

MULUND CA CPE STUDY CIRCLE

Study Circle meeting on

STATE BUDGET AND AMNESTY SCHEME UNDER MVAT ACT

DATE: 7th May 2016, at Mulund College of Commerce.

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Section 8 Certain sales and Purchases not liable to tax

Clause (3D) is inserted in Sec.8 of MVAT ACT

Transfer of property in goods involved in the sizing and warping of yarn to be exempt fully or partially from payment of tax with effect from the date specified in the order.

Notification VAT 1516/CR 62/Taxation-1 dated 29.04.2016

Government of Maharashtra hereby fully exempts the works contract activity for transfer of property in goods involved in the sizing and warping of yarn, subject to following condition;

- a. The goods shall be consumed and used in sizing and warping of yarn
- b. The Set off admissible to dealer,
 - i) The Reduction in set off to the extent of 2% of corresponding purchase price of such taxable goods, Consumables and packing Material used for sizing & warping of yarn
 - ii) As regards Capital Asset used exclusively for sizing and warping of yarn, full set off is allowed.

Section 16 Registration

Proviso 16(3) substituted (From the date to be notified)

The Authority may reject the application if;

- (i) the application is not complete, or
- (ii) the documents prescribed for grant of registration certificate have not been uploaded on the department's web site *i.e. www.mahavat.gov.in*, or
- (iii) such documents are not consistent with the information contained in the application or are not legible, or
- (iv) the prescribed conditions are not fulfilled,

the prescribed authority may pass the rejection **order without giving an opportunity of being heard and shall intimate the dealer.**

1. If the applicant complies with all the discrepancies intimated in the rejection order **within thirty days** from the date of intimation of rejection order and if such compliance is approved by the prescribed authority, then the application rejected earlier under the first proviso shall stand **restored**.
2. However, the applicant shall be eligible to comply with the discrepancies under this proviso only once.

2nd Proviso 16(6) substituted (w.e.f. 26th April 2016)

If the Commissioner has reason to believe that dealer has obtained registration by fraud or by misrepresentation of facts, the Commissioner may, after giving the person a reasonable opportunity of being heard, cancel the registration certificate with effect from such date as he may fix in accordance with the rules.

Rule 11 Cancellation of certificate of registration vide Notification no.VAT1516/CR 64/Taxation-1. 29.04.2016

Sub rule (4) clause (b) inserted,

“the date of effect shall be the date, as the Commissioner may deem fit after making such inquiry”

Section 20 Returns

Section 20(4)(a) amended w.e.f. 26th April 2016 - now Returns can be revised multiple times suo motu on or before the due date of filing the VAT Audit Report for the particular year (as prescribed u/r 66 read with sec 61 of MVAT Act).

Return for the year 2015-16 can be revised any number of time before the due date of filing MVAT Audit Report i.e. 15.1.2017.

Multiple revisions of returns permitted either suo motu or based on intimation received from VAT authorities.

Note:- Revision based on VAT audit report can be made only once.

Section 23 Assessment

Section 23(2A) Assessment by acceptance of Returns Filed (w.e.f. 26th April 2016)

Where all the returns for the period commencing on or after the **1st April 2012** are filed by a **registered dealer** for any year **within the period for filing revised return under clause (a) of sub-section (4) of section 20** and if the **taxes as per these returns has also been paid within the said period** and if the **Commissioner is satisfied** that the returns furnished by such dealer are **correct and complete**, he may assess the amount of tax due from such dealer on the basis of such returns

If no such order of assessment is made **within four years** from the end of the year to which such returns relate, then such returns shall be deemed to have been accepted.

e.g. For FY 2012-13 the due date is 31.03.2017 for assessment under this clause.

Section 23(5A) & (5b) Issue of intimation of tax liability & confirmation order instead of passing Assessment order (w.e.f. 26th April 2016)

During the course of assessment proceedings, the assessing officer after considering all the documents or evidences produced by dealer or documents available with department issue intimation in prescribed form, his observation about tax liability to dealer. Such intimation shall be communicated at least 6 months before the limitation period of completing the assessment.

If dealer accepts or agrees with all the observation and files the return / revised return as specified in section 20(4)(C), the assessing officer shall issue "Confirmation Order" and assessment proceedings shall be deemed to have been closed.

The above amendment is applicable to assessment proceedings pending as on 1.4.2016 also.

Section 28A Determination of tax liability based on Fair Market Price of Sales and Purchase Transactions.

This section is inserted **w.e.f. 26th April 2016, deemed to have effect from 1.4.2011.**

During the course of any proceedings under the Act, if the Commissioner is of the opinion that any transaction entered into by any dealer for sales price, which is below the prescribed fair market price for commodity for a prescribed class of dealers, so as to be liable, to pay tax less than the tax, which would have been otherwise become payable on such sales or purchases, then the Commissioner shall determine the tax liability as per the fair market price of such transaction while passing an order in the said proceedings.

By this section government wants to replace the sale consideration i.e actual sale price with fair market price for any sale / purchase transaction of the dealer and levy tax on higher value of goods. By this section Vide powers have been given to VAT authority by which they can increase the tax liability.

SECTION 31 VAT TDS on Works Contract Transactions.

Section 31(4) & (9) amended (w.e.f. 26th April 2016) - VAT TDS on Works Contract Transactions.

On or after 1.4.2016 if the contractee (Employer) deducts TDS under works contract, the credit can be claimed by Principal Contractor or Subcontractor of said works contract.

The Principal contractor can transfers credit of such VAT TDS to Subcontractor in manner prescribed.

The Principal Contractor can claim credit of VAT TDS in the period in which he receives TDS Certificate.

The Subcontractor can claim credit of VAT TDS in the period in which the credit is transferred or any subsequent period.

The Principal contractor or Subcontractor shall not be called to pay the taxes due to the extent of respective TDS claim.

Section 31(8) inserted(effective from Notified Date)

An Employer (Unregistered) liable to deduct VAT TDS shall apply to the commissioner in prescribed manner for obtaining VAT TDS No.

If the employer is already registered under MVAT act then he shall not required to apply again under this section.

Section 31(12) inserted (w.e.f. 26th April 2016).

If the employer fails to obtain for Sales Tax Deduction account no. then after giving a reasonable opportunity, the commissioner may impose penalty upto the VAT TDS amount deductible, for the period of such failure.

Section 31(10) and 31(11) inserted (w.e.f. 26th April 2016).

The Employer shall file VAT TDS return for the relevant period in prescribed form and manner by prescribed date.

This return can be revised within 9 months from the end of the relevant year.

Section 31(13) inserted (w.e.f. 26th April 2016).

If the employer fails to file the VAT TDS return within prescribed time then the authority concerned shall levy penalty upto Rs.5000/-.

Notification no.VAT1516/CR 64/Taxation-1. Dated 29.04.2016

1. **Period of payment of tax from 3 months from the end of the year to which return relate is reduced to 21 days from the end of the month in which VAT TDS is remitted.**
2. **The principal contractor who desires to transfer credit to subcontractor;**
 - a. File return electronically in form 424A
 - b. Shall issue certificate in form 402A to subcontractor
 - c. Shall maintain details of credit in form 404A for each year containing details of credit.
3. **Tax deduction certificate issued in form 411.**

Section 55 Advance Ruling under MVAT Act(Sec. substituted w.e.f. 1st May 2016)

Section 55 is substituted and Advance Ruling Authority is constituted in connection to that following amendment is made;

1. The applicant may make an application to the Commissioner for Advance Ruling on the questions prescribed.
2. The applicant desirous of obtaining Advance Ruling under this section may make an application to the Commissioner in prescribed form and manner, stating any question prescribed under sub-section (1) on which the Advance Ruling is sought.
3. The Commissioner shall constitute the Advance Ruling Authority, comprising three officials, not below the rank of Joint Commissioner by notification in the *Official Gazette*, for giving Advance Rulings. He may allot any of the questions or, as the case may be, all the questions prescribed under sub-section (1) to such Advance Ruling Authority.
4. The Commissioner may also allot any application or question in such application made **under section 56 (DDQ pending u/s. 56)** and pending on the date of effect of this amendment or, as the case may be, any class of applications, to such Advance Ruling Authority.
5. The Commissioner or, as the case may be, the Advance Ruling Authority shall, subject to rules, **make Advance Ruling, within ninety days** from the **date of acceptance of the application** by the Commissioner or, as the case may be, the Advance Ruling Authority.
6. The applicant may withdraw his application within thirty days from the date of submission of the application.
7. (a) No application shall be accepted where the question raised in the application,—
 - (i) is already pending before the Tribunal, Bombay High Court or, as the case may be, the Supreme Court in respect of the applicant, or
 - (ii) relates to a transaction or issue which is designed apparently for the avoidance of tax.
 - (b) The Commissioner or, as the case may be, the Advance Ruling Authority, may call for a report from the concerned officer, in the prescribed manner.
 - (c) The communication regarding the **acceptance of the application** shall be made to the applicant **within thirty days from the date of submission of the application.**
 - (d) No application shall be rejected under this sub-section unless an opportunity of being heard has been given to the applicant and where the application is rejected, reasons for such rejections shall be recorded in the order.
8. (a) **The Advance Ruling of the Commissioner shall be binding on all the officers, including the appellate authority or, as the case may be, on the Advance Ruling**

Authority in respect of the similarly situated persons.

(b) The Advance Ruling of the Advance Ruling Authority shall be binding on all the officers, including the appellate authority, other than the Commissioner, in respect of the similarly situated persons. BUT NOT TO COMMISSIONER

9. The Commissioner or, as the case may be, the Advance Ruling Authority, may direct that the ***Advance Ruling shall not affect the liability of the applicant or, if the circumstances so warrant of any other person similarly situated, as respects any sale or purchase effected prior to the Advance Ruling.***

10. The ***appeal*** against the Advance Ruling order shall lie to the ***Tribunal*** and shall be subject to the conditions prescribed.

11. Notwithstanding anything contained in this Act, no appeal shall be entertained under any circumstances whatsoever, ***after the date of expiry of period of thirty days from the date of communication of the Advance Ruling order to the applicant.***

12. The Advance Ruling order passed by the Advance Ruling Authority shall be subject to any directions or, as the case may be, instructions, issued under sub-section (10) of section 10 by the Commissioner and any order passed by the Commissioner under section 56, as it existed.

13. The Commissioner or, as the case may be, the Advance Ruling Authority may on his own motion, rectify any mistake apparent from the record and may rectify any order passed by it before the order so issued has been given effect to by the officer concerned. The applicant may also bring to the notice of the Commissioner or, as the case may be, Advance Ruling Authority, any such mistake ***within thirty days*** from the date of receipt of the said order :

Provided that, no such rectification shall be done unless the applicant has been given a reasonable opportunity of being heard :

Provided further that, an order under this sub-section shall be passed within a period of ***sixty days*** from the date of receipt of the Advance Ruling by the applicant.

14. (a) The Commissioner may, on his own motion call for the record of any Advance Ruling issued by the Advance Ruling Authority to examine as to whether the said ruling is erroneous in so far as it is prejudicial to the interests of revenue. The Commissioner may, by serving on the applicant a notice in the prescribed form pass such order as he thinks just and proper.

(b) The Commissioner may also, for reasons to be recorded in writing on his own motion, review the Advance Ruling passed by him under this section and pass such order as he thinks just and proper. However, before initiating any action under this clause, the Commissioner shall obtain ***prior permission of the State Government.*** Such

permission shall also be obtained when the Advance Ruling **order is proposed to be made contrary to the order passed by the Commissioner under section 56.**

(c)The Commissioner may direct that, the order of review shall not affect the liability of the person in whose case review is made in respect of any **sale or purchase effected prior to the review** and may likewise, if the circumstances so warrant, direct accordingly in respect of any other person similarly situated.

(d) **No order shall be passed,—**

(i) under clause (a), after the expiry of a period of **six months from the end of the year containing the date of Advance Ruling ;**

(ii) under clause (b), after the expiry of a period of **three months from the end of the month in which the State Government gives permission to initiate action under clause (b) :**

Provided that, no order under this sub-section shall be passed unless an **opportunity of being heard is given to the applicant.**

15. The regulations regarding the procedure to be followed shall be formulated by the Commissioner.”.

Section 10 Sales Tax Authorities

All the below officers are subordinates to Advance Ruling Authority.

State Government may appoint a Special Commissioner and] such number of Additional Commissioners of Sales Tax, and such number of,-

(a) Joint Commissioners.

(b) ²[*****]

(c) Deputy Commissioners,

(d) Assistant Commissioners,

(e) Sales Tax Officers, and

(f) other officers and persons, and give them such designations, as the Government deems necessary.

Section 26 Appeals

The order made by Advance Ruling authority is also made appealable.

Notification no.VAT1516/CR 64/Taxation-1.dated 29.04.2016

Rule 63 is substitute from 1.5.2016

- a. Application advance ruling to be made in form no. 703 (Form is notified)
- b. Person defined: Society, club or association or any firm or any branch or department of any firm is a dealer.

- c. The person or dealer is required to be registered.
- d. Questions defined:
 - (i) any particular thing done to any goods amounts to or results in the manufacture of goods, within the meaning of that term, or
 - (ii) any transaction is a sale or purchase, or where it is a sale or purchase, the sale price or the purchase price, as the case may be, thereof, or
 - (iii) in the case of any person or dealer liable to pay tax, any tax is payable by such person or dealer in respect of any particular sale or purchase, or if tax is payable, the rate there of, or
 - (iv) set-off can be claimed on any particular transaction of purchase and if it can be claimed, what are the conditions and restrictions subject to which such set-off can be claimed
- e. The fees paid under this rule is non refundable
- f. The concerned officer shall make report to AR authority in form no.703A.
- g. The acceptance of application in form no.703B
- h. The application for rectification of mistake can be done in form 703C by department and
- i. Form 703D by the applicant.
- j. The Adverse order notice to be given in form 703E.
- k. Above all the forms to be issued/ uploaded electronically.
- l. Fees applicable for Advance Ruling is Rs.2000/-.

Section 70 Collection of statistics

1. The commissioner has power u/s. 70 to direct specific statistics be collected relating to any matter from any person for better administration of MVAT Act.
2. Any person, who fails to furnish information as provided in this section within the prescribed period, shall be liable to pay by way of penalty a sum not exceeding rupees one lakh and in case of continuing default, for a period beyond two months, a further penalty of rupees one thousand for every day of such continuance.

THE MAHARASHTRA TAX ON THE ENTRY OF GOODS INTO LOCAL AREAS ACT, 2002.

Section 6A inserted (w.e.f. 26th April 2016).

The provisions of MVAT Act relating to electronic filing of returns, electronic payment of tax or any amount payable under this Act or electronic application, appeal or any other electronic documents shall apply to this act also.

THE MAHARASHTRA STATE TAX ON PROFESSIONS, TRADES, CALLINGS AND EMPLOYMENTS ACT, 1975.

Clause (h) inserted in section 27A w.e.f. 1.4.2016

The armed members of the Central Reserve Police Force to whom the Central Reserve Police Force Act, 1949 applies and the armed members of the Border Security Force, to whom the Border Security Force Act, 1968 applies and serving in the State have been exempted from the levy of Profession Tax.

Section 3(3) inserted from 1.4.2016 Amnesty Scheme for self employed persons(PTEC Holder)

New Applicants who for PTEC, applications pending as on 1.4.2016 and PTEC application filed from 1.4.2016 to 30.09.2016 can be asked to pay the tax for the period only after 1.4.2013 i.e. for 3years only, thus the liability for earlier period is waived (8 years) so the applicants can save 5 years tax, interest and penalty.

The person has to pay tax in full along with 1.25% interest for delayed period.

The person has to pay this sum between 1.4.2016 to 30.09.2016 also has to pay PT for F.Y.2016-17 by 30th June 2016.

If the benefit of this scheme is not taken then, liability to pay tax is since 2008-09 i.e. 8 years plus interest and penalty.

MVAT Rules Amendments

Amendments in Setoff Rules

A. No.VAT.1515/CR158/Taxation-1 dated 30.12.2015

If Aerated and carbonated non-alcoholic beverages (D-13) weather containing sugar or other sweetening matter or flavour or any other additives and Cigars and cigarettes (D-14) sold by dealer then he can claim set off u/r 52B as under;

1. If sold under interstate sales then set off is restricted up to taxes paid in Central Sales Tax Act 1956.

2. If sold under locals sales the full setoff of taxes paid on purchase of such goods.

The setoff can be claimed in the month in which corresponding sales has been effected.

B. VAT 1516/CR 53/Taxation-1 dated 01.04.2016

Rule 52 B amended from 1.4.2016

The category has been expanded from 1.4.2016, Rule 52B(1) (sub clause(ii) inserted)

Purchase of Mobile phones and Cellular Handsets

Issue: How to match J1 & J2?

C. VAT 1516/CR 53/Taxation-1 dated 01.04.2016

Rule 53 (11) inserted from 1.4.2016

If the dealer is engaged in **business of transferring right to use** (hire / rental) of "Passenger Motor Vehicle" then setoff will be granted on its purchase, only to the extent of tax payable on such transfer of right to use.

The set off shall be claimed in the period in which such right to use is transferred.

Issues:

1. Vehicle wise records of purchase and its hire is required to be maintained.
2. Unabsorbed set off and carried forward of set off no clarity yet.

D. Rule 54(b) amended from 1.4.2016

Dealer used to interpret that rule 54(b) is applicable only to VAT paid on purchases of such goods and not on Entry Tax paid on such goods, so the clause amended,

The word "Purchases" substituted by words "entry or purchases"

After the amendment the set off of Entry Tax paid or Vat paid on purchase of diesel, petrol, ATF, is denied.

MVAT Rates amendments

made vide VAT 1516/CR 31/Taxation-1 dated 30.03.2016 & VAT 1516/CR 61/Taxation-1 dated 20.04.2016

Refer Sheet Appended

MVAT Composition Scheme - Amendments Notification No. VAT 1516/CR 51/Taxation-1 dated 30.03.2016 (w.e.f. 1st April 2016)

For Restaurant, Hotels, Eating House, Refreshment Rooms, Clubs etc. Upto the gradation of 3 stars.

1. If registered dealer and turnover is **upto Rs.3 crore** in **previous year** then rate of tax applicable is **5%**.
2. If registered dealer and turnover is **exceeds Rs.3 crore** in **previous year** then rate of tax applicable is **8%**.
3. If **unregistered dealer** then rate of tax applicable **10%**.
4. For the purpose of computing the above referred turnover limits, the turnover of **sales of food and nonalcoholic drinks shall only be taken into consideration.**
5. The scheme of taxation of liquor, in case of a dealer, who also serves alcoholic drinks, remains same.
6. If dealer opts for in or out of the scheme then he has to make application to Joint Commissioner of the concerned Nodal Division or VAT Administration. The dealer may opt in or opt out **on or before 15th May 2016.**
7. If the dealer opt out of the scheme or ceases to be eligible for the composition scheme, may claim set off on the purchase of the goods which are held in the stock as on the date of opting out of the composition scheme and on which he has not claimed set off.
8. If dealer opt in for the scheme, will reverse the setoff claimed by him on the purchase of goods which are held as stock in trade on the date of opting for composition scheme.
9. If either of the above option selected then effect of set off is to be given in the first return filed after selecting option.

For Bakers

1. The condition for baker regarding turn over **will remain same as Rs.50 Lakh.**
2. Composition rate @ **4% for registered** dealer and **6% for URD** Dealers will continue.
3. As the bread (except pizza bread) is a tax free being covered by Sch. Entry no. A-7, **for calculating composition tax sale of bread to be excluded from gross turnover.**
4. Bread means Bread in Loaf/ Rolls/ Slices/ toasted or otherwise.

For Retailer

1. From 1.4.2016 the turnover limit for eligibility of the scheme is **extended from 50 Lakhs to 1 Crore.**
2. The dealer who has not opted but desires to opt for scheme the last date for applying for composition scheme in **form 4A is 30th April 2016.**

3. The dealer who has already opted for this scheme and whose turnover has exceeded Rs. 50 Lakhs but upto Rs.1 Crore in previous year need not apply once again.
4. Previously periodicity to file return for Retailers under composition scheme was six monthly now the condition (vi) of entry 3 of said notification is deleted, **now such dealer shall file returns as per the provision of the rule, applicable to other non composition dealer.**

MAH. Entry Tax Act Amendments made vide notification ENG1516/CR 56/Taxation-1 dated 01.04.2016

1. New Entry no.15(2) inserted w.e.f. 1.4.2016.
2. "Slab of Marble & Granite" brought under the Entry Tax net by inserting sub entry (2) in Sch. Entry 15.
3. Rate of Entry Tax be levied @ 12.5% from 1.4.2016.
4. The Entry Tax is eligible for set off under MVAT rules as per setoff provisions.

MAH Profession Tax amendments made vide Notification PFT 1216/CR 26/Taxation-03 dated 01.04.2016

Employer being educational institution receives grant in aids from State Government , then is exempt from payment of late fess provided

1. Shall file return on or before 30th June 2016,
2. Paid all the taxes before 31st March 2016,
3. Also paid Interest on or before 30th June 2016,
4. The employer makes application to authority concerned.
5. Submits proof that educational institution receives grants.

MVAT SETTLEMENT SCHEME

Settlement of arrears in dispute in various acts administered by Sales Tax Department and matters connected therewith and incidental thereto.

1. This Act may be called the Maharashtra Settlement of Arrears in Disputes Act, 2016.
2. It shall come into force from 26th April 2016.
3. **Criteria for Eligibility for Settlement Scheme:**
 - a. There should be arrears in dispute
 - b. The dispute related to statutory order
 - c. The order of any period ending on or before 31.03.2012
 - d. The appeal must have been filed against such order
 - e. For such appeal the stay must have been granted in part or full.
4. The settlement scheme will be in force from the date of publication in the official gazette i.e. from **26th April 2016 to 30th September 2016.**
5. **It covers the following Acts:**
 - a. the Central Sales Tax Act, 1956 ;
 - b. the Bombay Sales of Motor Spirit Taxation Act, 1958 ;
 - c. the Bombay Sales Tax Act, 1959 ;
 - d. the Maharashtra Purchase Tax on Sugarcane Act, 1962 ;
 - e. the Maharashtra State Tax on Professions, Trades, Callings and Employment Act, 1975 ;
 - f. the Maharashtra Sales Tax on the Transfer of the Right to use any Goods for any Purpose Act, 1985 ;
 - g. the Maharashtra Tax on Entry of Motor Vehicles into Local Areas Act, 1987 ;
 - h. the Maharashtra Tax on Luxuries Act, 1987 ;
 - i. the Maharashtra Sales Tax on the Transfer of Property in Goods involved in the Execution of Works Contract (Re-enacted) Act, 1989 ;
 - j. the Maharashtra Tax on Entry of Goods into Local Areas Act, 2002 ;
 - k. the Maharashtra Value Added Tax Act, 2002,
6. **Authorities to whom application can be made:**
 - a) The application along with relevant documents shall be submitted to the concerned Nodal Officer.
 - b) If Nodal officer is not allotted then,
 - (i) Nodal Joint Commissioner of Sales Tax in Mumbai and Pune.
 - (ii) Joint Commissioner of Sales Tax (VAT Adm)
 - (iii) Other cases administrative head of the respective location.
 - c) The applicant who wants to avail benefit of the scheme for Dues under Profession Tax Act should apply to concerned Profession Tax officer.

7. Some Important Definitions

➤ “appellate authority” means the authorities specified in section 8 of this Act **i.e First Appellate Authority, or Tribunal, or Court.**

➤ **“Arrears in Dispute”, includes;**

- i. tax, by whatever name called, under the relevant Act;
- ii. interest payable by an applicant under the relevant Act;
- iii. penalty imposed upon the applicant under the relevant Act, in respect of any statutory order pertaining to any period ending on or before the 31st March 2012, against which appeal is filed and stay in full or part has been granted by the appellate authority under the relevant Act or, as the case may be, by the Tribunal or Court, not later than 30th September 2016;

From above definition of “arrears in dispute” it is clear that where appeal is not filed and where appeal is filed but stay whether in part or full is not granted then benefit of these scheme would not be available.

➤ **“Stay in Full or Part”**

Permanent Stay granted by Appellate authority as defined above should be treated as “Stay in full”.

Ad interim stay or interim stay granted by Appellate authority as defined above should be treated as “Stay in Part”

Issue:

Where Ad interim stay or interim stay has been vacated or not extended then can that case still be hold good to fall under this scheme.

The commissioner has been requested and expected to issue Trade Circular taking liberal view that once the stay whether part or full has been granted and even when it is not extended or vacated, the case will be considered for Settlement Scheme.

➤ **“Statutory Order”**

means any order passed under the relevant Act, **raising tax, interest or penalty payable by the applicant.**

i.e. The assessment orders, reassessment orders, rectification orders, revision orders, review orders, order of the first appellate authority, tribunal, courts.

8. Condition for settlement

- (a) The applicant who desires to settle the arrears in dispute shall submit the application to the designated authority, **upto the 30th September 2016** in such form and in such manner, along with the **proof of payment** of requisite amount as per sub-section (1) or (2) of section 6 of this Act. **(as explained in point 9)**

- (b) **A separate application shall be made by an applicant for each statutory order,** under each of the relevant Act.
- (c) The applicant shall **produce the proof of withdrawal of appeal,** if any, as per section 5. Where the applicant desires to opt for benefit in some of the issues raised in appeal the he is allowed to withdraw the appeal in respect of such issues only and the appeal in respect of balance issues can be continued.
- (d) The applicant **shall pay the full amount of undisputed arrears** under the relevant Act in respect of the statutory order for which waiver is sought.
- (e) **Undisputed Arrears in relation to Interest covers:**
1. Interest U/s. 30(2) and 30(4) under MVAT Act and CST Act.

9. Determination of amount to be paid and extent of waiver.

Disputes pertains to assessment Period	Condition for Waiver	Extent of Waiver
<u>On or before 31.03.2005</u>	<p><u>a. Where whole appeal is withdrawn</u> The applicant should pay whole amount of tax in arrears after reducing part payment made at the time of appeal.</p> <p><u>b. Where some issues in appeal are withdrawn</u> The applicant should pay whole amount of tax in arrears for issues withdrawn from appeal after reducing proportion of part payment related to issues withdrawn.</p>	<p>i) Total amount of interest and penalty out of arrears in dispute pertaining to the issues withdrawn.</p> <p>ii) Total amount of post assessment penalty and interest accrued upto the date of payment of tax made as per the condition of waiver, and such penalty and interest on payment of tax considered under section 4 of this section pertaining to the issues withdrawn.</p>
<u>For assessment period after 1.4.2005 and ending on or before 31.03.2012</u>	<p><u>c. Where whole appeal is withdrawn</u> The applicant should pay whole amount of tax and 25% of interest out of arrears other than undisputed interest after reducing part payment made at the time of appeal.</p>	<p>i) Balance amount of interest and Whole amount of penalty out of arrears in dispute pertaining to the issues withdrawn.</p> <p>ii) Total amount of post assessment penalty and interest accrued upto the date</p>

	<p><u>d. Where some issues in appeal are withdrawn</u> The applicant should pay whole amount of tax and 25% of interest other than undisputed interest out of arrears for issues withdrawn from appeal after reducing proportion of part payment related to issues withdrawn.</p>	of payment of tax made as per the condition of waiver, and such penalty and interest on payment of tax considered under section 4 of this section pertaining to the issues withdrawn.
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10. Hierarchy to Adjust payment made

The part payment made in appeal before the appellate authority, under the relevant Act, Tribunal or Court, shall be considered for payment of the requisite amount under this Act, and it shall first be adjusted against the tax and thereafter towards the amount of interest and the balance amount remaining unadjusted shall then be adjusted towards the penalty.

11. The Payment shall be made in form MTR 6 Challan.

12. Disposal of Application

- (a) If the application is incomplete or incorrect the designated authority may serve notice in **form no. II** on the applicant pointing out the said defect including defect of short payment.
- (b) Within 15 days from receipt of such notice the applicant should make the good defects in the application including short payment if any.
- (c) If applicant fails to correct or complete the defects suggested in notice then designated authority after giving opportunity of being heard pass an order in **form no.III** of rejection of application.
- (d) If application is complete and correct in every respect the designated authority shall pass a separate order in **form no. IV** for each application for settlement of arrears in dispute, the order of such settlement is non-appealable.
- (e) The designated authority on its own or on application of applicant within 30 days from the service of settlement order may rectify the error apparent on the record by passing an order. If such order adversely affects the applicant then before passing such order opportunity of being heard will be given to applicant.

13. Appeals

- (a) Where the rejection order is passed u/s. 7(1) on the grounds that the applicant fails to correct the defects or make the payment and If the applicant is aggrieved

- by the order of designated authority may file appeal u/s. 8 of Settlement Act.
- (b) Such appeal is to be made to:
 - i. Deputy commissioner, if order is passed by the authority subordinate to him
 - ii. The Additional Commissioner, if order is passed by the Deputy commissioner or Joint commissioner.
 - (c) The time limit to file appeal is 60 days from the receipt of such rejection order.
 - (d) Appeal shall not be filed for order passed u/s. 7(2).

14. Refund:

Under no circumstances, the applicant shall be entitled to refund of any amount of arrears in disputes paid **prior to the date of commencement of this Act and the amount paid under this Act.**

15. Revocation of Settlement order

- (a) Power of revocation of order is given in section 10 of the Settlement Act;
- (b) The order passed u/s. 7(2) can be revoked by designated authority;
- (c) If the applicant has obtained the benefit of settlement, by suppressing any material information or particulars or by furnishing any incorrect or false information or, if any suppression of material facts, concealment of any particulars is found in the proceedings related to search and seizure under the relevant Act;
- (d) The designated authority should record the reason in writing before revoking the order.
- (e) The applicant will be given reasonable opportunity of being heard before passing such revocation order.

16. Review of Settlement order

- (a) Power of review of order is given in section 11 of the Settlement Act;
- (a) The commissioner can review the order passed by the designated authority.
- (b) The review will be done within 12 months from the date of service of settlement order.
- (c) The Commissioner calls for records of such order and if such order is prejudicial to the interest of revenue may serve dealer notice and pass such order in **form no.VIII** to the best of his judgment.
- (d) Before passing such order reasonable opportunity of hearing will be given to the applicant.

17. Power of Commissioner to issue instruction and direction

- (a) The commissioner is empowered to issue instruction and direction as per Sec. 12 of this Settlement Act.
- (b) As per Sec. 12(2) The commissioner may specify forms for the purpose of this Act. **Form-I** is specified as per Trade Circular 10T of 2016 dated 03.5.2016.

The State Government may, by notification in the *Official Gazette* make rules to carry out the purposes of this Act.

TRADE CIRCULARS ISSUED FROM 7.5.2015 TO 6.5.2016

Trade Circular 7T of 2015 Dated 19.05.2015

Vide circular 5T of 2015 dated 6.5.2015 the procedure for Registration under MVAT and CST act has been changed. In this connection certain queries and suggestion received from trade to modify procedures and instruction contained in this circular. In that circular method of payment of and security deposit has been changed. Now facility has been made available for payment of fees and deposit online as explained in annexure "D" in this circular.

Trade Circular 8T of 2015 Dated 16.06.2015

Vide this circular the officers are instructed not to refuse any correspondence form trade, especially application for cancellation of orders U/s.23(11).

Trade Circular 9T of 2015 Dated 01.07.2015

Vide this circular the procedure of payment facility for The Maharashtra Tax on Entry of Goods into Local Areas Act,2002 has been explained.

Trade Circular 10T of 2015 Dated 07.07.2015

Vide this circular the procedure in registration as per circular 7T has been clarified further that;

- a. Word *Fees and Deposit is received* is now replaced with word ***Fees and Deposit, whichever is applicable is received,***
- b. Word *Will approve the application and TIN will be generated,* is now replaced with ***Registration authority will grant the registration TIN within a day of allocation of application.***

Trade Circular 11T of 2015 Dated 13.07.2015

According to judgment of Hon. Bombay High Court in case of Tata Sons Ltd. it is now settled that VAT can be levied on transfer of right to use goods of intangible nature, even if it is transferred to multiple users.

Trade Circular 12T of 2015 Dated 14.08.2015

The Computerised Desk Audit (CDA) for period 2012-13 has been explained.

Trade Circular 13T of 2015 Dated 14.08.2015

The Online registration process has been clarified further.

Trade Circular 14T of 2015 Dated 30.09.2015

Issue of Refund through National Electronic Fund Transfer (NEFT).

Trade Circular 15T of 2015 Dated 20.10.2015

Vide this circular; Dealers are required to discontinue the practice to issue Tax Invoice, Cash Memo on Thermal Paper because the image on such papers will not last longer.

Trade Circular 16T of 2015 Dated 04.11.2015

Rates of taxes on certain commodities is increased.

Trade Circular 17T of 2015 Dated 07.11.2015

Physical Submission of statement of submission and acknowledgement of Audit Report in Form 704 for the financial year 2014-2015 has been explained.

Trade Circular 19T of 2015 Dated 21.12.2015

The facility has been made available to download digitally signed (TIN) registration certificate from website.

Trade Circular 20T of 2015 Dated 31.12.2015

Restructuring of VAT Department is explained in this circular, now the cases have been allotted on pin code basis.

Trade Circular 18T of 2015 Dated 20.11.2015

Vide this circular Revision in the rates of interest u/s. 30(1), 30(2), 30(3) has been explained.

Sr.No.	Period Liable for Interest	Rate of Interest
1	Up to One Month	1.25% for the month or part of the month.
2	Up to Three Month	<u>For First Month</u> 1.25% for the month or part of the month <u>For next two month</u> 1.50% for the month or part of the month
3	More than three month	<u>For First Month</u> 1.25% for the month or part of the month <u>For next two month</u> 1.50% for the month or part of the month <u>For Delay beyond Three month</u> 2% for the month or part of the month

Trade Circular 1T of 2016 Dated 01.01.2016

For dealers registered under Maharashtra Tax on Luxuries Act 1987, Procedures for enrollment for e-services and filing e-return has been explained in this circular.

Trade Circular 2T of 2016 Dated 21.01.2016

The application for obtaining registration under The Maharashtra Tax on Luxuries Act, 1987 and The Maharashtra Tax on Entry of Goods into Local Areas Act, 2002 have to be submitted manually before authority along with documents specified in Annexure "A" attached to this circular.

Trade Circular 3T of 2016 Dated 28.01.2016

Online submission of VAT Audit report has been extended to 21.01.2016 and submission of physical copies extended upto 01.02.2016.

Trade Circular 4T of 2016 Dated 05.02.2016

Modification in documents to be submitted at the time of online registration has been explained in this circular.

Trade Circular 5T of 2016 Dated 06.02.2016

Guideline to grant refunds claimed in Form e-501 and assessment thereof in priority.

Sr.No.	Condition	E-501 application filed on	Latest by which refund to be issued.
1	Dealer is eligible to file audit report	Refund application filed before due date of filing audit report	Within 45 days from due date of filing audit report.
2	Dealer is not eligible to file audit report	Refund application filed before due date of filing audit report	Within 45 days from due date of filing audit report.
3	Dealer is eligible to file audit report	Refund application filed after due date of filing audit report	<i>Within 45 days from filing refund application.</i>

Trade Circular 6T of 2016 Dated 23.02.2016

Where dealer has made double payment of taxes then dealer shall make application in annexure "A" after the due date for filing the return for period for which taxes paid twice. Such application will be treated as miscellaneous refund application and will be taken up for disposal on priority.

Trade Circular 7T of 2016 Dated 25.02.2016

Automation process and changes in process is explained.

Trade Circular 8T of 2016 Dated 12.04.2016

Vide this circular old circulars 33T of 2007 and 37T of 2008 has been withdrawn and competent authority will decide the cases of administrative relief of liquor dealer and administrative relief order already passed in these case may be given effect.

Notifications ISSUED FROM 7.5.2015 TO 6.5.216

No.VAT.1515/CR54/Taxation-1 dated 20.05.2015

- Rule 58 has been amended as instead of words “service charges” words, “Service Tax collected separately and service charges “shall be substituted.
- Order passed under section 23(5) can also be cancelled by applying in form 316.

No.VAT.1515/CR11/Taxation-1 dated 29.05.2015

Word Russian Federation has been added.

No.VAT.1515/CR74/Taxation-1 dated 12.08.2015

Cancer Drugs has been specified

No.VAT.1515/CR100/Taxation-1 dated 18.09.2015

W.e.f. 1ST October 2015 Refund due to registered dealer shall be credited by way of National Electronic Fund Transfer (NEFT).

No.VAT.1515/CR128A & 128B/Taxation-1 dated 30.09.2015

Rates of taxes has been increased of certain commodities in schedule B & D.

No.VAT.1515/CR118/Taxation-1 dated 26.10.2015

Class of sales in respect to (RLNG) and conditions has been specified.

VAT 1515/CR102/Taxation-1 dated 15.01.2016

Incase of Royal Nowergian Consulate and Republic of Turkey, refund admissible on purchase of certain commodities on official and personal purchases.

VAT 1516/CR22/Taxation-1 dated 12.02.2016

Bank guarantee can be accepted from certain private banks also as per power conferred in rule 61.

VAT 1516/CR 39(A)/Taxation-1 dated 29.02.2016

Tax Rates specified for High speed oil delivered in Municipal Corporation of Mumbai, Thane , Navi Mumbai and now Nagpur Municipality added till 29.02.2017.

VAT 1516/ADM-2016/1B/ADM-8 dated 24.02.2016

Form 423, 424, and Form 231-235 is notified.

Notification no.VAT1516/CR 64/Taxation-1. Dated 29.04.2016

Rule 40A

Return to be file for TCS in Form 423 within 21 days from the end of the month in which the amount of sales tax so collected.

Notification No.VAT/ADM-2016/1B/ADM.8 dated 28.04.2016

New form 101, 103 and 105 is notified.

THANK YOU

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Changes in the rate of tax of various items:

Maharashtra Government has issued Notification No. VAT.1516/CR-31 Taxation-1 dated 30th March, 2016 and changed the rate of Tax of many items.

These amendments are effective from 1st April'2016. The summary of the same is as follows -

I) Tax Free Commodities with sun set clause expiring on 31st March 2016 extended upto 31.03.2017

Beneficial Notification in respect of Sales of Tea, paddy, cereals, pulses, rice, wheat and their flour, turmeric, chilly, tamrind, jaggery, coconut, coriander, fenugreek, parshley (suva), papad, wet dates, solapuri chadar, currents and raisins.

II)	NO CHANGE IN RATE OF TAX (Declared Goods)		
1	Cotton Yarn but not including cotton yarn waste	C - 4(a)	2.00%
2	Aviation Turbine Fuel	C - 8	5.00%
3	Bamboos and Bamboo Products, excluding those to which entry 27B of Schedule'A' applies	C - 10	5.50%
4	Cereals and Pulses	C - 20	5.00%
5	Coal including coke in all forms but excluding charcoal	C - 22	5.00%
6	Cotton	C - 25(a)	2.00%
7	Crude Oil	C - 27	5.00%
8	Hides and Skins	C - 45	5.00%
9	Iron and Steel ***	C - 55	5.00%
	(i) pig iron, sponge iron and cast iron including ingots, moulds, bottom plates, iron scrap, cast iron scrap, runner scrap and iron skull scrap;		
	(ii) steel semis (ingots, slabs, blooms and billets of all qualities, shapes and sizes);		
	(iii) skelp bars, tin bars, sheet bars, hoe bars and sleeper bars;		
	(iv) steel bars (rounds, rods, square flats, octagons and hexagons, plain and ribbed or twisted in coil form as well as straight lengths)		
	(v) steel structurals (angles, joints, channels, tees, sheet piling sections, Z sections or any other rolled sections);		
	(vi) sheets, hoops, strips and skelp, both black and galvanised, hot and cold rolled, plain and corrugated, in all qualities in straight lengths and in coil form as rolled and in re-rolled conditions;		
	(vii) plates both plain and chequered in all qualities;		
	(viii) discs, rings, forgings and steel castings;		
	(ix) tool, alloy and special steels of any of the above categories;		
	(xvi) defectives, rejects, cuttings or end pieces of any of the above categories		
10	Jute	C - 57	5.00%
11	Kerosene oil sold through the PDS	C - 58 (a)	3.00%
12	LPG for domestic use	C - 58 (b)	3.00%
13	Oil Seeds	C - 68	5.00%
14	Fabrics and Sugar as defined from time to time in Section 14 of the CST Act. 1956	C - 101(a)	5.00%

*** Tool, alloy Special steel and any of the categories, specified in clause(X) to (XV) of entry C-55, shall be covered by C-55B be taxed @ 5.5% from 1.4.2016

(x) steel melting scrap in all forms including steel skull turning and boring;

(xi) steel tubes, both welded and seamless, of all diameters and lengths, including tube fittings;

(xii) tin plate, both hot dipped and electrolytic and tin free plates;

(xiii) fish plate bars, bearing plate bars, crossing sleeper bars, fish plates, bearing plates, crossing sleepers and pressed steel sleepers, rails heavy and light crane rails;

(xiv) wheels tyres, axles and wheel sets;

(xv) wire rods and wires-rolled, drawn, galvanised, aluminized, tinned or coated such as by copper;

(xvi) defectives, rejects, cuttings or end pieces of any of the above categories

III) REDUCTION IN RATE OF TAX		Goods covered by Sch Entry	NEW	EXISTING	
SR. NO.	DESCRIPTION OF GOODS		RATE	RATE	
1	Mamography machines, used for the diagnosis of Breast Cancer	A-12A (2)	NIL	NIL	
2	Hybrid electric buses and battery operated buses sold to public transport undertaking in the State, for public transportation	A-13A	NIL	12.50%	
3	Handicrafts made of bamboo, excluding bamboo furniture	A - 27 B	NIL	NIL	
4	Towles (VAT 1516/CR 61/ Taxation-1.)	A-51 (VII)	NIL	NIL	from 01.04.2016 to
5	Retrofit Kits used to modify the vehicles of the Handicapped person sold by the dealers, authorised by the testing agencies prescribed in the Central Motor Vehicle Rule, 1989	A - 59 A	NIL	NIL	
6	Barbed wire, wire mesh and chain link	C - 3A	5.50%	12.50%	
7	Cotton Seed (Gossypium Spp.)	C - 25c	2.00%	5.00%	
8	Sterlite water for injection	C - 29A (e)	5.50%	12.50%	
9	Pyrolysis oil made from Plastic scrap and organic waste	C - 79A	5.50%	12.50%	
10	Re-possessed Motor Vehicles, sold by Bank and financial institutions, provided sales tax of entry tax has been paid on such vehicles at the earlier stage.	C - 82B	5.50%	12.50%	
11	Pencil box, gum, glue sticks, stapler pins, tape dispensers, Dusters, Files	C -104(c)	5.50%	12.50%	
12	Processed, semi processed, semi cooked, ready mix, ready to eat, shelled sweet corn whether or sold in Frozen state or in a sealed container or under the Brand name except when served for consumption	C- 107(11) (g)	5.50%	12.50%	When served for consumption, taxed @ 12.5%
13	LED Tube lights	C - 111	5.50%	12.50%	
IV) INCREASE IN RATE OF TAX					
1	Coconut oil, measuring 500 ml or equivalence in weight or less sold in any form of packagings	C - 30(b)	12.50%	5.00%	Newly inserted and excluded from Sch. Entry C - 29
2	Hair Oil	E-1	12.50%	5.00%	Newly inserted and excluded from Sch. Entry C - 29

In respect of Goods covered by Schedule C and which are attracting tax @ 5% are now liable to tax @ 5.50% effective from 01/04/2016, subject to different rate of tax in respect of various commodities mention below.