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### MAHARASHTRA VALUE ADDED TAX (MVAT)

#### A. Maharashtra VAT Budget 2017-18

The Maharashtra VAT Budget for the year 2017-2018 was presented by the Finance Minister (FM) of Maharashtra on 18 March 2017. The budget was drawn to help ease of doing business by incorporating necessary changes in the tax laws and administration to overcome the constraints in the growth of businesses and to make the provisions in the law easier for compliance. Following points every dealer should take note for comply with new VAT provisions:

- **Power of cancelling ex-parte order is shifted from officer to appellant officer:**

Currently if any dealer has not attended last hearing of assessment proceeding then officer can pass ex-parte order. After that, dealer can meet to officer and request to cancel ex-parte order by giving form 316. However, now powers of accepting form 316 and issuing form 317 have been taken away from assessing officer. Now power is given to the appellant authority to remand back the ex-parte assessment orders for assessment to the assessing officer. Therefore, the power of the assessing officer to cancel ex-parte assessment orders is proposed to be taken away.

- **Mandatory fixed part payment for VAT appeal**

Along the lines of the GST Law, it is proposed to have mandatory and fixed part payment of **10% of the disputed tax** with the maximum limit of INR 150 million in the case of a VAT appeal.

- **Increase in time limit for filing appeal with High court**

The time limit to file appeals under MVAT in the High Court against the decision of the Tribunal is 120 days. This time limit is proposed to be increased to 180 days.

- **For pending dues directly is also liable**

For VAT recovery and to make the process more effective, it is proposed that for the dues of a private company, the company and the directors shall be jointly and severally liable.

- **Now get interest on late refund after 60 days**

Interest on the refund to be provided within 90 days from the date of order. This time limit is proposed to be reduced to 60 days for early grant of refund.

- **Waiver of interest on late filing of return**

Due to certain technical problems in the automation system of the Sales Tax Department, dealers were not able to pay their taxes in time. It is proposed to empower the state government to waive the interest payable in such situations.

• **Unregistered dealer should register for VAT and then for GST**

To encourage unregistered dealers under MVAT to obtain registration so that they become eligible for GST registration, a provision shall be made to exempt interest and penalty on such dealers for the unregistered period after the payment of due tax.

• **New three tribunal for early disposal of appeal**

For the early disposal of appeals pending under MVAT, it is proposed to establish three more benches of the Maharashtra Sales Tax Tribunal.

• **Professional tax**

- Professional tax assessment for the unregistered period reduced from **eight years to four years.**
- It is proposed to align the **interest rates** of professional tax with the interest rates under Value Added Tax i.e. for delay of first month @ 1.25% p.m., for next two months @ 1.50% p.m. and thereafter @2% p.m
- Dealers registered under MVAT are liable to pay professional tax. To widen the scope of the professional tax, it is proposed that the service providers registered for service tax shall also be liable to enrol.
- It is proposed to exempt the late fee of a tax payer who files the pending professional tax returns before 30 September 2017.

**B. MVAT Return filing due dates (Trade circular no. 9T of 2017 dated 1/4/2017):**

1. Dealers to upload returns as under:
  - Monthly returns for the period April 2016 to February 2017 may be filed up to 10<sup>th</sup> April, 2017
  - Returns for the quarters April 2016 to June 2016 and for July 2016 to September 2016 may be filed up to 10<sup>th</sup> April 2017
  - For other months as follow:

Period	Start date	Last date
Month March 2017	1-4-2017	30-4-2017
Quarter – Oct 2016 to Dec 2016	1-4-2017	21-4-2017
Quarter – Jan 2017 to March 2017	11-4-2017	10-5-2017

2. If any dealer files return for the above period before dates mentioned above then dealer will not be liable for any late filing fees.

**C. New MVAT return filing procedure (Trade circular no. 8T of 2017 dated 16/3/2017)**

The process flow of steps involved in the preparation of return form and submission:

- Download annexure template from MSTD website [www.mahavat.gov.in](http://www.mahavat.gov.in)
- Save aforesaid template on Desktop with <TIN\_Period>
- Fill up the header
- Prepare sales and purchase annexure
- Validate annexures
- Manual input in excel return
- Validate excel return and create .txt file for uploading
- Go to the login page: Use login ID and Password
- Upload the .txt file
- View / download draft return
- Submit draft return

#### **D. Claims of Goods returned under CST Act**

The dealer is able to claim the deduction on account of goods return, rate difference and discount under VAT and CST act. In certain cases, the sales or purchases turnover is less than goods return, in such cases goods return could not be claimed in CST returns as the negative figures are not allowed in CST return. Considering the requirement of Trade now the goods return, rate difference and discount under CST act can be entered in the same manner as are enterable in the VAT return.

#### **E. Application of refund of MVAT for periods starting from April 2016**

The new application of refund is based upon the invoice wise annexures or sales and purchases those have been uploaded by the dealer at the time of filing his returns. The system shall itself show the amount of refund which can be claimed for a particular return period. The dealer may like to apply for refund of amount as calculated by the system.

- F. Application for obtaining the e CST declarations for the dealers who obtained registrations after 25<sup>th</sup> May, 2016 has been started.

### **SERVICE TAX**

#### **Whether printing contracts can be classified as works contracts?**

In a printing contract, both textile and paper, there may be involvement of material as well as services such as book printing, flex printing, stationery, bed sheets, etc.. Normally, such printing contracts involving material as well as labour have been held to be a 'works contract' under the sales tax laws. Hence, such contracts may also be classified as 'works contracts' under service tax law as such contracts are leviable to sales tax and under new regime, movable property contracts are also classified as works contracts. However, even though printing contracts are works contracts but the same would not be taxable under the service tax law.

## GOODS AND SERVICE TAX

### Essential points to understand about GST

In India, there is two type of taxes are levied. These taxes are direct or indirect tax.

“Indirect taxes” according to John Stewart Mill, “are those which are demanded from one person on the expectation and intention that he shall indemnify himself at the expense of another – such are excise and customs.

Currently in India, Service tax, Value added Tax, Excise, luxury tax, entertainment taxes etc. are Indirect taxes. Now government is contemplating to subsume all such major indirect taxes in to one single tax as “Goods and Service Tax Act”.

*Here are essential points on to understand about Goods and Service Tax:*

#### **Q-1 What is GST? Why GST is a need for India?**

- GST stands for Goods & Service Tax. GST is a destination based consumption tax levied at multiple stage of production & distribution of goods & services in which taxes paid on inputs are allowed as set-off against taxes payable on output. Thus, GST will be a single comprehensive integrated indirect tax on pure value addition at each stage.
- The present tax structure of India has number of indirect taxes collected both by state and central govt as per power vested to them under Constitution of India. Due to such multiple taxes, there has been cascading effect of taxes (tax on tax) and double taxation (a value being subject to tax twice or subject to two or more than two taxes).
- GST will subsume all these indirect taxes and will thus, facilitate seamless flow of credit resolving the problem of double taxation and cascading effect of taxes. This will check the cost of goods along with making compliances easy and bringing stability in govt’s tax revenues.

#### **Q-2 What are the salient features of GST?**

##### **1. Dual Model based:**

- GST in India will be dual model based – i.e. state and central govt will both levy GST termed as SGST and CGST respectively. However, chargeability, definition of taxable event and taxable person, measure of levy including valuation provisions, basis of classification etc. would be uniform in both CGST and SGST.
- The Central GST and State GST are to be paid to the accounts of the Centre and the States separately.

So on a single transaction SGST will be levied and collected by state govt. whereas CGST will be collected by central govt.

##### **2. Single Integrated Comprehensive indirect tax:**

- Major indirect taxes would get subsume in GST. Following are the taxes to be subsumed in GST.

a) Central taxes to be subsumed: Central Excise duty, Countervailing duties (CVD) , Special Additional duties of customs., various cesses and surcharges levied by central govt on these taxes.

b) State taxes to be subsumed: VAT, Entertainment tax, luxury tax , entry tax , tax on lottery, betting and gambling.

With the introduction of GST only SGST and CGST would be levied in their place.

### 3. Destination based consumption tax:

- The place where the goods or services being consumed will be entitled to revenue from the transaction.

**For example:** If a dealer of Gujarat sale goods to dealer of Rajasthan then tax will go the credit of Rajasthan govt. (along with Central Govt.)

### Q-4 How would a particular transaction of goods and services be taxed simultaneously under Central GST (CGST) and State GST (SGST) in case of Intra State transaction ?

- In a transaction of sale of goods or supply of service within the state or any other supply then SGST and CGST would be levied on such transactions , SGST would be collected by state govt and CGST by central govt.
- Credit of CGST to be utilized to pay CGST only and Credit of SGST to be utilized to pay SGST only. Cross adjustment of tax credit between CGST and SGST will not be allowed.

### Practical Example:

(Manufacturer and dealers located in the same state, rate of SGST & CGST assumed at 9% each)

Particulars	Mfg to wholesaler	Wholesaler to retailer	Retailer to consumer
Manufacturing cost/ Cost	1,000	1115	1230
Profit margin @15 %	115	115	115
Assessable value for GST	1,115	1,230	1,345
CGST @ 9%	100.35	110.70	121.05
SGST @ 9%	100.35	110.70	121.05
Sale value	1,315.70	1,451.40	1,587.10
<b>Tax liability</b>			
i) To Central Govt.			

Payable	100.35	110.70	121.05
Less: Credit of CGST	-	100.35	110.70
<b>Tax payable in cash</b>	<b>100.35</b>	<b>10.35</b>	<b>10.35</b>
ii) To State Govt.			
Payable	100.35	110.70	121.05
Less: Credit of CGST	-	100.35	110.70
<b>Tax payable in cash</b>	<b>100.35</b>	<b>10.35</b>	<b>10.35</b>
	<b>Central govt.</b>	<b>State govt.</b>	
<b>Total tax collection</b>	<b>121.05</b>	<b>121.05</b>	

**Q-5 How would a particular transaction of goods and services be taxed simultaneously under Central GST (CGST) and State GST (SGST) in case of Inter State transaction ?**

- In the case of inter state sale of goods & services central govt will levy Integrated Goods and Service Tax (IGST) on such transactions. IGST will be nothing but a sum total of CGST and SGST.
- Seller selling goods to buyer of other state to pay IGST. This IGST payable can be paid after adjusting the available credit of IGST, CGST and SGST (sequentially) paid on purchases.
- Selling state will transfer to Centre the credit of SGST used in payment of IGST.
- Buyer of the other state will claim credit of IGST while discharging his SGST liability.
- Centre will transfer to the buyer's state credit of IGST used in payment of SGST.

**In short** , in case of inter state sale of goods & services tax will be collected by central govt and after collecting will transfer 50% of the tax collected to state govt whose buyer has purchased goods & services as GST is destination based consumption tax. **This 50% will be transferred at the point when the buyer of the importing state sell goods and discharge his SGST liability.**

**Q-6 Other points for understanding about GST:**

- 1) **Currently, excise duty is levied on manufacture of goods; whereas GST would be levied on 'supply' of goods and services.**

- 2) Currently, state from where movement originates of goods or services gets revenue. GST is a destination based consumption tax; the revenue will accrue to the State where the consumer resides.
- 3) Under GST, every assessee would have to upload each invoice details related to sales. Details of purchase and tax credit would be auto-populated based on sales details uploaded by the vendor. In current system there is no such requirement to upload details for each invoice except in few states.
- 4) Currently, Central Government charges excise on goods and State Government charges VAT on goods. In GST, there would be dual GST i.e. Centre would levy Central GST (CGST) and States would levy State GST (SGST) on every supply of goods and services. IGST would be levied for Interstate supply.
- 5) Many states has VAT registration threshold of Rs. 10 lakh / 5 lakh and for Excise threshold is Rs. 1.5 crore. For GST, registration threshold has been presently kept at Rs. 20 Lakhs (Rs. 10 lakhs in case of North East States and Sikkim) in the draft model law.
- 6) Customs is outside GST and hence Basic Customs Duty would continue on imports.
- 7) Currently, seamless flow of credit of Excise and CST is not happening. In GST, seamless flow of credit would be there; whereby CGST would be allowed to be set-off against CGST and IGST, SGST against SGST and IGST and IGST against IGST, CGST and SGST in that order. However, CGST credit will not be allowed to be set-off against SGST and vice versa.
- 8) Currently, excise is payable on manufacture of goods, VAT is payable on sale of goods. GST would be payable on supply of goods / service or on receipt of advance amount.
- 9) Currently, standard rate of Excise duty 12.50%, Service tax 15%, VAT 12.50%. Standard rate for GST is proposed at 18%.
- 10) Currently, C forms are used for interstate transfer of goods. F forms are used branch transfer of goods. In GST, there will not be any such form and goods will be moved based on GST invoice only.

**Q-7 Import points to be notes for Transition from existing VAT, excise, Service tax to GST**

In the Model GST law, elaborate transitional provisions have been made to enable smooth migration of tax payers from the present regime to GST. The important provisions in this regard are:

1. The existing taxpayers shall be issued a certificate of registration valid for 6 months. Upon furnishing of prescribed information, registration shall be granted on a final basis.
2. The amount of Cenvat credit / VAT carried forward in a return shall be allowed to be taken as input tax credit subject to certain conditions. Un-availed Cenvat credit on capital goods, not carried forward in a return, shall also be allowed to be taken as ITC subject to certain conditions.
3. Credit of eligible duties and taxes in respect of inputs held in stock shall be allowed to a registered taxable person subject to fulfilment of certain conditions.
4. Credit of eligible duties and taxes in respect of inputs held in stock shall be allowed to a taxable person switching over from the composition scheme to the normal scheme.
5. No tax is payable on the goods removed/despached earlier but returned to the place of business after the introduction of GST. This is subject to the 13 condition that the goods are returned within a period of 6 months after the introduction of GST.
6. Likewise, no tax shall be payable on the inputs, semi-finished goods and finished goods removed/despached earlier for job work or for carrying out certain processes and returned to the place of business after the introduction of GST. This is subject to the

condition that the inputs / goods are returned within a period of 6 months after the introduction of GST.

7. Pending refund claims shall be disposed of in accordance with the provisions of earlier law and the amount of refund shall be paid to the claimant in cash, subject to certain conditions.
8. Pending claim of Cenvat credit /input tax credit shall be disposed of in accordance with the provisions of earlier law and the amount of refund shall be paid to the claimant in cash, subject to certain conditions.
9. No tax shall be payable on the supply of goods and /or services made before the introduction of GST where a part of consideration for the said supply is received on or after the introduction of GST, but the full duty or tax payable on such supply has already been paid under the earlier law.
10. No tax shall be payable on the goods sent on approval basis before the introduction of GST but are rejected and returned to the seller on or after the introduction of GST if such goods are returned within 6 months from the introduction of GST.

**Major changes in proposed CGST/IGST Bill as passed in Lok Sabha as compared to the revised Model GST law of November 2016 are as under:**

1. Non-Applicability of GST Law to the state of Jammu & Kashmir
2. Change in the scope of Taxable Event- Employer and employee are covered in the definition of related party and thus any supply of goods or services by employer to employees even if free of cost would be covered under the scope of GST. Now the bill provides that such gifts exceeding Rs.50,000 by an employer to an employee shall only be treated as supply for the purpose of GST
3. Removal of uncertainty relating to chargeability of GST on supply of immovable property- Now in the bill passed, the government has removed the uncertainty by providing in Schedule III that, "sale of land and sale of building, other than the sale of under construction building, will neither be treated as a supply of goods nor supply of service" and as such no GST will be applicable on supply of land and building. Only under construction building will be liable to GST
4. There will be no GST on supply of actionable claim, other than lottery, betting and gambling. Thus only supply of actionable claim related to lottery, betting and gambling will be liable to GST.
5. The upper cap of GST rate is fixed at 20% in case of CGST/SGST Law, and 40% in case of IGST Law.
6. Supply of taxable goods or services or both by unregistered dealer to registered dealer is covered under Reverse Charge payable by the Registered Dealer.
7. Reduction in Composition rates- 1% in case of manufacturer, 0.5% in case of trader. Composition Scheme made applicable to restaurants with applicable rate of 2.5%.
8. Supply of goods will be treated as inter-state trade or commerce if the supplier and the place of supply are in: -



- (a) 2 different states;
- (b) 2 different Union Territories
- (c) A State and a Union territory

Complied by

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