provisions of this Act, and also liable to a penalty of an amount equal to the amount so collected, after being given the opportunity of showing cause in writing against repayment of the tax and the imposition of such penalty.

7.3 PENALTIES RELATING TO THE KEEPING OF RECORDS AND SUBMISSION OF AUDITED STATEMENT OF ACCOUNTS (SECTION 74)

(1) Any dealer who fails to keep and maintain proper records or submit a copy of the agreement entered into for execution of civil works contract, in accordance with Section 31 or by order of the prescribed authority shall be liable to a penalty not exceeding two thousand rupees if such failure is the first during any year or five thousand rupees if such failure is the second or subsequent during that year and, in addition, a further penalty not exceeding two hundred

rupees per day for so long as the failure continues after being given an opportunity to show cause against such imposition of penalty.

(2) Any dealer who fails to retain records and accounts in accordance with Sections 32 and 33, after being given the opportunity of showing cause in writing against the imposition of a penalty, shall be liable to a penalty of ten thousand rupees.

(3) The power to levy the above penalty shall be vested in the officer authorized under Section 52.

(4) Any dealer who fails to submit within the time prescribed a copy of the audited statement of accounts, shall be liable to pay a penalty of five thousand rupees and, a further penalty of fifty rupees per day for so long as the failure to submit a copy of the audited statement of accounts continues, after being given an opportunity of showing cause in writing against such imposition of penalty by the prescribed authority.

7.4 PENALTIES RELATING TO THE KEEPING OF RECORDS AND SUBMISSION OF AUDITED STATEMENT OF ACCOUNTS (SECTION 74)

Any dealer who fails to keep and maintain proper records, or submit a copy of the agreement entered into for execution of civil works contract in accordance with Sections 31 or by order of the prescribed authority shall be liable to a penalty of not exceeding five thousand rupees if such failure is the first during any year or ten thousand rupees if such failure is the second or subsequent during that year and, in addition, a further penalty not exceeding two hundred rupees per day for so long as the failure continues after being given an opportunity to show cause against such imposition of penalty.

Any dealer who fails to retain records and accounts in accordance with Sections 32 and 33, after being given the opportunity of showing cause in writing against the imposition of a penalty, shall be liable to a penalty of ten thousand rupees.

From 01-08-2008, any dealer who fails to submit a copy of the audited statement of accounts within *nine months from the end of the relevant year*, shall be liable to pay a penalty of five thousand rupees and, a further penalty of fifty rupees per day for so long as the failure to submit a copy of the audited statement of accounts continues. **(Section 74 (4))**

7.5 DETERMINATION OF TOTAL AND TAXABLE TURNOVER UNDER RULE 3 OF THE KVAT RULES, 2005

(1) The total turnover of a dealer, for the purposes of the Act, shall be the aggregate of-

(a) the total amount paid or payable by the dealer as the consideration for the purchase of any of the goods in respect of which tax is leviable under sub-section (2) of Section 3;

(b) the total amount paid or payable to the dealer as the consideration for the sale, supply or distribution of any goods where such sale, supply or distribution has taken place inside the State, whether by the dealer himself or through his agent;

(c) the total amount paid or payable to the dealer as the consideration for transfer of property in goods (whether as goods or in some other form) involved in the execution of works contract including any amount paid as advance to the dealer as a part of such consideration;

(d) the total amount paid or payable to the dealer as the consideration for transfer of the right to use any goods for any purpose (whether or not for specified period);

(e) the total amount payable to the dealer as the consideration in respect of goods delivered on hire purchase or any system of payment by installments;

(f) the aggregate of the sale prices received and receivable by the dealer in respect of sale of any goods in the course of interstate trade or commerce and export out of the territory of India and sale in the course of import into the territory of India; and

(g) the value of all goods transferred or dispatched outside the State otherwise than by way of sale.

Explanation: Any amount paid as advance to a dealer as a part of consideration for transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract shall be included in his total turnover in the month in which execution of such works contract commences.

(2) The taxable turnover shall be determined by allowing the following deductions from the total turnover:

(a) The aggregate of the sale prices received and receivable by the dealer in respect of sales of any goods in the course of INTERSTATE trade or commerce and export out of the territory of India and sales in the course of import into the territory of India.

(b) The value of all goods transferred or despatched outside the State otherwise than by way of sale.

(c) All amounts allowed as discount:

Provided that such discount is allowed in accordance with the regular practice of the dealer or is in accordance with the terms of any contract or agreement entered into in a particular case; and the tax invoice or bill of sale issued in respect of the sales relating to such discount shows the amount allowed as discount; and

Provided further that the accounts show that the purchaser has paid only the sum originally charged less discount.

(d) All amounts allowed to purchasers in respect of goods returned by them to the dealer:

Provided that the goods are returned within a period of six months from the date of delivery of the goods and the accounts show the date on which the goods were returned, the date on which the refund was made and the amount of such refund together with the details of credit notes issued as specified under sub-section (1) of the Section 30.

(e) All amounts received from the seller in respect of goods returned to them by the dealer, when the goods are taxable under sub-section (2) of section 3: Provided that the goods are returned within period of six months from the date of delivery of the goods and the accounts show the date on which the goods were returned and the date on which the refund was made and the amount of such refund.

(f) All amounts for which goods exempt under Section 5 are sold.

(g) All amounts realised by sale by a dealer of his business as a whole.

(h) All amounts collected by way of tax under the Act;

(i) The turnover in respect of which the dealer's agent has paid tax, and the dealer has furnished a certificate in Form VAT 140. (i-1) All amounts paid or

payable to sub-contractors as the consideration for execution of works contract whether wholly or partly:

Provided that, no such deduction shall be allowed unless the dealer claiming deduction produces document in proof that the subcontractor is a registered dealer liable to pay tax under the Act and that the turnover of such amounts is included in the return filed by such sub-contractor.

(j) All amounts separately collected in tax invoices as commission under the provisions of the Agricultural Produce Marketing (Regulations) Act, 1966, by a commission agent:

Provided that the tax is not separately charged for and collected in the tax invoices on such commission.

(k) All amounts received or receivable by way of interest on the unpaid amount payable in respect of goods delivered on hire purchase or on any system of payment by installments, where such interest is specified and charged for by the dealer separately without including such amounts in the price of the goods delivered and does not exceed twenty per cent per annum on the amount remaining unpaid.

(l) All amounts actually expended towards labour charges and other like charges not involving any transfer of property in goods in connection with the execution of works contract including charges incurred for erection, installation, fixing, fitting out or commissioning of the goods used in the execution of a works contract.

(m) Such amounts calculated at the rate specified towards labour charges and other like charges as incurred in the execution of a works contract when such charges are not ascertainable from the books of accounts maintained by a dealer.

CHAPTER – VIII

FIRST SCHEDULE

(Goods exempted from tax under sub-section (1) of section 5)

1. Agricultural implements manually operated or animal driven.
2. Aids and implements used by handicapped persons.
3. All seeds for sowing other than oil seeds.
4. All varieties of textiles and fabrics but excluding those specified elsewhere in Third Schedule or notified by the Government.
5. (i) Animal feed and feed supplements, namely, processed commodity sold as poultry feed, cattle feed, pig feed, fish feed, fish meal, prawn feed, shrimp feed and feed supplements and mineral mixture concentrates, intended for use as feed supplements;
(ii) Chunni of pulses, de-oiled cake and wheat bran.
6. Animal shoe and nails.
7. Aviation turbine fuel.
8. Awalakki (Beaten rice) and Mandakki (Parched rice or puffed rice).
9. Bangles of all materials excluding precious metals.
10. Betel leaves.
11. Books, Periodicals and journals including maps, charts and globe.
12. Bread and bun.
13. Cart driven by animals and their parts, but excluding rubber tyres, tubes and flaps.
14. Charakha, Ambar Charaka, handloom fabrics and Gandhi Topi.
15. Charcoal and firewood except Casurina and Eucalyptus timber.
16. Coarse grains and their flour excluding paddy, rice and wheat and their flour.
17. Condoms and contraceptives.
18. Cotton and silk yarn in hank.
19. Curd and butter milk.
20. Diesel.
21. Earthen Pots.
22. Electrical energy.

23. Fish seeds, Prawn seeds, Shrimp seeds, fishing nets and twine and fishing requisites including purse-seiners and gill netters, but excluding boats, trawlers and other mechanized boats.
24. Fresh milk and pasteurised milk.
25. Fresh plants, saplings, fresh flowers, plantain leaves, patravali (dinner leaves) and their products.
26. Fresh Vegetables & fresh fruits.
27. Garlic, ginger, green chillies, onions, potatoes, sweet potatoes, tapioca and their seeds.
28. Hay (green or dry).
29. Human blood including all its components.
30. Jaggery.
31. Khadi garments including made-up articles; other goods sold by Khadi and Village Industries as may be notified.
32. Kumkum, bindi and sindhur.
33. Leaf plates and cups whether pressed or stiched.
34. Liquor including Beer, Fenny, Liqueur and Wine.
35. Lottery tickets.
36. Meat including flesh of poultry, fish, prawns, shrimps and lobsters, not cured or frozen eggs, livestock including poultry, but excluding horses; raw wool.
37. National flag.
38. Non-judicial stamp paper sold by the Government Treasuries and authorized vendors; postal items like envelopes, post card including greeting cards and stamps sold by the Government; rupee note when sold to the Reserve Bank of India; cheques, loose or in book form.
39. Organic manure, Compost manure, fish manure and poultry manure.
40. Pappad.
41. Petrol including special boiling spirit.
42. XXX
43. Salt.
44. Semen including frozen semen.
45. Silkworm eggs, silkworm pupae, silkworm cocoons and raw silk including raw silk yarn, but excluding raw silk imported from outside the country.

46. Slates, slate pencils and chalk crayons.
47. Sugar other than sugar candy, confectionery and the like.
48. Sugar cane.
49. Tender coconuts.
50. XXX
51. Toddy, Neera and Arrack.
52. Unbranded broom sticks.
53. Vibhuthi.
54. Water other than.-
 - (i) aerated, mineral, distilled , medicinal , ionic , battery and de-mineralised water; and
 - (ii) water sold in sealed container.

SECOND SCHEDULE

GOODS TAXABLE AT ONE PER CENT

[Section 4(1)(a)(i)]

1. Bullion and specie.

THIRD SCHEDULE

[Section 4(1)(a)(ii)]

1. Agricultural implements not operated manually or not driven by animal
2. All kinds of bricks including fly ash bricks; refractory bricks and the like; asphaltic roofing sheets; earthen tiles.
3. All processed fruit and vegetables including fruit jams, jelly, pickle, fruit squash, paste, fruit drink and fruit juice (whether in sealed container or otherwise)
4. All types of yarn other than cotton and silk yarn in hank; sewing thread
5. All utensils including pressure cookers and pans and cutlery, but excluding stoves, trays, baskets and other containers, furniture, instruments, implements and tools used in kitchen or household and utensils made of precious metals.
6. Animal hair
7. Arecanut and powder
8. Bamboo and cane including bamboo splints and sticks
9. Bearings, (excluding parts of motor vehicles) namely.- .

- (1) Ball bearings
 - (2) Tapered roller bearings including cone and tapered roller assemblies
 - (3) Spherical roller bearings
 - (4) Needle roller bearings
 - (5) Other cylindrical roller bearings
 - (6) Other, including combined ball or roller bearings
 - (7) Plummer blocks, bearing housing, locate rings and covers, adapter withdrawal sleeves, locknut, lock-washer clamps and rolling elements
10. Beedi leaves
 11. Beehive
 12. Beltings, namely, Transmission, conveyor or elevator belts or belting of vulcanized rubber whether combined with any textile material or otherwise.
 13. Bicycles, tandem cycles, cycle combinations, cycle-rickshaws, children's tricycles and similar articles and parts and accessories thereof including their tyres, tubes and flaps.
 14. Biomass briquettes
 15. Bitumen and cold tar.
 16. Bone meal
 17. Buckets made of iron and steel, aluminium, plastic or other materials except precious metals
 18. Bulk Drugs
 19. Candles
 20. Capital goods as may be notified
 21. Centrifugal and monoblock and submersible pumpsets and parts
 22. Chalk stick
 23. Chemical fertilizers, chemical fertilizer mixtures; bio-fertilizers, micro nutrients, gypsum, plant growth promoters and regulators; rodenticides, fungicides, weedicides and herbicides; insecticides or pesticides but excluding phenyl, liquid toilet cleaners, floor cleaners, mosquito coils, mosquito repellants and the like used for non-agricultural or non-horticultural purposes.
 24. Coffee beans and seeds (whether raw or roasted); cocoa pods and beans; green tea leaf and chicory.
 25. Coir and coir products excluding rubberised coir products

26. Combs
27. Cotton waste and cotton yarn waste.
28. Crucibles
29. Cups and plates of paper and plastics
30. HDPE and other plastic woven fabrics.
31. Edible oils (Non-refined and refined), but excluding coconut oil sold in sachets, bottles or tins of 200 grams or 200 milliliter each or less, including when such consumer containers are sold in bulk in a common container; oil cake.
32. Embroidery or zari articles, that is to say,-imi,zari,kasab,saima dabka,chumki,gota sitara, naqsi,kora,glass bead,badia, gizal
33. Exercise books, student note books, graph books and laboratory note books.
34. Exim scrips, REP licenses, special import licenses (SIL), value based advance licenses (VABAL), Export quotas, DEPB licenses, copyrights, patents and the like including software licences by whatever name called.
35. Feeding bottle and nipple
36. Fibres of all kinds and Fibre Waste
37. Fireclay, clay, coal ash, coal boiler ash, fly ash, coal cinder ash, coal powder and clinker.
38. Flour (Atta), Maida and Soji of wheat; flour and soji of rice; soji and poha of maize; flour of pulses
39. Fried gram
40. Hand pumps, parts and fittings
41. Handicrafts excluding furniture
42. Honey
43. Hose pipes and fittings thereof excluding parts of motor vehicles
44. Hosiery goods
45. Husk and bran of cereals and pulses.
46. Ice
47. Idol made of clay and clay lamps
48. Imitation Jewellery, Synthetic gems and hairpins
49. Incence sticks commonly known as agarbathi, dhupkathi or dhupbathi including sambrani and lobana

50. Indian musical instruments namely, Veena, violin, tambura, mridanga, ghatam, khanjira, harmonium, flute, sarod, santoor, dilruba, nadaswara, dholu, tabla, shehnai, pakwaz, vichitra veena, gotu vadyam, morsing, chande, triangle, rudraveena and sarangi and parts and accessories thereof.
51. Industrial inputs and packing materials as may be notified
52. Industrial cables other than copper and aluminium single core PVC cable upto six square milimetre for use upto 1100 Volts.
53. IT Products including telecommunication equipments as may be notified.
54. Kerosene lamps and lanterns, petromax, glass chimney
55. Kerosene oil sold through Public Distribution System (PDS)
56. Khova
57. Kites
58. Lignite
59. Lime, limestone, products of lime, dolomite and other white washing materials.
60. Medical and pharmaceutical preparations; Medicated ointments manufactured or imported under license granted under the Drugs and Cosmetics Act 1940; Light liquid paraffin of IP grade; Wadding gauze, bandages and similar articles for medical, surgical, dental or veterinary purposes; Surgical gloves and Syringes including needles Diagnostic or laboratory reagents including prepared diagnostic or laboratory reagents
61. Medical equipments, devices and implants
62. Medicinal plants, roots, herbs and barks used in the preparation of Ayurvedic medicines.
63. Mixed PVC stabilizer ;plastic boxes, cases and crates for conveyance or packing of goods.
64. Moulded plastic footwear fully made of plastic and of single mould, hawai chappals (rubber) and their straps.
65. Napa Slabs (Rough flooring stones) and Shahabad stones
66. Non-ferrous castings
67. Non-ferrous metals and alloys; Ingots, slabs, blocks, billets, sheets, circles, hoops, strips, bars, rods, rounds, squares, flats and other extrusions of

Aluminium, brass, bronze, copper, cadmium, lead and zinc, metal powders, metal pastes of all types and grades, metal scraps and waste.

68. Oil Seeds other than those specified in serial number 30

69. (i) Paper of all kinds including ammonia paper, blotting paper, carbon paper, cellophane, PVC coated paper, stencil paper, tissue paper, water proof paper, art boards, card boards, corrugated boards, duplex boards, pulp boards, straw boards, triplex boards and the like, but excluding photographic paper.

(ii) Waste paper, paper waste and newsprint.

70. Pipes, tubes and fittings of all kinds excluding electrical conduit pipes and its fittings.

71. Printed materials other than books meant for reading; stationary articles namely, Account books, paper envelopes, diaries, calendars, race cards, catalogues, greeting cards, invitation cards, humour post cards, picture post cards, cards for special occasions, photo and stamp albums, computer stationery.

72. Printing ink excluding toner and cartridges.

73. Meat including flesh of poultry, fish, prawns, shrimps and lobsters when cured or frozen or processed.

74. Pulp of bamboo, wood and paper.

75. Pulses other than those specified in serial number 30.

76. Rail coaches, engines, wagons and parts thereof.

77. Rakhi

78. Readymade garments, clothing accessories and other made up textile articles:-

(1) Clothing accessories including socks, stockings, gloves, shawls, scarves, mufflers, mantillas, veils, ties, bow-ties, knitted or crocheted

(2) Clothing accessories, not knitted or crocheted, including handkerchiefs, shawls, scarves, mufflers, mantillas, veils, ties, bow-ties, cravats, gloves – headbands

(3) Blankets and travelling rugs

(4) Bed linen, table linen, toilet linen and kitchen linen and other made ups

- (5) Curtains (including drapes) and interior blinds; curtain and bed valances
 - (6) Other furnishing articles
 - (7) Woven labels, badges and the like.
79. Religious pictures not for use as calendar
 80. Renewable energy devices and parts thereof
 81. Sacred thread (janivara)
 82. Safety matches
 83. Sand and grits
 84. Sewing machines and parts and accessories thereof
 85. Ship and other water vessels including non-mechanised country boats
 86. Skimmed milk powder, UHT milk and cottage cheese
 87. Solvent oil other than organic solvent oil
 88. Spectacles, lenses and frames including attachments, parts and accessories thereof but excluding sunglasses and goggles and their lenses, frames, other attachments, parts and accessories; contact lens and lens cleaner.
 89. Spices in all forms including jeera (cumin seeds), methi, poppy seeds (kaskas), Corriander (dhaniya), shajeera, somph, katha, azwan, kabab chini, bhojur phool, tejpatha, japatri, nutmeg (marathamoggu), kalhoovu, aniseed, turmeric, cardamom, pepper, cinnamon, dal chinny, cloves, tamarind and dry chillies; including cut chillies, spent chillies and chilly seeds, but excluding spices in the form of masala powder, instant mixes or other mixtures containing more than one spice or a spice with any other material wet dates; Hing (Asafoetida)
 90. Sports goods (indoor and out door) including body building equipments, but excluding wearing apparels and footwear.
 91. Starch including sago; tamarind seed and tamarind powder
 92. Tea
 93. Tools, namely.-
 - (1) Hand saws; blades for saw of all kinds
 - (2) Pliers including cutting pliers
 - (3) Hand operated spanners and wrenches (including torque meter wrenches but not including tap wrenches); interchangeable spanner sockets, with or without handle

- (4) Drilling, threading or tapping tools
 - (5) Planes, chisels, gouges and similar cutting tools for working wood
 - (6) Screwdrivers
 - (7) Interchangeable tools for hand tools, whether or not power-operated, or for machine-tools including dies for drawing or extruding metal, and rock drilling or earth boring tools.
 - (8) Tools for working in the hand, pneumatic, hydraulic or with self-contained electric or non-electric motor.
94. Toys excluding electronic toys
95. Tractors and Power tillers, their parts and accessories including trailers, but excluding batteries, tyres, tubes and flaps.
96. Transmission towers (electrical) and wires, and conductors such as Aluminium conductor steel reinforced.
97. Umbrella except garden umbrella
98. Vegetable oil including gingili oil, bran oil and castor oil excluding vegetable oil use as toilet article and edible oil.
99. Welding Electrodes of all kinds, graphite electrodes including anodes, welding rods, soldering rods and soldering wires
100. Writing instruments and writing ink, namely.-
- (1) Ball point pens
 - (2) Felt tipped and other porous-tipped pens and markers
 - (3) Indian ink drawing pens
 - (4) Fountain pens
 - (5) Propelling or sliding pencils
 - (6) Refills for ball point pens, comprising the ball point and the ink reservoir
 - (7) Pen nibs and nib points
 - (8) Pencils and crayons with leads encased in a rigid sheath
 - (9) Pencil leads, black or coloured
 - (10) Pastels and drawing charcoals other than chalks
 - (11) Geometry boxes, colour boxes, pencil sharpeners
 - (12) Writing ink.

FOURTH SCHEDULE
GOODS TAXABLE AT TWENTY PER CENT

[Section 4(1)(a)(iii)]

- 1. Narcotics**
- 2. Molasses**
- 3. Denatured anhydrous alcohol**
- 4. Denatured Spirit**
- 5. Ethyl alcohol**
- 6. Rectified Spirit**

FIFTH SCHEDULE
INPUT TAX RESTRICTED GOODS

(Section 11(3))

1. Motor vehicles of all kinds, aeroplanes, helicopters or any other type of flying machine, parts and accessories thereof including tyres, tubes and flaps.
2. Articles of food and drinks, including cakes, biscuits and confectionery; ready to serve foods; processed or semi-processed or semi-cooked food-stuffs; fruits, fruit and vegetable products sold in any kind of sealed containers; dressed chicken, meat, fish, prawns, shrimps and lobsters sold in any kind of sealed containers; aerated water, including soft drinks; sweets and sweet meats; instant mixes; soft drink concentrates; spice powders, pastes and the like; tobacco and tobacco products.
3. All electrical or electronic goods and appliances including air conditioners, air coolers, telephones, fax machines, duplicating machines, photocopiers and scanners, parts and accessories thereof, other than those for use in the manufacture, processing, packing or storing of goods for sale and those for use in computing, issuing tax invoice or sale bills, security and storing information.
4. Textiles, crockery, cutlery, carpets, paintings and artifacts.
5. 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.

SIXTH SCHEDULE

[Section 4(1)(c)]

| Serial Number | Description of Works Contract | Rate of Tax |
|---------------|--|--|
| 1 | 2 | 3 |
| 1. | Bottling, canning and packing of goods. | Five per cent |
| 2. | Dyeing and printing of textiles. | Five per cent |
| 3. | Electroplating, electorgalvanising, anodizing and the like. | Five per cent |
| 4. | Fabrication and erection of structural works, including fabrication, supply and erection of iron trusses, purlines, etc. | Five per cent |
| 5. | Fabrication or supply and installation of capital goods specified in serial number 20 in Third Schedule | Five per cent |
| 6. | Lamination, rubberisation, coating and similar processes, including powder coating. | Five per cent |
| 7 | Manufacture and supply of readymade garments, clothing accessories and other made up textile articles including dyeing, printing, stitching, embroidery work and the like. | Five per cent |
| 8. | Printing; block making. | Five per cent |
| 9. | Processing and supplying of photographs, photoprints and photo negatives. | Five per cent |
| 10. | Processing, printing and supplying of cinematographic films. | Five per cent |
| 11. | Programming and providing of computer software. | Five per cent |
| 12. | Providing and laying of steel pipes for purposes other than for plumbing, drainage and the like. | At the maximum rate specified for declared goods in section 15 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956) |
| 13. | Rewinding of electrical motors. | Five per cent |
| 14. | Service and maintenance of IT products including Telecommunications equipments specified in serial number 53 of Third Schedule. | Five per cent |

| | | |
|-----|--|------------------|
| 15. | Sizing and dyeing of yarn. | Five per cent |
| 16. | Supply and erection of electrical transmission towers | Five per cent |
| 17. | Supplying and fixing of Shahabad slabs and stones. | Five per cent |
| 18. | Supply and installation of centrifugal, monoblock and submersible pumpsets. | Five per cent |
| 19. | Supply and training out of stone ballasts | Five per cent |
| 20. | Supply, erection, installation and commissioning of renewable energy devices. | Five per cent |
| 21. | Tyre retreading | Five per cent |
| 22. | Composite contracts involving two or more of the above categories | Five per cent |
| 23. | All other works contracts not specified in any of the above categories including composite contracts with one or more of the above categories. | Fourteen percent |

Explanation: The works contract specified in any of the serial numbers in this schedule shall include works contract for carrying out improvement, modification or repair.

CHAPTER IX

THE CENTRAL SALES TAX ACT

9.1 OBJECTS OF THE CST ACT

The Central Sales Tax (CST) Act, 1956 provides for the levy, collection and distribution of taxes on sales of goods in the course of inter-State Trade or Commerce. The Act also formulates principles for determining when a sale or purchase of goods takes place in the course of inter-State Trade or Commerce or outside the State or in the course of an import into or export from India. The following principles govern the scheme of the Central Act.

9.2 LEVY AND COLLECTION OF TAX (SECTION 9(4))

The Union Government had delegated the right of administration of this Act to the States. The executive machinery provided in the State law is employed for administering the Central Act. Provisions of State Law regarding the filing of returns, appeals, revisions, penalties, compounding of offences are applicable *mutatis mutandis*. The proceeds of tax including any penalty levied and collected under this Act in any State on behalf of Government of India shall be assigned to that State and shall be retained by it.

9.3 INTER-STATE SALE, CONSIGNMENT SALE/STOCK TRANSFER, EXPORT, IMPORT

Inter-State Sale

A sale or purchase of goods is deemed to take place in the course of inter State trade or commerce, if the sale or purchase

- occasions the movement of goods from one State to another or
- is effected by a transfer of documents of title to the goods during their movement from one State to another. **(Section 8)**

A sale or purchase of goods is deemed to take place inside the State if the goods are within the State

- in the case of specific or ascertained goods, at the time the contract of sale is made; and

- in the case of unascertained or future goods, at the time of their appropriation to the contract of sale by the seller or by the buyer, whether the assent of the other party is prior to or subsequent to such appropriation. **(Section 4)**

Stock Transfer/Consignment Sale (Section 6A)

Stock transfer/Consignment of sale from one state to another state other than by way of sale are exempted from levy of tax subject to production of 'F' Forms.

Sales made to Exporters (Section 5(3))

Last sale or purchase of goods preceding the sale or purchase occasioning the export of those goods out of the territory of India shall also be deemed to be in the course of export, if such last sale or purchase took place after, and was for the purpose of complying with, the arrangement or order for or in relation to such export, are exempted from levy of tax subject to production of 'H' Forms, subject to:

- a) the sales must be for the purpose of complying with agreement or order in relation to export, and
- b) such sale is made after the agreement or order in relation to export, and
- c) same goods which are sold in penultimate sale should be exported

Sales made to Special Economic Zone (SEZ) (Section 8(6) to 8(8))

Sales made to SEZ unit or SEZ developer are exempted from levy of CST subject to production of 'I' Forms.

Export (Section 5)

A sale or purchase of goods shall be deemed to take place in the course of the export out of the territory of India only if the sale or purchase either occasions such export or is effected by a transfer of documents of title to the goods after the goods have crossed the customs frontiers of India.

Import

A sale or purchase of goods shall be deemed to take place in the course of the **import** of goods into the territory of India only if the sale or purchase either occasions such import or is effected by a transfer of documents of title to the goods before the goods have crossed the customs frontiers of India.

9.4 EXPORT SALES

To constitute a sale in the course of export there must be:

- an intention on the part of both the buyer and seller to export;
- an obligation to export;
- actual export.

A sale in the course of export predicates a connection between the sale and export, the two activities being so integrated that the connection between the two cannot be voluntarily interrupted without a break of contract.

Rates of tax

A dealer is liable to pay CST on all inter-State sales. The rates of CST have been prescribed in Section 8 of the CST Act. The concessional rate of 4% w.e.f 1-7-1975 (3% up to 30-6-1975) is applicable only in cases of sales effected to the Government and registered dealers.

CST rate on sales against C-forms was reduced to 3% w.e.f 01-4-2007 and to 2% w.e.f 01-6-2008

Sales to registered dealers can be of only those goods specified in the certificate of registration granted to him as being intended for resale by him or for use by him in the manufacture or processing of goods for sale in mining or in the generation or distribution of electricity or any other form of power.

Note: The concessional rate of tax at 4% against D-Forms in respect of sales made to Government Departments was withdrawn w.e.f 1st April 2007.

9.5 WHERE SALES ARE NOT TO A REGISTERED DEALER-

The rate of tax in the case of declared goods shall be calculated at twice the rate applicable to the sale or purchase of such goods inside the appropriate State (effective from 1-7-1975) and the rate of tax, in the case of goods other than declared goods is 10 *per cent* or the rate applicable to such goods, under the State Law, whichever is higher.

Note: Where sales are not to a registered dealer, rate of tax (CST) was leviable at the rate applicable to the sale or purchase of such goods inside the appropriate State under the Sales Tax law of that State w.e.f 01-4-2007.

A dealer is liable to pay tax under this Act on the inter-State sale of any goods even though no tax would have been leviable (whether on the seller or the purchaser) under the Sales Tax Act of that State, if that sale had taken place inside that State.

The only exemptions authorized by the Central Act are those where the State Government by Notification in the Gazette may exempt the goods from tax (or reduce the rate of tax) in respect of sales made by a dealer in the course

of inter-State trade. The exemption/lower rate of tax is available only to dealers who have a place of business in the State and sales are made from such place of business.

9.6 C AND D FORMS

Proviso to Rule 12 of the Central Sales Tax (Registration and Turnover) Rules required that a Form 'C' or 'D' should not cover more than one transaction of sale, except in cases where the total amount of sales made in a year covered by one declaration or certificate, does not exceed Rs.25,000 (enhanced to Rs.1 lakh from 30 September 1993).

The Rule does not lay down a time limit for filing these declarations. So the declarations filed before assessment, are valid and should be accepted (20 STC 'S66'19 STC 306). Where no declarations are filed by the time of assessment, the assessing officer should give an opportunity to the dealer (20 STC266).

According to the new proviso to Section 8(4) of the CST Act introduced from 1-4-1973 by the Central Sales Tax (Amendment) Act 1972 (61 of 1972), 'C' forms have to be furnished to the "assessing authority" within the prescribed time or within such further time as that authority may, for sufficient cause, permit. The proviso refers to extension of such period by the assessing authority.

W.e.f 01-10-2005, Rule 12(7) : The declarations in Form C or Form F or the certificate in Form E-I or E-II shall be furnished to the prescribed authority within three months after the end of the period to which the declaration or the certificate relates.

Provided that if the prescribed authority is satisfied the person concerned was prevented by sufficient cause from furnishing such declaration or certificate within the aforesaid time, that authority may allow declaration or certificate to be furnished within such further time as that authority may permit.

W.e.f 01-04-2011 the dealers have been now enabled to *download 'C Forms' electronically* after furnishing relevant information without the need of the approval of any departmental authority. By this there is no scope for any delay and there is total transparency in service delivery.

The selling dealer is not concerned whether the goods are such as can be used by a purchaser for the declared purpose. He has only to satisfy himself that the purchaser is a registered dealer and the goods are specified in the certificate of registration.

ii) in respect of sale or purchase of goods which are **generally** exempt under the State Sales Tax Act or tax on which is leviable under the State Act at a rate less than 3 per cent (four per cent with effect from 1-7-1975) whether called a tax or fee or by any other name), the Central sales tax leviable in respect of sales of such goods in the course of inter-State trade or commerce would be 'nil' or the rate applicable under the State Sales Tax Act as the Case may be.

The word 'generally' used is very important. The provisions of 'Explanation' below sub-section 2A of Section 8 of the Central Sales Tax Act should be borne in mind.

If the lower rate/exemption is available only on the fulfillment of certain conditions it should be ignored, because in this case, the goods cannot be said to be generally exempt from tax. For instance if a licence has to be taken out for availing of an exemption, the sale is not generally exempt from tax. **(13 STC 838)**.

If a particular commodity is taxable at purchase point but is not taxable at the sale point under the State law, it is not generally exempt from tax. Thus the turnover of the seller though not taxable under the State law, is taxable under the Central Act.

Similarly, if a sale is taxable at the first point under the State law and if it is the second or third point seller who sells it in the course of inter-State sale, the commodity is not generally exempt from tax. Though it would not be taxable under the State law in the hands of the second or third point seller, it would be taxed under the Central Act.

The turnover for purposes of this Act is to be determined in accordance with the provisions of Section 8A of the CST.

Note: The concessional rate of tax at 4% against D-Forms in respect of sales made to Government Departments was withdrawn w.e.f 1st April 2007.

9.7 DECLARED GOODS (SECTION 14 & 15)

Article 285(3) of the Constitution lays down that in the case of goods which have been declared by Parliament by law, to be of special importance in the inter-state, trade or commerce, the State Sales Tax on these goods would be subject to such restrictions and conditions as Parliament by law may specify. These restrictions/conditions can be in the nature of system of levy, rates and other incidents of tax.

The list of goods thus declared is contained in Section 14 and items are added or deleted from this list from time to time. The restrictions on the State law have been spelled out in Section 15.

They are-

- **the rate of tax should not exceed 5% w.e.f 11-4-2011** (4 per cent w.e.f 1-7-1975 to 10-4-2011)
- the State can levy such tax at one stage only;
- where a tax has been levied on the sale or purchase of such declared goods within the State and such goods are again sold in the course of inter-State trade or commerce, the tax so levied shall be refunded to such persons in such manner and subject to such conditions as may be provided for under the law in force in that state.

Government of Karnataka have ordered that in respect of all declared goods sold in the course of inter-State or commerce, no tax under KVAT Act shall be payable by any dealer where tax has already been paid or has become payable on the sale or purchase of such declared goods under the provisions of the Karnataka Sales Tax Act 1957, subject to the following conditions:

- The burden of proving that the tax under the KVAT Act has been paid in respect of such goods shall be on the dealer;
- The dealer effecting inter State sales in question shall not claim the reimbursement of the State tax admissible under the provisions of Section 15(b) of the CST Act read with proviso to Section 5(4) of the KVAT Act.

CHAPTER – X

e-GOVERNANCE

10.1 INTRODUCTION

The Commercial Taxes Department has adopted in the financial year **2011-12** several innovative e-governance initiatives for providing convenience to tax payers and there by improve tax compliance. The prominent among them are as follows:

- i) Facility for applying for Registration through Internet.
- ii) Facility of filing return electronically through internet.
- iii) Facility of making electronic payment and compliance reconciliation of such payments.
- iv) Facility of declaring electronically details of goods movement from and into the State through internet.
- v) Facility of declaring electronically details of transit of goods through the state through internet.
- vi) Facility of filing of Profession Tax returns through internet.

In addition to the above, during this financial year the following initiatives have been put in place to further strengthen internal control mechanism to ensure effective and transparent tax administration.

i. e-CAS (COMPREHENSIVE AUDIT SYSTEM)

This provides for electronic trail of all the stages of audit of self assessments made by the dealer right from the stage of allotment of returns for scrutiny to assignment of cases for audit to passing of final assessment orders by the audit officers to the outcome of any appeal filed against such orders. The audit officers are required to keep log of each stage on the system, upload orders for which unique numbers are generated to bring total accountability and make the entire process tamper proof.

ii. e-DCB (DEMAND, COLLECTION AND BALANCE) MODULE

This facility ensures correct and prompt recording demands raised in each case, its collection and balance so that it could be monitored for prompt revenue realization.

iii. e-ENFORCEMENT MODULE

This enables correct recording of the functions carried by the enforcement officers and monitor the outcome to bring in accountability of the process.

iv. e-GRIEVANCE REDRESSAL SYSTEM

This enables registered dealer to raise grievances electronically and track the status of their redressal.

v. e-GRAHAK

This enables a citizen to complain or provide information to the Commercial Taxes Department about tax evasion by a dealer through SMS and track the status of action taken on this online.

vi. FACILITY OF AUTOMATIC GENERATION OF 'C' FORM

The dealers have been now enabled to download CST forms electronically after furnishing relevant information without the need of the approval of any departmental authority. By this there is no scope for any delay and there is total transparency in service delivery.

vii. FACILITY FOR ELECTRONIC PAYMENT OF OTHER TAXES

Tax payers under Luxury Tax, Entertainment Tax and Betting Tax Acts are also now given the facility of electronic payment of taxes so as to reduce their cost of compliance and reduce mistakes in reconciliation of payments made through other modes.

viii. FACILITY OF ELECTRONIC RETURNS AND OTHER TAXES

Luxury Tax and Entertainment Tax payers are now provided facility of filing the returns electronically.

The following points may be noted:

- The Government does not include autonomous bodies, public sector undertakings created by a statute or privately run but Government aided institutions.
 - Tax is payable by every dealer whether he is registered or not.
 - Tax is payable irrespective of the quantum of turnover, i.e. a dealer is liable to tax under the Central Act, even if he is not liable to tax under the State Law.
- (i) Where two categories are created within a particular commodity, each taxable at a different rate the two categories are to be treated as two commodities. For instance, if rice from paddy which has already been subjected to tax, is taxable at a lower rate than that obtained from paddy which has not already been so taxed, each of those categories is to be taken separately for comparison with 3 per cent (4 per cent with effect from 01-07-1975) (20 STC 340).

CHAPTER - XI
RECORDS, REGISTERS AND RETURNS OF THE DEPARTMENT

11.1 ASSESSMENT FILES

An assessment file opened for every assessee for each year would contain the following:

- statement of total / taxable turnover relating to every month,
- challans and receipts regarding the payment of tax in advance for each month,
- return of final or annual turnover submitted by the dealer
- challans or receipts regarding payment of tax
- notes or verification report
- assessment order
- office copy of the Demand Notice and acknowledgements
- correspondence relating to further action for recovery of tax,
- correspondence relating to penal action
- appeal order / revision order
- charge sheet or references relating to recovery of tax. In some offices separate files are maintained in respect of (i) registration, (ii) assessment and (iii) correspondence relating to recovery proceedings.

11.2 REGISTERS

With a view to facilitate proper administration of the provisions of the Act, all the Entry Tax officers in the State are required to open and maintain the following Registers in the prescribed formats. All the columns in those Registers are to be properly filled up by the concerned case workers, monthly abstracts put up and the entries / abstracts attested by the officers in charge.

1. Dealers Index Register

In this register, the names and other particulars of all the dealers registered under the Act are entered. At the end of every month, necessary abstract showing the details of (i) number of cases registered at the beginning of the month; (ii) new cases registered; (iii) number of cases received by transfer

from other offices; (iv) number of cases cancelled; and (v) number of cases transferred to other offices, are mentioned.

2. Register of Daily Cash Collections

In this register, the amount collected towards tax registration, fee etc., are noted. The amount collected should be remitted into the treasury the same day or the next working day under a challan. The challan number and the date of remittances should be noted at the end of each day. The registers should be checked daily and initialed by the assessing officer. Daily totals should be put up in this register.

3. Register of Daily Cheque collection

This register shows the cheques received from the assessee towards tax etc., and the amount realised. Cheques received are entered in this register and sent to the treasury along with a challan prepared for the amount for credit into the Treasury. On receipt of information regarding the date of realisation and the challan number and date, necessary entries are made in the register. Collection entries in the Demand Register should not be posted directly from this register, but should be done only from Challan Posting Register. At the end of each month, abstract showing the details of cheques not presented / realised / dishonored etc., is to be prepared.

4. Challan Posting Register

This is an important basic record from which demand registers are posted and the reconciliation of receipts is effected. The register is written up daily. For this purpose, the assessing officers should insist upon the daily receipt of challans from the Treasury and reconcile the difference, if any, then and there. Soon after entries are made in this register, appropriate registers are posted and a note of collection is also made in the assessment file.

As the challans are the basic records regarding collections, with reference to which the correctness of the entries in several other registers are to be checked, they should be carefully filed and stitched separately for each month.

5. Register of DCB

This register is to ascertain the demands, collection and balance of tax against each assessee. The demand of tax should be entered in this register immediately after the assessments are made. They should not be postponed or

posted in the subsequent month on the ground that demand notices were served in the subsequent month. In respect of entry tax, the previous month's balance and the current month's demand constitute the total demand against which the collections of the month are posted, the balance being the difference of the two. Reasons for variations in demand should be indicated in remarks column like reduction in appeal, revision on final assessment etc. The arrears relating to previous years should be noted in the first few pages of this register, the entries being made year-wise

6. Dealer's Ledger Account

This register is the ledger account of each of the dealers assessed to tax. This should be maintained for four years. The arrears of tax due for all the previous years should be brought forward and noted in the register and collections watched.

7. Recovery Register

This register is meant for watching action taken for recovery of tax under Section 8(4), 9 and 21 of the Act. Recovery certificates issued to revenue authorities, applications filed before the court, recovery certificates issued to tax recovery officer and also notices issued to other persons from whom money is due to the dealer are entered.

8. Refund Register

This register shows the accounts of entry tax refunded to the assessee either by cash or by adjustment of the amount towards the tax payable on reduction of assessment in appeal, on revision etc.

9. Cash Remittance Register

This register is used to record the remittances of entry tax collected to Government Treasury / Bank. The entries in this register are checked everyday with reference to the original receipts by the officer – in – charge when they are in headquarters and in other cases soon after their return to the Headquarters.

10. Register of pendency and disposal of assessments

This register is maintained to note all the cases in which final assessments are pending in chronological order i.e. according to the year of assessment, earlier year assessment being entered first. Various stages of assessment should be entered as and when the different steps are taken.

Remanded cases should also be entered in this register, under the year to which it relates.

11. Confidential Register showing information received regarding evasion of tax, etc.

This is maintained by the assessing officers personally and the particulars received regarding the suppression of turnover etc., are recorded in this register which also serves as a guide to his successor in office. The assessing authority should take action to dispose of the assessments making use of the information received.

12. Register of Appeals and Revisions (J – Register)

This register is maintained to watch the disposal of appeals and revisions.

| | | |
|----|--|---|
| 1. | A-Register : Dealers Index Register | Maintained Electronically w.e.f 01-04-2011 |
| 2 | D-Register : Dealers Ledger Account | |
| 3 | E – Register: Notice Register | |
| 4 | G – 1 Register : Daily Collection/ Challan Posting Register | |
| 5 | G – 2 Register : Register of DCB | |
| 6 | G-3 Register :Advance Collection and Adjustments | |
| 7 | H- Register :Daily Cash Collection | |
| 8 | I-Register : Recovery Register | |
| 9 | P-Register - Register of Remittance into treasury | |
| 10 | M Register: Daily Cheque Collection Register | |
| 11 | Q-Register : Register of Refunds | |
| 12 | Cash Remittance Register | |
| 13 | K-Register : Register of Crimes | |
| 14 | L-Register :Register of Cross Reference sent out/received | |
| 15 | N-Register: Process Register | |
| 16 | O-Register : Receipts for Payment of money | |
| 17 | R-Register : Confidential Note books | |
| 18 | T1&T2-Register : Commodity wise & Consolidated Register of T1 Register | |
| 19 | Disposal Register | |
| 20 | Cheque Bounce Register | |
| 21 | J-Register : Appeals and Revision | |

CHAPTER – XII

HEADQUARTERS SECTION

The following items of work are specifically prescribed to be done in the Headquarters Section. All Government orders and notifications departmental circulars, instructions and clarifications, so far as they relate to assessments and realisation of tax, classification of goods according to the entries in the Schedules etc., under the Sales tax laws should be examined in audit in this section and copies circulated to the parties and instructions where necessary issued to them. If any issue is to be taken up with the Government/department, it should be referred to promptly and pursued properly. The Reports of the Comptroller and Auditor General of India of the various States in respect of sales tax paragraphs should be studied and interesting cases included therein should be extracted and circulated among the field parties for their guidance. The fortnightly journals of sales tax cases should be studied and an epitome of the cases together with the judgment of the High Courts or Supreme Court thereon should be prepared and given to the field parties for their guidance.

The programme of local audit of sales tax offices should be drawn sufficiently in advance at least one month before the local audit.

The Local Audit Report should be edited at the Headquarters of the Audit Office and issued within a month of the completion of the local audit duly approved by the Group Officer. The reports relating to the DCCT/ACCT/CTO should be sent to the JCCT (Administration). The replies should be received through the Additional Commissioner/ JCCT within one month of the receipt of the report. Important cases of irregularities should be brought to the notice of Government by special letters. Replies to part-III of the report is not required to be watched in Central audit; it is enough if the disposal is checked during the next audit.

(a) This section will be responsible for processing of draft paragraphs on sales tax receipts to be included in the Report of the Comptroller and Auditor General of India (Revenue Receipts) Government of Karnataka.

(b) Headquarters Office fixed the following additional parameters for review of performance:

- Recoveries at the instance of audit
- Amounts involved in the results of audit for the year
- Amendments to laws, rules, procedure etc., made consequent upon audit.

RA Section may furnish the information mentioned above for the previous financial year to RARC (S) by 15th July of the current financial year.

(c) Hqrs. Office prescribed that audit observation should be suitably clubbed to ensure that draft paragraph would involve a minimum financial impact in monetary terms. At present the minimum limit fixed is Rs. 5 lakh. While reporting in the Audit Report under/over assessments relating to the KST Act/KVAT Act and CST Act should be shown separately vide Comptroller and Auditor General of India's Circular letter No. 3009 Rev./303-65 dated 10.10.1965 (Filed No. AAD 2-3 Rts (65-66)).

An objection book and adjustment register should be maintained for recording, the money value of objections relating to under/over assessments included in the local audit reports. The items should be pursued vigorously by initiating correspondence with the departmental officers, with a view to expedite their settlement. The above registers should be closed and submitted to the Group Officer (RS) on the 10th of every month.

A progress register is maintained separately for watching the receipt of draft local audit reports from the field parties, vetting in the Headquarters Section, and issue to the departmental officers after approval by the Group Officer (RS). The register should be closed and submitted to the Group Officer (RS) on the 10th and the 25th of every month. Delays of more than one week, in the receipt of draft reports from the field parties should be examined and brought to the notice of the Group Officer (RS) for remedial action.

Similarly, another progress register is maintained for watching the receipt of replies to the local audit reports from the assessing officer. The register should be closed and submitted to the Group Officer (RS) on the 5th of every month. This register should be examined periodically with a view to see whether there are any delays of more than one month in the receipt of replies to the Local Audit Reports and to bring such cases to the special notice of the Commissioner of Commercial Taxes for necessary action.

Settlement of objections

Hqrs. Office Circular No.25 of 1984 prescribes the procedure for settlement of objections in State Receipt Audit.

According to para 4(1) of the circular, the objections may be treated as settled once the department accepts the objection and the demand is raised. Audit need not wait till the collection of amount, Settlement need not be delayed on the ground that the appeal has been filed against the demand and adjudication of the appeal is pending.

According to the delegation of powers by the Accountant General (Audit)-II, the following officers are permitted to drop the objections as settled.

- (a) Where the objection has been accepted by the department and taken to demand.

| | |
|---------------------|-------------|
| All Part II-A paras | By DAG(RS) |
| All Part II-B paras | By Sr.AO/AO |

- (b) When the objection has not been accepted by the department and it is not possible to sustain the objection and hence made proposal to drop the objection.

All paras with money value of:

| | |
|--------------------------------------|-----------------------|
| Above Rs. 25,000 | By Accountant General |
| Above Rs. 1,000 but below Rs. 25,000 | By DAG (RS) |
| Below Rs. 1,000 | By Sr. AO/AO |

CHAPTER – XIII

GLOSSARY

The Sales Tax/Value Added Tax administration base as it is on the provisions of the Sales Tax Act/KVAT Act inevitably involves the use of technical and legal terms and the auditor should be familiar with the meaning of those terms. A list of such terms which frequently occur together with their meanings is given below:

| | |
|-----------------------------------|--|
| Ab initio | From the beginning |
| Ad hoc | For a certain purpose; special |
| Actionable claim | It is a claim which can be asserted in an action in a court of law – e.g. claim to any debt. |
| Affidavit | Written statement usually made during a judicial proceedings in the name of a person by whom it is voluntarily signed and sworn to or affirmed. |
| Aortiori | By so much the strong reason; all the more |
| Agriculture | According to the Karnataka Sales Tax Act, 1957, this includes horticulture, the raising of crops, grass or garden produce and grazing but does not include dairy farming, poultry farming, stock breeding and mere cutting of wood. |
| Agriculture/horticultural produce | Agriculture produce shall not be deemed to include tea and such produce (except coffee) as has been subject to any physical, chemical or other process for being made fit for consumption. |
| All fours on | Expression signifying that a case is truly analogous to another which has been previously decided by a court. |
| Amicus curiae | Person who calls the attention of a Court to some overlooked decision or point of law. |
| Appellate authority | Means the Tribunal constituted under the Karnataka Appellate Tribunal Act 1976. |
| Assessment | The process of computing the turnover according to the sales tax act and determining the tax payable thereon. |
| Assessee | Means a person by whom tax is payable. |
| Association of persons | e.g. a club, a co-operative society |
| Attorney, power of | A formal document authorizing one person to act on behalf of another. |
| Bill of lading | A bill of lading is a document in writing signed on behalf of the owner of a ship in which the goods are embarked acknowledging the receipt of the goods and undertaking to deliver the goods at the end of the voyage subject to such consideration as may be mentioned in the bill of lading. Unless there is evidence of a contrary intention between the parties, the transfer of the bill of lading with endorsement in favour of the buyer will amount to the sale of goods. |

| | |
|-------------------------|--|
| Bonafide | In good faith |
| Casual trader | Means a person who has whether as a principal, agent or in any other capacity, occasional transactions of a business nature involving the buying, selling and supply or distribution of goods in the State whether for cash or for deferred payment or for commission, remuneration or other valuable consideration. A casual sale is distinct from that of a sale by a casual trader. |
| Certiorari | The proceedings are removed to the superior court so that it may be more fully informed of the case and may if necessary quash the decision of the lower court. |
| c.i.f. | Cost, insurance and freight, a cif contract for the sale of goods is one in which the sum mentioned in the agreement includes the cost of goods, insurance during transit and freight. |
| Company | Means a company registered under the Indian Companies Act. For the purposes of Section 31A of the Karnataka Sales Tax Act 1957, Company means any body incorporated and includes a firm or other association of individuals. |
| Composition of tax | Arrangement for payment of lump sum amount as tax applicable in the case of petty dealers, hoteliers and assesseees executing works contracts (w.e.f. 1.4.88) Section 17 of the Karnataka Sales Tax Act 1957. |
| Composition of offences | Collection of fine for offences punishable (Section 31 of the Karnataka Sales Tax Act, 1957) |
| Declared goods | Goods declared under Section 14 of the Central Sales Tax Act 1956 to be of special importance in inter-state trade or commerce e.g. Coal, Cotton fabrics, oil seeds sugar, tobacco etc. |
| Del creders agent | Agent, who for an extra commission guarantees to his principal the due payment by the purchaser of the price of goods sold. A del credere agent is not a dealer. |
| Director | For the purpose of Section 31A of the Karnataka Sales Tax Act 1957 director in relation to a firm means a partner in the firm. |
| Ejusdem generis | A rule of construction that general words must be restricted to the same genus as the specific words that precedes them |
| Ex-parte | From the view point of one party only in a dispute |
| Ex-parte assessment | An assessment made to the best of judgment on the failure of the assessee either to make his return or produce accounts or lead evidence as required under the provisions of the Acts. |
| Ex-post facto | After the event |
| Fiduciary | The relationship in which one person is bound to exercise rights and powers in good faith for the benefit of another. |
| Firm | A partnership of persons who have agreed to share the profit of a business carried on by all or any of them acting for all. |
| FOB | Free on Board. A price quoted for goods including the cost of placing on board. |

| | |
|---------------------|---|
| Garnished order | Court order directing a debtor to pay his debt not to the creditor but to a person who has obtained a final judgment against that order. |
| Hire purchase | Sale transaction in which the seller hires goods to the purchaser who has an option to complete the purchase and terminate the hire, the hirer has only possession not ownership. A credit sale is different from hire purchase. |
| Hypothecation | By hypothecation is meant a pledge without immediate change of possession; it gives a right to the person making advances on the faith of it to have possession of the goods if the advances are not paid at the stipulated time; but it leaves the owner of the goods hypothecated the power of making such payment and thereby freeing them from the obligation. |
| Ipso facto | On the facts itself. |
| Ibidem (ibid) | In the same place; given for the subsequent references to the same authority |
| Mandamus | The writ of mandamus is a high prerogative remedial nature and is in form a command issuing from the Supreme Court or the High Courts directed to any person, corporation or inferior court requiring him or them to do some particular thing therein specified which appertains to his or their office and is in the nature of a public duty. Its purpose is to supplement defects of justice and accordingly it will issue to the end that justice may be done in all cases when there is a specific legal remedy for enforcing such right. Under Article 226 and 32 of the Constitution, any aggrieved party can apply to the High Court or Supreme Court for such a mandamus. |
| Non-resident dealer | A person who is not residing in the State but carries on business in the state is a non-resident dealer e.g. A dealer coming to the State and having a stall in an exhibition or fair. |
| Pro tante | For so much; to that extent |
| Ratio decidendi | Principle upon which case is based Actual decision in conjunction with the facts material to it. |
| Sub poena | Writ commanding a person under penalty if he fails to come to Court and give evidence or to bring certain documents to Court. |
| Ultra-vires | Act which is otherwise, beyond legal powers |
| Vicarious liability | Liability of a person from the wrongful act of another, e.g., a principal for his agent or a master of a servant when acting within the scope of the authority or employment. |
| Writ | Document under seal commanding a person to do or refrain from doing some act. |

CHAPTER - XIV
QUANTUM OF AUDIT & AUDIT CHECKS

FOR LOCAL VAT OFFICES (LVOs)/VAT SUB-OFFICES(VSOs)

Quantum of Audit:

| ASSESSMENTS | | | REFUNDS | |
|-------------|------------------------------|------|---|------|
| a. | Top 100 Dealers (output tax) | 100% | Above Rs.1 lakh | 100% |
| b. | Next top 500 dealers | 5% | More than Rs. 50,000/- but less than Rs. 1 lakh | 10% |
| c. | COT dealers | | | |
| d. | Remaining Dealers | 1% | Less than Rs. 50,000/- | 1% |

AUDIT CHECKS

- (i) Whether all regular registered VAT/COT dealers submitted their monthly/quarterly/annual returns in time and in the prescribed proforma indicating that the payment of tax was made on or before the prescribed period.
- (ii) Whether revised returns have been filed within the specified time indicating the reasons for such revision.
- (iii) Whether the VAT dealer whose registration has been cancelled has filed the final return within the specified time.
- (iv) Whether the casual dealers have filed declarations within the specified time of arrival of goods in the state and paid the advance tax and filed final declaration on the last day of business along with the details of payment of tax.
- (v) Whether the dealers whose gross turnover exceeded the prescribed limit have furnished the audited accounts within the specified time.
- (vi) Whether the VAT dealer, who is a manufacturer also, has filed a true and complete statement showing the quantity and value of goods received for use / consumption in manufacture, closing stock of such goods and quantity and value of goods manufactured.
- (vii) Whether penalty at the prescribed rate on the tax and interest payable from the date it has become due to the date of its payment or to the date of order of assessment, whichever is earlier, has been levied.
- (viii) Whether a VAT dealer or any other person or dealer liable to pay tax, interest and penalty, has deposited the amount on the date prescribed in the notice.
- (ix) Whether returns were scrutinized by the Assessing Authorities to verify the correctness of calculation, application or correct rate of tax and interest and input tax credit claimed therein and full payment and interest payable by the dealer for any tax period.
- (x) Whether the details of returns received were entered in the register / computer within the specified time and bank scrolls reconciled with tax amounts mentioned in the return where applicable.
- (xi) Whether notice has been issued requiring the dealer to pay the amount of tax along with interest in case the amount paid is less than the amount to be paid.

- (xii) Whether in case of a seller who has accounted for, either in the tax invoice or in the return, an incorrect amount of tax (in case of the event mentioned in the Act), the adjustment in calculating the tax payable by him has been carried out in the return for the tax period during which it has become apparent that the tax is incorrect, and not in any tax period prior to that?
- (b) Self / Deemed Assessment**
- (i) Whether the dealer has filed all the monthly returns and annual returns in respect of any tax period within the prescribed time.
- (ii) Whether arithmetical errors have been checked before accepting the self-assessment.
- (iii) Whether the return and revised returns, if any have been furnished by a dealer within the prescribed period and in the prescribed manner and self-assessment claims are correct, consistent and complete, the prescribed authority has checked the arithmetical errors and accepted the self assessment after necessary adjustments.
- (iv) Whether the returns of the VAT dealers are in order as compared with the records of the dealers under the CST Act.
- (v) Whether a final assessment was made by the prescribed authority keeping in view whether the returns / revised returns were filed in time and were not sufficient / relevant for self assessment. Whether such adjustments as may be necessary in disallowing input tax credit, exemptions, concessions, refunds, levy of interest etc., were made wherever required, in the final assessment.
- (vi) Whether assessment for any tax period was made after the expiry of the permissible period from the end of the tax period.
- (vii) Whether a demand notice in the prescribed form has been issued if the tax assessed along with interest and penalty is more than the amount paid along with the self assessment.
- (viii) Whether provisional assessments have been carried out in the cases fulfilling the conditions mentioned in the Act?
- (c) Refunds, Set off and Compensation claims**
- (i) Whether the application of refund was submitted in the prescribed form within the specified period.
- (ii) Whether all the returns due have been filed and the taxes, interest or penalties due have been paid and a notice of excess demand has been issued by the prescribed authority and received by such dealer.
- (iii) Whether any tax, penalty etc., is outstanding against the dealer under the Repealed Act or CST Act.
- (iv) Whether any refund has been made within the specified period of filing of such claims and after examination of the case by business / Tax Audit Wing and after verifying the proof of deposit of tax.
- (v) Whether the VAT dealer claiming refund under the scope of Section 5 (1) or 5 (3) of CST Act have furnished all the required documents according to the provisions of Act/Rules.

- (vi) Whether any amount has been paid as interest

Set Off / Compensation Claims

- (vii) Whether refunds have been accurately accounts for before claiming compensation.
- (viii) Whether the details / break up of VAT and non-VAT receipts were available since refunds are allowable only on the VAT receipts.
- (ix) Whether set off / concessional rates of tax were wrongly allowed for refund and compensation claims.
- (x) Whether ITC has been adjusted against CST dues.
- (xi) Whether any interest on refund has been allowed on the tax paid by the dealer after the closure of the accounting year, from the date of the closure of the accounting year to the date of payment of such amount?

(d) Input Tax Credit (ITC)

- (i) Whether ITC has been allowed in any inadmissible case.
Transactions not eligible for ITC:
In respect of such capital goods, which are used for manufacturing or processing of tax free goods
In respect of dealers who have opted for composition tax
In respect of goods brought/purchased from other States against the CST paid in other States
In respect of any taxable goods given by way of free sample or gift
In respect of stock of goods remaining unsold at the time of closure of business
In the case of such goods for which no tax invoice has been issued or available
In respect of sale of exempted goods
Input tax shall not be deducted in calculating the net tax payable as per restrictions under Sections 11,14,17 and 19 of KVAT Act
Any other inadmissible claims as per the provisions of the Act
- (ii) Whether ITC has been allowed to be carried over without the excess credit being 'set-off' against any outstanding tax, penalty or interest payable.
- (iii) Whether ITC has been correctly adjusted against CST dues before carrying forward.
- (iv) Whether in the case of a dealer, who purchased goods intended for the purposes specified in the Act and used the same fully or partly for other unspecified purposes / prohibited circumstances, the tax credit has been reduced from the tax credit being claimed for the tax period during which such use has taken place?
- (v) Whether in the case of a purchaser (registered dealer), if the tax credit availed by him in any period in respect of which the purchase of goods relates, becomes short / excess (due to issue of credit/debit note or return of goods), the adjustment of the amount of tax credit allowed to him in permitted only in the tax period in which the credit or debit note has been issued / goods have returned?
- (vi) Whether all dealers who have been deemed to be registered under the provisions of the Act, have submitted a statement of taxable goods held in stock as on the appointed date (for instance, 31st March 2005 in the KVAT Act) for which the dealer intends to claim tax credit?

- (vii) Whether the input tax benefit to dealers in respect of the stock lying with them as on the appointed day in the respective Acts has been correctly availed?
- (viii) Whether tax credit has been allowed correctly in respect of inputs if the goods are sold in another State?
- (ix) Whether ITC has been reduced proportionately where inputs are used partly to make taxable goods and partly for exempted goods?
- (e) **Payment and Recovery of Tax, Penalty and Interest**
 - (i) Whether a notice of demand has been served on the dealer for payment of assessed tax, interest and penalty. The date specified should not be more than the period allowed from the date of service of notice.
 - (ii) Whether the prescribed authority has applied his mind in the interest of revenue while allowing payment of any demand in installment and for reasons to be recorded in writing on the condition that the said dealer furnishes sufficient security for such facility.
 - (iii) Whether the rate of penalty, interest or any other amount due, as prescribed in the Act, have been levied for failure to make payment of the assessed tax etc., for every month for the period for which payment has been delayed by him after the date on which such amount was due to be paid.
 - (iv) Whether a proceeding has been initiated to recover the unpaid amount even after the due date in pursuance to the notice of demand issued to the dealer.
 - (v) Whether the cases where whole or part of the tax, penalty or interest payable by any dealer or class of dealers has been remitted or of any specified class of sales or purchase has been remitted, this has been done by an order of the State Government?
 - (vi) Whether the dealer has paid the amount of tax (assessed, reassessed etc.), penalty and interest that have become payable within 10 days of the demand notice served upon him?
 - (vii) Whether, if payment of tax has been allowed in installments and the dealer has defaulted in paying an installment, the dealer has been held to be in default in respect of the whole amount then outstanding and all other installments have been held to have become due on the same date as the date of the installment in default?
 - (viii) As a special mode of recovery, whether the Assessing Officer, in case of a defaulting dealer on whom demand notice has been served in respect of tax, penalty or interest, has served a notice to any person from whom any amount of monies is due or may become due to the dealer or to any person who holds monies for or on account of such dealer?
 - (ix) Whether interest has been charged at the prescribed rate of '*one and a quarter percent per month*' for the delay in payment of dues from the due date until the date of payment?
 - (x) Whether interest has been charged at the prescribed rate of one and a quarter percent per month for the period as has been extended or the installments that have been granted?

- (xi) Whether the Assessing Officer has imposed the penalty of the sum equal to the amount of the tax in case of dealers furnishing incorrect information / availing incorrect tax credit etc., in an attempt to evade / avoid payment of tax?
- (xii) Whether the quantum of checks as prescribed by the Headquarters is adhered by the STRAP
- (xiii) Any other point(s) specify

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| | <u>FOR AUDIT OFFICES:</u> Quantum of audit: 100% of scrutiny cases <u>AUDIT CHECKS</u> |
| 1 | Whether the returns, assessment orders and other documents are kept in the assessment file of the dealer in the proper form? |
| 2 | Whether the registration documents reveal the nature of business of the dealer and the goods he deals with, branches within and outside the State? Has this been utilized for scrutiny of assessment orders of the concerned assessee? |
| 3 | Whether there were no arithmetical or computation errors in the determination of total turnover and the taxable turnover of the dealer and that the dealer and that the tax payable has been correctly levied at the appropriate rates (taking into account the incidence of tax leviable on the commodity) and that no part of the turnover has been incorrectly exempted from the levy of tax. |
| 4 | Where any concessional rate of tax has been levied or exemption allowed, whether the audit has ensured that the prescribed conditions (if any) for the grant of concession or exemption have been duly observed. |
| 5 | Whether the turnover determined by the Assessing Authority was not less than the turnover declared by the dealer in his annual return. |
| 6 | Whether the department invoked penal provisions wherever the dealer did not pay tax according to the declarations made by him in the monthly returns. |
| 7 | Whether reports of the intelligence wing of the department were entered in the R Register and that the same was made use of at the time of assessments. |
| 8 | Whether the classification of goods made by the Assessing Authority was correct in terms of classification shown in the annual return and other details of purchases furnished by the dealer. |
| 9 | Whether penal provisions are invoked wherever required. |
| 10 | Exemptions allowed U/s. 5 (1), 5 (2), 5 (3) and 6 (2) of the CST Act were in order and that mandatory declarations wherever required are filed by the dealer in relation to such exemptions. |
| 11 | Whether concessional rate of tax under CST Act was allowed only where the dealer produced mandatory declarations (Form C or D) expected to be filed to avail concessional rate of tax, in the absence of such declarations, it should be ensured that normal rate of tax as prescribed U/s. 8 (2) of the CST Act was levied. |

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| 12 | All penal provisions under the KVAT Act were invoked wherever required even in respect of contravention of the related provisions under CST Act. |
| 13 | Whether cross verification of any information gathered during the course of an audit assessment was made to establish the implication of revenue. |
| 14 | Whether input tax credit, exemptions and other credits or concessions claimed by the dealer in the returns were disallowed for which no supporting documents were filed/produced. |
| 15 | Whether the tax audit report was handed over to the dealer and the dealer filed his final reply within the specified period after receipt of the report. |
| 16 | Whether the prescribed authority assessed the dealer to the best of his judgment. |
| 17 | Whether the prescribed penalty was imposed if the prescribed authority was prevented from conducting the proceedings or if the dealer committed any act of omission in order to evade or avoid payment of tax. |
| 18 | Whether a demand notice was issued for additional amount of tax with penalty. |
| 19 | Whether audit of assessments have been completed within the time provided under the Act? |
| 20 | Whether in the case of a dealer, the amount of tax assessed or reassessed for any period exceeds the amount of tax already paid for this period by 5 percent of the amount so paid, the amount of penalty as provided under the Act has been levied? |
| 21 | Whether in case of a dealer whose part turnover has escaped assessment is assessed within the prescribed time under the Act? |
| 22 | Whether the liability of the dealer, registered under different clauses, to pay tax has been calculated from the correct date? |
| 23 | Whether on assessment, if the provisional refund granted is found to be in excess, it has been recovered as if it is a tax due from the dealer and interest has been charged at the prescribed rate? |
| 24 | Whether in the cases of assessments under audit assessment, on refund becoming due, simple interest of '6 percent per annum' only has been allowed for the period from the date of closure of the accounting year to the date of payment of such amount? |
| 25 | Whether purchase tax has been levied on a dealer who purchases goods from an unregistered dealer? |
| 26 | Whether appeal against assessment order has been accepted without proof of payment of the tax in respect of which the appeal has been preferred? |
| 27 | Whether the liability for tax to be paid in a works contract (transfer of property whether as goods or in some other form) has been computed correctly as per the provisions in the Act? |
| 28 | Whether Input Tax Credit (ITC) has been allowed in any inadmissible case. Transactions not eligible for ITC: (i) In respect of such capital goods, which are used for manufacturing or processing of tax free goods (ii) In respect of dealers who have opted for composition tax |

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| | <p>(iii) In respect of goods brought/purchased from other States against the CST paid in other States</p> <p>(iv) In respect of any taxable goods given by way of free sample or gift</p> <p>(v) In respect of stock of goods remaining unsold at the time of closure of business</p> <p>(vi) In the case of such goods for which no tax invoice has been issued or available</p> <p>(vii) In respect of sale of exempted goods</p> <p>(viii) Input tax shall not be deducted in calculating the net tax payable as per restrictions under Sections 11,14,17 and 19 of KVAT Act</p> <p>(ix) Any other inadmissible claims as per the provisions of the Act</p> |
| 29 | Whether ITC has been allowed to be carried over without the excess credit being 'set-off' against any outstanding tax, penalty or interest payable. |
| 30 | Whether ITC has been correctly adjusted against CST dues before carrying forward. |
| 31 | Whether in the case of a dealer, who purchased goods intended for the purposes specified in the Act and used the same fully or partly for other unspecified purposes/prohibited circumstances, the tax credit has been reduced from the tax credit being claimed for the tax period during which such use has taken place? |
| 32 | Whether in the case of a purchaser (registered dealer), if the tax credit availed by him in any period in respect of which the purchase of goods relates, becomes short/excess (due to issue of credit/debit note or return of goods), the adjustment of the amount of tax credit allowed to him is permitted only in the tax period in which the credit or debit note has been issued/goods have been returned? |
| 33 | Whether all dealers who have been deemed to be registered under the provisions of the Act, have submitted a statement of taxable goods held in stock as on the appointment date (for instance, 31st March 2005 in the KVAT Act) for which the dealer intends to claim tax credit? |
| 34 | Whether the input tax benefit to dealers in respect of the stock lying with them as on the appointed day in the respective Acts has been correctly availed? |
| 35 | Whether tax credit has been allowed correctly in respect inputs if the goods are sold in another State? |
| 36 | Whether ITC has been reduced proportionately where inputs are used partly to make taxable goods and partly for exempted goods? |
| 37 | Whether opening stock on the appointed date is correctly calculated using the prescribed formula (e.g. Tax amount = rate of tax * purchase value of opening stock / 100 + rate of tax in the State). |
| 38 | All inter-state sales, export sales, sales made to an unit located in "SEZ" shall be termed as "ZERO RATED SALES". In these types of sales, no VAT is payable, but such dealers shall qualify for "input tax credit". Calculation of ITC and its admissibility should be properly checked. |
| 39 | All inter-state branch transfers or stock transfers or consignment sales or such transactions that involve inter-state movement otherwise than by way of sale is termed as "Exempt/Non-taxable Transactions". In such transactions, no VAT or |

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| | CST is payable. Only proportionate ITC shall be admissible. It should be checked whether the ITC on exempt/non-taxable transactions was correct. |
| 40 | All dealers who are neither importers nor manufacturers and whose turnover does not exceed the prescribed limit for VAT shall be eligible for Composition Tax Scheme. They shall not be eligible for any ITC, nor can they issue tax invoice, it should be checked whether any ITC was allowed to such dealers covered under the Composition Tax Scheme. |
| 41 | Whether the quantum of checks as prescribed by the Headquarters is adhered by the STRAP |
| 42 | Any other points specify. |

CHAPTER –XV

KVAT FORMS

| Sl. No. | Form No. | Reference to KVAT Act Rule | Remarks |
|---------|----------|--------------------------------------|--|
| 1. | VAT 1 | Rule 4(1) | Application for Registration under KVAT Act/CST Act/KTEG Act. |
| 2. | VAT 2 | Rule 4(iv) | Amendment to VAT/COT Registration. |
| 3. | VAT 3 | Rule 5 | Details of Additional Places of Business |
| 4. | VAT 4 | Rule 7 | Partner Details Form |
| 5. | VAT 5 | Rule 171 | Authorised Signatories Form. |
| 6. | VAT 6 | Rule 38(8), 138(5), 139(5) & 140 (5) | Form to Update Registration Data. |
| 7. | VAT 7 | Rule 9(1) | VAT Act Registration Certificate. |
| 8. | VAT 8 | Rule 137(2) | COT Registration Certificate |
| 9. | VAT 9 | Rule 137(1) | Notice of rejection of application for COT |
| 10. | VAT 10 | Rule 17 | Notice of Cancellation of Registration in case of death of dealer. |
| 11. | VAT 11 | Rule 145 | Notice of Cancellation of Registration for VAT/COT |
| 12. | VAT 100 | Rule 38 | Monthly Return i.r.o VAT/CST/KTEG |
| 13. | VAT 110 | Rule 43 | Return for Casual Traders |
| 14. | VAT 115 | Rule 34(4) | Annual Statement i.r.o VAT/CST/KTEG |
| 15. | VAT 120 | Rule 138(4), 139(4) & 140 (4) | COT Return under KVAT Act. |
| 16. | VAT 125 | Rule 44(2) | Monthly Statement of TDS |
| 17. | VAT 126 | Rule 44(2)(a) | Monthly Statement of TDS of Industrial Canteens |
| 18. | VAT 127 | Rule 44(2)(a) | Monthly Statement of TDS U/s 18-A |
| 19. | VAT 135 | Rule 138,139,140 | Annual Statement |

| Sl. No. | Form No. | Reference to KVAT Act Rule | Remarks |
|---------|-------------------|---|--|
| 20. | VAT 140 | Rule 3(2)(i) | Certificate of Payment of Tax by Agent. |
| 21. | VAT 145 | Rule 33(17) | Declaration of purchase of goods on behalf of principal. |
| 22. | VAT 146 | Rule 34(6) | Clearance Certificate to Registered Dealers. |
| 23. | VAT 150 | Rule 39(1) | Notice of rejection of Return in VAT 100. |
| 24. | VAT 152 | Rule 50(1)(a) | Challan for Taxes on Sales Trade i.r.o State VAT |
| 25. | VAT 153 | Rule 52 | Challan for Taxes on Sales Trade i.r.o other Receipts under VAT |
| 26. | VAT 155 | Rule 53 | Application for permission to pay assessed tax in installments. |
| 27. | VAT 156 | Rule 44(3) | Certificate of tax deduction. |
| 28. | VAT 158 & VAT 161 | Rule 44(3)(a) | Certificate of tax deduction for Industrial Canteens & on purchase of goods U/s 18-A |
| 30. | VAT 160 | Rule 54(4) | Certificate of entitlement for deferment of tax under section 42 |
| 31. | VAT 165 | Rule 130(1) | Application of refund of Input Tax U/s 21 |
| 32. | VAT 170 | Rule 33(2) | Register of purchases made within state. |
| 33. | VAT 180 | Rule 180(1) | Notice of demand of Tax assessed/re-assessed, penalties levied and interest payable. |
| 34. | VAT 210 | Rule 17,40,44(1)(b), 44(2)(a) & 157(3)(b) | Notice of demand for payment of tax. |
| 35. | VAT 240 | Rule 34(3) | Audited Statement of Accounts U/s 31(4) |
| 36. | VAT 245 | Rule 49(1) | Assessment order U/s 54(4) |

| Sl. No. | Form No. | Reference to KVAT Act Rule | Remarks |
|---------|----------|----------------------------|--|
| 37. | VAT 250 | Rule 127(2) | Notice of Adjustment |
| 38. | VAT 255 | Rule 128(1) | Refund Payment Order |
| 39. | VAT 260 | Rule 129 | Application of refund of incorrectly collected or excess paid tax. |
| 40. | VAT 275 | Rule 35 | Notice for production of books of accounts and other documents U/s 52(1) |
| 41. | VAT 340 | Rule 49(4) | Notice of demand of tax assessed and penalty levied U/s 54 |
| 42. | VAT 345 | Rule 56 | Certificate of tax and other amounts due. |
| 43. | VAT 350 | Rule 57 | Notice for nonpayment of tax and other dues. |
| 44. | VAT 355 | Rule 74 | Warrant of distraint or attachment. |
| 45. | VAT 360 | Rule 79(1) | Attachment of debt. |
| 46. | VAT 365 | Rule 80(1) | Application before the Civil Court requesting Attachment of a Decree. |
| 47. | VAT 370 | Rule 81 | Attachment of the share or interest in property. |
| 48. | VAT 375 | Rule 83(1) | Application before Court/Public Officer for Attachment of Property. |
| 49. | VAT 380 | Rule 90 | Proclamation of sale of movable property. |
| 50. | VAT 385 | Rule 100 | Notice for attachment of immovable property. |
| 51. | VAT 390 | Rule 103(2) | Proclamation of sale of immovable property. |
| 52. | VAT 395 | Rule 116(1) | Sale Certificate. |
| 53. | VAT 430 | Rule 149 | Form of Appeal against an order or proceedings. |
| 54. | VAT 435 | Rule 149(3) | Notice for rectification of defects. |
| 55. | VAT 440 | Rule 150(1)(a) | Form of Appeal Memorandum to the Appellate Tribunal. |

| Sl. No. | Form No. | Reference to KVAT Act Rule | Remarks |
|---------|----------|----------------------------|---|
| 56 | VAT450 | Rule 150(20(a)) | Application for review to the Appellate Tribunal |
| 57 | VAT 455 | Rule 152 (2) | Security Bond for stay of collection of tax or other amounts in dispute before KAT/JCCT |
| 58 | VAT 460 | Rule 153(1)(a) | Memorandum of Civil Revision Petition u/s 65(1) before High Court of Karnataka |
| 59 | VAT 465 | Rule 153 (2)(a) | Memorandum of Civil Misc. Petition before High Court of Karnataka |
| 60 | VAT 470 | Rule 153 (2)(a) | Memorandum of Civil Misc. Petition u/s 66(5)before High Court of Karnataka |
| 61 | VAT 475 | Rule 153 (3) | Memorandum of Appeal against an order u/s 66(1) before High Court of Karnataka |
| 62 | VAT 480 | Rule 154 | Proposition Notice |
| 63 | VAT 485 | Rule 173 | Form of Summons to appear and /or to produce documents. |
| 64 | VAT 505 | Rule 157(1)(a) | Delivery Note |
| 65 | VAT 510 | Rule 157(2)© | Register of delivery Notes |
| 66 | VAT 525 | Rule 158 | Declaration to Check Post Officers |
| 67 | VAT 530 | Rule 161 (1) | Application for issue of Transit Pass. |
| 68 | VAT 540 | Rule 165(1) | Form of application for Advance Ruling u/s 60 |

Frequently Asked Questions (FAQs)

What is Value Added Tax?

Value Added Taxation as the name suggests is a method of taxation wherein the taxes paid in earlier stages are allowed to be set off against the taxes to be paid. That is to say that the *taxes are only paid on the value addition at each stage*. This ensures that the cascading effect of duty is not suffered by goods at each point of sale or conversion.

1. What is the need for introduction of VAT?

Before we understand the concept of VAT, we must know why VAT has been implemented in India. A short glance of Sales Tax system will explain the need for its implementation.

Demerits of Sales Tax:

Number of Rates and Taxes

There were huge number of rates of taxes depending on the category of goods. There was no uniformity among the rates of taxes and were very high.

Additional taxes:

Other than Sales Tax levied on sales, consumer had to pay extra taxes such as Turnover Tax (Resale Tax), Surcharge and Cess on taxes, Additional tax etc.

Cascading effect (Tax on tax)

In the existing Sales Tax structure, there are problems of double taxation of commodities and multiplicity of taxes, resulting in cascading tax burden. **For instance**, in the existing structure, before a commodity is produced inputs are taxed, and then after commodity is produced with input tax load, output is taxed again. This causes an unfair double taxation with cascading effects.

2. Basic concepts/features of VAT:

It is a simplified Sales Tax system: VAT is same as Sales Tax but is being levied in different manner. VAT works on a principle that when raw material passes through various manufacturing stages and manufactured product passes through distribution stages, *tax should be levied on the 'Value Added' at each stage* and not on the gross sales price. *This ensures that same commodity does not get taxed again and again and there is no cascading effect*. In simple terms, 'value added' means difference between selling price and purchase price.

3. Whether Central Sales Tax (CST) to be continued after introduction of VAT?

Yes. CST on inter State sales to be continued.

Position to be reviewed year after year and gradually abolished by reducing rate of tax.

CST rate against C-Form as follows:

4% up to 31-3-2007

3% from 1-4-2007 to 31-5-2008

2% w.e.f. 1-6-2008

4. Whether earlier Karnataka Sales Tax (KST) exists after introduction of VAT?

Lottery tickets, Petrol, Diesel, Aviation Turbine Fuel (ATF) and Sugar cane are to be governed by *Karnataka Sales Tax* laws.

5. Who is liable to register under VAT system?

Every dealer is liable to be registered, whose total turnover above

Rupees five lakh per year (Rupees two lakh upto 31-3-2010)

All inter State dealers including importers, exporters, casual traders,

Non Resident Dealers (NRDs)

Voluntary registration

Suo-Moto registration by the Department

6. What each digit indicates in the 11 digit Tax Identification Number (TIN) ?

In the TIN, the first two digits indicate State code, i.e., 29 for Karnataka.

The next two digits indicate check digit and the remaining seven digits indicate the running number of the dealer.

7. What is output tax, input tax and net tax?

Tax on sales is called output tax, tax paid on purchases (made in Karnataka State) called as input tax and difference between the two is net tax.

8. In case of input tax is more than output tax, whether excess input tax is refundable?

Yes. If the input tax paid is in excess of output tax payable, the credit would be carried forward to the next month or the dealer is eligible for cash refund of the excess input tax.

9. What is Input?

Goods purchased in the course of business:

For resale

For use in manufacturing/ processing/ packing/ storing, of other goods

For other use in Business including as Capital Goods.

10. Is purchase tax leviable on purchases made from Un-registered Dealers(URD) as existed under KST Act?

Yes. Purchase tax payable/leviable u/s 3(2) of KVAT Act.

11. Whether input tax credit is available on URD purchases?

Yes. To the extent of tax paid on purchases used or sold in the course of business.

12. What is ‘works contract’?

“Works contract” means a contract wherein transfer of property in goods involved in the execution of such contract is leviable to tax as sale of goods and such contract is for the purpose of carrying out construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, alteration of any movable or immovable property or for carrying out any other similar activity or a part thereof in relation to such property

Examples of ‘works contract’:

When you purchase a flat for residential purpose, you proudly inform your relatives and friends that you have purchased a flat. You never say that you have purchased steel, cement, bricks, tiles or bathroom fittings (though you become owner of all those goods]. This is because your intention was never to purchase those goods as ‘goods.

When you take Xerox copy of your document from the vendor, you do not ‘purchase’ paper. When you take your photograph from photographer, you do not purchase the photographic paper, as that was not intention at all.

While repairing a machine, the mechanic may use some parts.

These are examples of ‘works contract’.

Comprehensive Maintenance Contract (like AMC – which includes material and service) is also an example of ‘works contract’.

13. Whether VAT credit is available in case of all kinds of sales?

(i) VAT credit available in case of following sales:

Within State sales

Inter-state sales

Export out of India

(ii) VAT credit restricted on Inter State Stock Transfer

Available in excess of CST rate of tax

(iii). VAT Credit not available in case of :

Inputs used in the manufacture of exempted goods

Purchases for other than manufacture/re-sale

Purchases made inter State/in-transit.

14. Whether purchase of goods listed in the Fifth Schedule to KVAT Act are not eligible for input tax credit?

The Fifth schedule read with Section 11 (a) (2) is intended to prevent rebating of input tax paid on certain business inputs which are not for resale or for manufacture or any other process of other goods for sale. Generally in the VAT concept, all the purchases made in the course of business would be entitled to input rebate. In the VAT design set out by the 'Empowered Committee', certain business inputs could be restricted for input rebate.

For example, if a dealer buys an air conditioner for use in his business premises, the input tax paid on such business input is not rebatable as per the Fifth Schedule. But if a dealer in air conditioner buys for resale he would be entitled for input tax rebate.

15. Whether Govt Departments are eligible for concessional rate of tax on purchases made under KVAT Act as existed under KST Act?

No. There is no concessional rate of tax in respect of purchases made by Govt Departments.

16. If an assessee undertakes 'Job work' and material inputs required for job work are supplied by the Contractee, what is the tax liability/position under VAT.

Since the nature of transaction makes it obvious that it is only a labour work and does not involve transfer of any goods, *there would not be any liability of tax* under the VAT Act, as it was prevalent under the KST Act.

17. Who can issue 'Tax Invoice' and 'Bill of Sale' ?

(i). A registered dealer effecting a sale of taxable goods or exempt goods along with any taxable goods shall issue a *tax invoice*.

(ii). A registered dealer shall issue a *Bill of sale* in respect of following sales:

(a) selling non-taxable goods; or

(b) opting to pay tax by way of composition under section 15 and selling any goods; or

(c) permitted to pay tax under section 16 (Special accounting scheme) and selling any goods .

18. Whether ITC is repayable if the dealer after claiming ITC on any purchases and switch over to Composition tax ?

Yes. Input tax is repayable on the market value of goods held in stock on the date on which the dealer so opts for composition tax.

19. What is the dealer's liability on cancellation of registration?

The cancellation of a certificate of registration *shall not affect the liability of the dealer to pay tax, any penalty and interest due* for any period prior to the date of cancellation whether or not such tax, penalty and interest is assessed before the date of cancellation but remains unpaid, or is assessed thereafter.

On cancellation of registration, except where the business is transferred as a whole to another registered dealer as specified, *a dealer who has availed deduction of input tax, shall be liable to repay such input tax on any taxable goods held by him calculated on at their prevalent market price.*

20. What are the consequences in respect of composition dealer (COT dealer) exceeds the prescribed turnover limit (Rs. 25 lakh) or switching over to the VAT scheme?

(i). As per Rule 142, dealers who have opted for Composition are denied benefit of the Composition scheme if the total turnover exceeds prescribed limit within a period of four consecutive quarters and *will be liable to pay tax under Section 3 for the period starting from the first day of the month succeeding the month in which he exceeded the threshold.*

(ii). Every dealer whose certificate in Form VAT 8 (Composition Scheme) has been cancelled shall be entitled to deduction of input tax allowed subject to the restrictions imposed by section 11, in respect of tax charged to him by a seller on taxable sale of goods made to him for the purpose of the business within three months prior to the effective date of cancellation of his certificate provided that the goods are in stock at such date.

21. Whether COT dealers are eligible to collect taxes and claim input tax ?

No. COT dealers shall not collect taxes and also shall not claim input tax on their purchases.

However, **Works contractors** who opted for composition are permitted to collect taxes w.e.f 01-4-2007.
