

Value Added Tax Act, 2003

Chapter 2 - The Incidence and Levy of Tax

(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.

Section 4 - Liability to tax and rates thereof

(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 four per cent, and

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

(b) in respect of other goods, at the rate of twenty five per cent.

(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 sub-section (1) in respect of any goods.

Section 5 - Exemption of tax

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.

Section 6 - Place of sale of goods

(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.

Section 7 - Time of sale of goods

(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).

Section 8 - Agents liable to pay tax

(1) Notwithstanding anything contained in any law for the time being in force including this Act, every person who, for an agreed commission or brokerage, buys or sells on behalf of any principal who is a resident of the State shall be liable to tax under this Act at the rate or rates leviable thereunder in respect of such purchase or sale, notwithstanding that such principal is not a dealer or that the turnover of purchase or sale relating to such principal is less than the minimum specified in sub-sections (1), (2) and (3) of Section 22.

(2) The principal shall not be liable to tax on his turnover in respect of which the agent is liable to tax under sub-section (1), and the burden of proving that the turnover has been effected through an agent liable to tax under the said sub-section, shall be on such principal.

Section 9 - Collection of tax by registered dealers, Governments and statutory authorities

(1) Every registered dealer liable to pay tax under the Act shall collect such tax at the rate or rates at which he is liable to pay tax, and the tax collected shall be accounted for under the provisions of this Act and rules made thereunder.

(2) The Central Government, a State Government, a statutory body or a local authority shall, in respect of any taxable sale of goods effected by them, collect by way of tax any amount which a

registered dealer effecting such sale would have collected by way of tax under this Act, issue a tax invoice, pay the tax so collected into the Government Treasury or any designated bank and furnish monthly returns, as specified under Section 35, to the prescribed authority.

Section 10 - Output tax, input tax and net tax

- (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, 18 and 19, 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 Chapter V.
- (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.

Section 11 - Input tax restrictions

- (a) Input tax shall not be deducted in calculating the net tax payable, in respect of:
 - (1) tax paid on purchases attributable to sale of exempted goods exempted under Section 5, except when such goods are sold in the course of export out of the territory of India;
 - (2) tax paid on purchase of goods that are despatched outside the State, other than as a direct result of sale or purchase in the course of inter-State trade or commerce;
 - (3) tax paid on goods including capital goods as specified in the Fifth Schedule and any other goods as may be notified by the Government or the Commissioner, purchased or put to use for purposes other than for re-sale;
 - (4) tax paid on purchase of capital goods other than those falling under clause (3), except as provided in Section 12;
 - (5) tax paid on purchase of goods used as inputs in the manufacture, processing or packing of other taxable goods despatched to a place outside the State not as a direct result of sale or purchase in the course of inter-State trade, except as provided in Section 14;
 - (6) tax paid on purchases attributable to naptha, liquified petroleum gas, furnace oil, light diesel oil, superior kerosene oil, kerosene and any other petroleum product, when used as fuel in motor vehicles, but when used as fuel in production of any goods for sale in the course of export out of the territory of India or taxable goods or captive power, input tax shall be deducted as provided in Section 14.
 - (7) tax paid under sub-section (2) of Section 3 on the purchase of fuel;

(8) tax paid under sub-section (2) of Section 3 on the purchase of goods excluding fuel, until output tax is payable on such goods or other goods in which such goods are put to use except when the said goods are exported out of the territory of India;

(9) tax paid on goods purchased by a dealer who is required to be registered under the Act, but has failed to register.

(b) Input tax shall not be deducted by an agent purchasing or selling goods on behalf of any other person other than a non-resident principal.

Section 12 - Deduction of input tax in respect of Capital goods

(1) Deduction of input tax shall be allowed to the registered dealer in respect of the purchase of capital goods 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.

(2) 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 and shall be apportioned over a specified period, as may be prescribed.

Section 13 - Pre-registration purchases

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.

Section 14 - Special rebating scheme

Deduction of input tax shall be allowed on the difference between the rate of input tax charged at a rate higher than four per cent and the rate specified in Third Schedule on purchases specified in sub-section (5) and sub-section (6) of Section 11.

Section 15 - Composition of tax

(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 period of four consecutive quarters does not exceed fifteen lakh rupees; or

(b) who is a dealer executing works contracts; or

(c) who is a hotelier, restaurateur, caterer; or

(d) who is a mechanised crushing unit producing granite 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 prescribed.

(2) For the purposes of sub-section (1) a quarter shall mean any period ending on final day of the months of March, June, September and December.

(3) Any 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) Any dealer opting for composition of tax under sub-section (1) shall not be permitted to claim any input tax on any purchases made by him.

Section 16 - Special accounting scheme

Where a dealer liable to pay tax under Section 4 is unable to identify each individual sale, its value or the rate of tax, 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.

Section 17 - Partial rebate

Where a registered dealer deducting input tax.-

(1) makes sales of taxable goods and goods exempt under Section 5, or

(2) in addition to the sales referred to in clause (1), despatches taxable goods or 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) puts to use the inputs purchased in any other purpose (other than sale, manufacturing, processing, packing or storing of goods), in addition to use in the course of his business,

apportionment and attribution of input tax deductible between such sales and despatches of goods or such purpose, shall be made in accordance with Rules or by special methods to be approved by the Commissioner or any other authorised person and any input tax deducted in excess shall become repayable forthwith.

Section 18 - Transitional provisions

Transitional provisions covering relief on Sales Tax on stock in hand for manufacture and resale at the date of commencement of this Act shall be as prescribed.

Section 19 - Change in use after deduction of input tax

(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, tax shall be calculated on the prevailing market value of such goods at the time of change of use.

Section 20 - Deduction of input tax on exports and interstate sales, etc.

(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, or

(c) any goods sold to a dealer who is a unit located in any special economic zone established under authorisation by the authorities specified by the Central Government in this behalf, or

(d) any goods sold to a dealer who is an Export Oriented Unit,

shall be deducted as provided under Section 10, from output tax payable by such dealer.

(2) Goods sold by a registered dealer to any other registered dealer who is a unit located in any special economic zone established under authorisation by the authorities specified by the Central Government in this behalf or who is an Export Oriented Unit, shall be exempt from the tax payable under this Act.

Explanation 1.- For the purposes of this section, the expression "special economic zone" has the meaning assigned to it in clause (iii) to Explanation 2 to the proviso to section 3 of the Central Excise Act, 1944 (Central Act 1 of 1944).

Explanation 2.- For the purpose of this section, "Export Oriented Unit" means a unit certified as such by the Central Government.

Section 21 - Reimbursement of tax

Tax collected under this Act on purchases made by specialised agencies of the United Nations Organisation and Consulates or Embassies of any other country located in the State shall be reimbursed in such manner and subject to such conditions as may be prescribed.
