

VAT ISSUES

1) **Return Branch:**

If the dealer has mistakenly punched wrong period while making VAT or CST payment then the dealer as per circular 17T files a letter along with tax paid chalan to the return branch intimating the mistake and to rectify the same in the departments records.

But, there is a delay in updating from return branch officer. There are lots of applications still pending before return branch officer.

Due to not taking action from the return branch:

- (i) An application for declaration forms is getting rejected by repository cell.
- (ii) Claim of payment is getting rejected in assessment, resulting in demand along with interest and penalty.
- (iii) The case is getting transferred in recovery branch for recovery of dues, which are actually already paid.

2) **Repository Branch:**

- When there is no CST turnover for the period, the dealer is not required to file the CST returns. In such cases also the repository branch issues defect memo stating CST return not filed for the period and the dealer is unable to get applied declaration forms. The system should trace the CST NIL turnover from the VAT returns. There should be mechanism to locate such type of transaction.
- In case where the dealer purchases goods against Form H, he has to issue Form H to the supplier. While making an online application for form H, he has to submit the details of export. If the applicant has effected export in two to three lots, he is facing problems as the system is not accepting details of multiple exports sales against a single purchase. Sufficient space is not provided in the application form to incorporate for such multiple export details.
- The system does not pick up revised figures via Annual Return filed after VAT audit. There should be mechanism to pick the said figures and finalise details which will avoid issuance of defect memo.
- New 'Telangana' State is not incorporated in the system, so the dealers are not able to issue declaration forms to the dealers in Telangana State.

- Many of the applications are rejected due to non payment of tax in a particular period. In many cases, actually tax is paid, but it might have been paid mentioning wrong period or might have been paid under wrong Act. Even after making an application to the return branch, it is taking too long time to correct the error. In such cases, the repository branch should issue the declaration forms, if an application has already submitted to the return branch for correction of mistake.
- Upto 30th April, 2011, credit of an advance payment of Rs. 25000/- made at the time of registration under VRS scheme was allowed to be adjusted against the tax payable as per returns for the first and second year. In most of the cases, credit of such VRS payment is taken in the returns and copy of chalan is available with the dealers. However, mahavikas system has not given the credit of this payment and an amount of 25,000 is appearing as outstanding. Most of the officers in return branch do not issue notice as they are aware of this problem. However, applications for declaration forms are held up. It is requested that applications should not be kept on hold for such VRS payments of Rs. 25,000.
- After uploading the application for declaration forms, sometimes we get the defect memo and asked to cure the defect within 15 days. After the defect is cured and intimated, we receive the declaration forms. But, many times it happens that even after the defect is cured the application is rejected, if the correction of defect is not communicated by the dealer to the Repository Branch. Therefore, it is requested that before rejecting the application on 15th day, the concerned officer should check in the system whether defect is cured or not. This will reduce the quantum of rejections.
- **Cancellation of declaration forms:** The applications for cancellation of declaration forms are accepted only once in week (i.e. only on Friday). In the past, the applications for declaration forms were not online. Therefore, to maintain discipline and to avoid pressure of work, the applications for cancellation were accepted only on Friday. Now, the applications are compulsorily online. Therefore, there is no physical rush in the repository branch. In view of this, it is requested to allow us to submit the applications for cancellation for declarations to be accepted on all the days. Further, repository

branch is taking 45 days to cancel the declaration forms from the system. The time of 45 days may be curtailed.

3) **Administrative Relief:**

In case of takeover, amalgamation and merger and demerger of the companies, the new company which take over the existing company or demerged company is required to apply for new TIN. Maharashtra VAT Act considers date of order of High Court as the date of effect of new registration certificate. However, it takes a long time to get copy of the order from the High Court after it is being passed. Therefore, in most of the cases, an application for vat registration is getting delayed. Particularly, the demerged company has to apply for new Certificate of Incorporation from the Registrar of Companies after obtaining order from the High Court. After getting copy of new Certificate of Incorporation, it can apply for Income Tax PAN and, thereafter for new VAT TIN.

Therefore, there is a need to give administrative relief in all such cases for delay in application for new VAT TIN.

Further, VAT Act is also required to be amended to avoid delay in application for registration. In case of amalgamation or merger, date of submission of High Court order to the Registrar of Companies may be treated as the date of effect of TIN. In case of demerger, date of receipt of new Certificate of Incorporation may be treated as the date of effect of TIN.

- In the case of builders and developers, the orders of condonation of delay may please be expedited.

4) **Periodicity covered in declaration forms:**

- As per the provisions of the CST Act, declaration in Form C or H is to be issued on a quarterly basis and declaration in Form F is required to be issued on a monthly basis. However, considering the genuine difficulties faced by dealers, Trade Circular No. 70T of 2007 is issued on 6th December, 2007. If a declaration covers the transaction of purchase or sales of a subsequent quarter or month, then the same is allowable, provided the customer has received the goods in subsequent month or quarter. However, such type of relaxation is not given by

the Commissioners of other States. So, as a Commissioner of Maharashtra, if your good self take a lead and Commissioners of other States also issue such type of Circulars, then it will give relief to the dealers of Maharashtra State.

- Recently, Calcutta High Court in case of CIPLA LTD has allowed the interstate transactions done through single yearly F form. Even, Gujarat Sales Tax Tribunal has also allowed one single C form declaration as valid. Considering this, single declaration form for two or more quarters/ months should be allowed to the dealers as per the decisions given by the Calcutta High Court and Gujarat Sales Tax Tribunal.

5) **Corrections in Return Forms:** In the VAT return, there is a column to carry forward excess tax or set off to succeeding periods within the same financial year. However, there is no column to adjust the refund of subsequent period to the preceding period within the same financial year. It sometimes happens that tax is paid in excess in the last month or the last quarter and there is a payment in the earlier periods return then backward adjustment of the such excess tax paid column is not available in return form. Therefore, the form of return needs to be modified and one column be provided for carry backward of excess payment.

As per the provisions of the VAT Act, while making payment towards works contract transaction, VAT TDS is required to be deducted and supplier gets credit of the TDS while making his payment of tax. Many times, customers deduct VAT TDS even though sales transaction is not works contract transaction. But the supplier is not able to get the credit of this VAT TDS, because there is no column in return Form No. 231 to get the credit of this VAT TDS. It is, therefore, requested to provide one column to get the credit of VAT TDS.

6) **Claim of Set off:**

- In many cases the Assessing Officers are not ready to allow input credit to the customer, if the supplier has not submitted vat audit report in Form 704 or not paid the sales tax, even he has uploaded the VAT returns and ledger

confirmation are available with the claimant dealer. In this situation the customer should not be penalized and the set off should be granted.

- In many cases the customer's claim of set off is not granted because his supplier has opted for retail composition scheme. It is found that the supplier has collected tax and issued tax invoice wrongly. In all such cases, the department should catch those retailers and forfeit the tax and grant refund to the claimant dealers. Further, the department should mention on web page of every dealer whether he is covered under any composition or not.
- Right now the details filled up in Annexure J1/J2 are not allowed to be revised. The same should be allowed to be revised at least once. Even VAT & CST periodical returns are also allowed to be revised once. Send Annexure J1/J2 mismatch to all dealers, by email for financial years 2011-12 & 2012-13 and allow revised J1/J2 at least once, so that number of mismatch and number of assessment will come down.

7) **Annexure J1/J2 New Templates:**

With effect from 01.04.2014 all the dealers are required to submit supplier wise purchase in Annexure J-2 and customerwise sales in Annexure J-1 along with submission of periodical returns. Here, we give some suggestions.

- Submission of Annexure J-1 and J-2 should be made on quarterly basis for all dealers. This is because, for the dealers who are liable to file return on monthly basis, it is adding lots of burden to gather the data every month and upload the same in the short stipulated time. Chances of errors are very high. If we analyze the periodicity of filing of returns of all Maharashtra dealers, you will find that at least 80% dealers are filing returns on six monthly basis. Therefore, submissions of Annexure by monthly dealers have no use until six monthly dealers submit their Annexure. Matching/ mismatching/ cross checking of the data will not be started till those 80% dealers submit their Annexure. At present, the J-1/J-2 data on website will not be available till the due date of filing of six monthly returns is over. If all the dealers (including dealers who are liable to file returns on monthly basis) submit the Annexure on quarterly basis, then it will be easy to match the data.

- Further, all the dealers should be asked to submit their VAT & CST returns on quarterly basis, irrespective of tax liability. This will ease in comparing the figures of interstate purchase figures with the corresponding figures in C forms application. Further, if small dealers will also be able to apply for declaration forms on quarterly basis. Right now, they have to wait till they file their six monthly returns. However, the payment of tax for dealers who are paying of more than Rs. 10 lacs should continue to be kept on monthly basis.
- 8) **Recent Budget Amendment:** In the budget speech, the Finance Minister announced new 1% / 1.5% retail composition scheme. However, Notification to that effect is not yet issued. The Scheme should be made operative quickly as the due date for filing six monthly returns is approaching. Further, the existing dealers should be given option to withdraw from the scheme and any new dealer who is not under composition scheme should be given chance to join the scheme.
- 9) **Appeals:** At present lots of appeals are piling with the Appellate Deputy Commissioners and Joint Commissioners They are not able to take up the final hearing of appeals due to number of new appeals continuously being filed. Even, stay hearing matters are also getting delayed. There is a need to increase the number of posts of Appellate Deputy Commissioners and Joint Commissioners. Further the vacant posts should be filled up immediately.
- 10) **Assessments:**
- In the last one and half year, assessments have been taken up and are completed very quickly. The assessments for the year 2005-06 and 2008-09 were completed during the period January, 2013 to June, 2013. Assessments for the year 2006-07 and 2009-10 were completed during the period July, 2013 to March, 2014. Assessments for the year 2010-11 were completed during the period April, 2014 to July, 2014. Now, the assessments for the year 2007-08 and 2011-12 are planned to be completed on or before 31st December, 2014 and the

assessments for the year 2012-13 are planned to be completed on or before 31st March, 2015.

Our humble request is not to complete the assessment so quickly. In a zeal to finish the backlog, more than 50% assessments are been passed ex-parte. We are getting frightened with the fantastic figures in the ex-parte orders. We are finding it difficult to compile and submit the details for the old periods. There will be difficulty in completing the assessments for 2007-08, 2011-12 and 2012-13 in next 7 months. It is difficult to gather the declaration forms from customers. It is also difficult to compile the data, as we have to carry out Income Tax audit, Companies Act audit and VAT audit during this period. The tax audit report under Income Tax audit is completely redrafted and Income Tax Department is not yet able to provide new version for uploading and submission. At the same time the Indian Companies Act, 1956 is completely replaced by new Companies Act, 2013. It is still under the process of modifications and corrections. Under this situation it is requested not to go so quickly to complete assessments of 3 years in next seven months. If we, our accountants, our consultants and your officers will get some spare time, then we have lots of pending appeals and rectifications applications for the past years. The carrying out of pending appeals and rectification applications will also lead to completion of backlogs.

- Recently, the department has issued Computerized Desk Audit (CDA) notices for the financial year 2011-12. In the said notices we have been asked to pay the tax, revise the return and submit both online on or before 05th September, 2014 to avoid formal notice and penalty. We welcome the initiative taken by your good self. This will save the time of everybody. However, the due date 05th September, 2014 needs to be extended for 2 reasons:
 - (i) Recently the State Government has issued one Notification and has asked all defaulters to pay, interest, concessional penalty at Rs. 1000 and file return on or before 30th September, 2014. Therefore, the Department should wait till 30th September, 2014 for defaulters to pay tax and file returns. The compliance by defaulters will reduce the burden on those dealers who have got CDA notices.
 - (ii) Lots of notices are issued for mismatch of figures in supplier's Annexure J-1 and customer's Annexure J-2. It requires sufficient time for customer who has got CDA notice to approach different suppliers, get the supplementary J-1

uploaded from them and thereafter to take the decision to pay the tax or not, if any supplier do not/ could not upload supplementary J-1.

We therefore, request to keep the link open even after 05th September, 2014 for submission of returns and tax paid challans.

- In the last one and half year, we have found that supplementary J-1 and J-2 if uploaded are not automatically taken into consideration by the system as well as by the Departmental Authorities. Matching of data in Annexure J-1 and J-2 and issue of notices for mismatch of data is carried out without considering the supplementary J-1 and J-2 uploaded. If such supplementary J-1 and J-2 are considered then lots of unnecessary notices can be avoided.
- In last one and a half year and also in recent CDA notices, it is found that the Dealers as customers are being asked to withdraw the set off and pay tax on purchases made from the suppliers whose VAT Tin is cancelled. In many cases it is found by the customer dealer that such suppliers who have got their VAT Tin cancelled continue to carry on business and issue tax invoice at the same place as usual and continue collect tax illegally even after cancellation of VAT Tin. Even though set off is denied to customer, no action is taken against the supplier for such illegal collection of tax. Hence, it is requested that separate assessment notice should be issued on such suppliers, assess him with books of accounts and such illegal collection of tax should be forfeited. The tax collected from these suppliers shall be then distributed to the customers who had earlier withdrawn the set off and had already paid tax along with interest. Under old B.S.T Act, there was a system to assess the dealer compulsorily for last year of business. Under VAT Law, even though, it is not expected that every dealer should be assessed for the last year, but at least from the J-1 and J-2 data base, those dealers must be assessed who are found to have continued the business and collected tax even after cancellation of registration certificate.
- Now a days in the assessment, if the confirmations from top suppliers covering more than 50% input credit are produced, then full input credit is allowed without asking for confirmations from balance suppliers. Similarly, it is suggested that if during assessment if majority of the declaration forms are produced, then the credit for smaller amounts may be given even if the declaration forms are not submitted for such smaller amount.

- In the financial year 2007-08, the applicable local tax rates were 4% and 12.5%. Rate of CST against declaration in Form C was 3%. Where the declaration forms are not received for which local rate of tax was 4%, the differential CST liability will be only 1%. Hence, it is suggested that for the year 2007-08, notices in such cases may not be issued if substantial amount of revenue is not expected to be generated.
- In havala cases, the assessing officers are not providing the details of statements and other relevant details the basis on which assessment is sought to be done. They are also not providing these details when demanded at the time of assessment. They are also not writing in the assessment order that the detail requested by the dealer is not provided. At least, on demand from the dealer, details must be provided.

11) **Other Administrative Issues:**

- There is a need to establish a single window / Table system where all the inwards of the building should be accepted and thereafter be distributed to the respective officer. In the past, there was a single window in the backside of the Mazgaon sales tax office in the ground floor, where all the BST and CST returns not involving any cash and cheque were accepted and thereafter, those returns were to be handed over to the respective officer. Recently, Income Tax Department in Bandra Income Tax Office has started the system of accepting all the correspondences of the building at the ground floor.
- Still, there are problems of server of mahavat not working, causing problems to the dealers as well as to the departmental officers. The capacity of the server needs to be increased.
- **Registration Branch:** Considering the volume of work, the number of officers and other staff as well as the space allotted to the registration needs to be increased. Anytime, you visit the registration branch, you will find it crowded with visitors right from early morning till late evening. Anytime you visit the registration branch, you will find the officers and staff extremely busy, no time even to smile.
- In the near future the Department is going to make available return wise input credit details to each dealer. Similarly, the details of payments made, VAT TDS credit and arrears outstanding may please be made available to respective

dealers. It will substantially reduce the discrepancies and issues between the dealer and the Department.

- In the case of Form F an interstate movement of goods for job work may please be deleted.

12) **Border Check Post:**

- When GST is round the corner and fresh set of procedures, documents and Border Check Post protocols are about to be introduced, there shall be no hurry to introduce Border Check Post, appoint people and spend for infrastructure. This will unnecessarily add to the costs and delays.
- Unlike periodic uploading of returns, the E-way bill under new system is required to be prepared and uploaded online. To avoid the delay of dispatch of goods, the Department's server must be available at all the times without interruption.
- There is chance of mismatch between Form 901/902 (Consignor/Consignee) and Form 903 (Transporter). Due to small mismatch between the two documents generated separately the vehicle must not be stopped. Particularly, delays due to small errors at check post should not result in delay of export of goods and result in cancellation of orders.
- In case of small consignments carried by hand delivery where the consigner/consignee themselves are transporters or by car or by railways. Exemption from uploading and submission of form may be granted upto a certain value.
- Many times the transporters club the multiple consignments of multiple destinations. One defective document should hold the entire vehicle, resulting in costs and delays to other innocents.
- The driver is expected to represent the transporter and consignee. The officer of the Department has all the powers to verify the consignment physically which may result in corruption, delay and long queues. In order to prevent the misuse of powers of the officer, guidelines/parameters/directions may be issued for physical verification of consignment.
- Help desk must be provided at every check post to help and guide the transporters and carriers. The help desk shall be equipped with competent person, computers and internet facility.