

AMENDMENTS IN **DVAT ACT, 2004**

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HIGHLIGHTS

- ✍ AMENDMENT BILL was passed in Delhi Assembly on 16.12.2009 to amend Schedule 3, Section 9, 10, 74, 74A and 103 of DVAT Act, 2004.
- ✍ It received assent of Lt. Governor on 01.01.2010 and was notified on 06.01.2010 to be effective from the date to be notified in future.
- ✍ Notified on 13.01.2010 with respect to amendments in Schedule 3, Section 74, 74A and 103 only.
- ✍ New Rules notified on 17.03.2010 amending Rule 7 and Form DVAT 16 (Return form) – without notifying amendment in section 9 & 10.
- ✍ Notified on 01.04.2010 the amendments in Section 9 & 10
- ✍ Notified on 01.04.2010 the amendment in Rule 34 and inserting new rule 6A

AMENDMENTS – w.e.f 13.01.2010

2. **Amendment of section 4.** - In the Delhi Value Added Tax Act, 2004 (Delhi Act 3 of 2005) (hereinafter referred to as "the principal Act"), in section 4, in sub-section (1), for clause (b), the following clause shall be substituted, namely:-
"(b) in respect of goods specified in the Third Schedule, at the rate of five paise in the rupee:
Provided that tax shall be paid at the rate of four paise in the rupee of the taxable turnover of the dealer pertaining to declared goods, as defined from time to time in the Central Sales Tax Act, 1956 (74 of 1956);"
5. **Amendment of section 74(Dispute under Delhi Sales Tax Act).** - In the principal Act, in section 74, in sub-section (10), for the words "five", the word "six" shall be substituted.

AMENDMENTS – w.e.f 13.01.2010 –

Contd.

6. **Amendment of section 74A(Revision).** - In the principal Act, in section 74A, after sub-section (4), the following sub-section shall be inserted, namely:-

"(5) Notwithstanding anything contained in any judgment, decree or order of any court, the provisions of this section shall be deemed to have come into effect with effect from the 1st April, 2005". **Earlier it was effective from 16.11.2005.**

7. **Substitution of new section for section 103.** - In the principal Act, for section 103, the following section shall be substituted, namely:

"103. Power to amend Schedules. - (1) If the Government is of opinion that it is expedient in the interest of general public so to do, it may, by notification in the official Gazette, add to, or omit from, or otherwise amend, the First, the Second, the Third, the **Fourth, the Fifth, the sixth** or the Seventh Schedules, either **retrospectively or prospectively**, and thereupon the said **Schedules shall be deemed to have been amended** accordingly:

AMENDMENTS – w.e.f 13.01.2010 – Contd.

Provided that no such amendment shall be made retrospectively if it would have the effect of prejudicially affecting the interest of a dealer.

- (2) The commissioner may, on the recommendation of the Ministry of External Affairs, Government of India, if he is of opinion that it is expedient in the interest of general public so to do, by a notification in the official Gazette, add to, or omit from, or otherwise amend, the Sixth Schedule."

AMENDMENT IN RULE 7 – Notified on **17.03.2010 with immediate effect**

Amendment of Rule 7 A - In the Delhi Value Added Tax Rules, 2005 (hereinafter referred to as “the principle Rules”), in rule 7, in sub-rule (1),-

(i) for clause (b) of the following clause shall be substituted, namely:-

“(b) In the case of goods specified in the third schedule – 40 percent”. Earlier it was 50%.

(ii) after clause (d), the following clause shall be inserted, namely:-

“(e) declared goods, as defined from time to time in section 14 of the Central Sales Tax Act, 1956 (74 of 1956), - 50%”

Note : Rate of tax enhanced from 4 to 5 % on Schedule 3 items w.e.f 13.01.2010 but the above amendment is from 17.03.2010.

AMENDMENT IN FORM DVAT -16 – Notified on 17.03.2010 with immediate effect

Amendment in Form DVAT-16 - In the principle Rules, in the Form DVAT-16 appended therein, -

- (i) after entries in row R5.2 and before the entries in row R5.3 the following row shall be inserted namely:-
“R5.2 (1) Goods taxable at 5%”;
- (ii) in row R5.7, after the words “exempted sale”, the words “other deduction claimed” shall be inserted;
- (iii) after entries in row R6.2, the following rows shall be inserted namely:-
 - “R6.2(1) Goods taxable at 1%
 - R6.2(2) Goods taxable at 4%
 - R6.2(3) Goods taxable at 5%
 - R6.2(4) Goods taxable at 12.5%
 - R6.2(5) Goods taxable at 20%
 - R6.2(6) Works Contract taxable at 4%
 - R6.2(7) Works Contract taxable at 12.5%
 - R6.2(8) Exempted purchase”

AMENDMENT IN FORM DVAT -16 –

Contd..

- (iv) For the words “Balance brought forward from line R8” occurring above row R9.1, the following entry shall be substituted, namely:-
“R9.0 Balance brought forward from line R8 (Positive value of R8)”
- (v) after row R11.7, the following row shall be inserted, namely:-
“R11.7(1)Exempted sale / purchase including High Sea Sale etc”
- (vi) after instruction 5, the following instructions shall be added, namely:-
“6. Attach copy of month wise summary of Sale and Purchase registers maintained in Form DVAT-30 & 31 in the format appended at Annexure-2A & 2B. This should be reported dealer wise instead of bill & date wise. Sale/purchase made from un-registered dealers may be reported in one row for a month.

AMENDMENT IN FORM DVAT -16 –

Contd..

7. Dealers having tax period other than a month should also report the sale/purchase summary month wise.

8. Works Contractors should report gross sale turnover during the tax period including labour, services and consumables in the return and claim exemption for service charges etc. by mentioning it under item R5.7.”

✂ In the principle rules, in the Form DVAT-16 appended, in Annexure after row A3.14, following rows shall be inserted, namely:-

“A3.15 Reduction in Input Tax Credit due to sale of goods at price lower than the purchase price [section 10(5)].

A3.16 Second or third installment of balance tax credit on capital goods [section 9(9)(a)].

A3.17- Opening Stock

A3.18 – Closing Stock”

SECTION – 9 (1) (Notified on 01.04.2010 with immediate effect)

- 1) Subject to Sub-section (2) of this section and such conditions, restrictions and limitations as may be prescribed, a dealer who is registered or is required to be registered under this Act shall be entitled to a tax credit in respect of the turnover of purchases occurring during the tax period **where the purchase arises** (**To the extent of proportion of the goods which have been put to sale**) in the course of his activities as a dealer and the goods are to be used by him directly or indirectly for the purpose of making –
 - a) Sales which are liable to tax under Sec. 3 of this Act
 - b) Sales which are not liable to tax under Sec. 7 of this Act.

AMENDMENT IN RULE 6A – Notified on 01.04.2010 with immediate effect

“6A Restriction and conditions governing tax credit –

- (1) For the purpose of working out the entitlement of tax credit under sub section (1) of Section 9 of the Act to the extent of proportion of goods which have been put to sale during the tax period, the input tax credit on the closing stock available with the dealer at the end of every tax period shall be carried forward to the next tax period or the following tax period or periods, as the case may be, till such stock is sold by the dealer:

AMENDMENT IN RULE 6A - Contd.

Provided that this sub-rule shall not prevent the claim of refund of a dealer for sales already effected during the relevant tax period or to a dealer who makes sales in the course of exports out of India, or in the course of inter-state trade and commerce, or, in such cases where the dealer being a manufacturer is required to make purchases of raw materials taxable at a higher rate of tax, while the sales of goods manufactured by him (not being goods exempt under Section 6 as specified in the First Schedule to the Act) are taxable at the lower rate under the Act.

RULE – 3 (SECTION 5 (2)) – Labour & Services

- (1) In case of turnover arising from the execution of the works contract, the amount representing the taxable turnover shall exclude the charges towards labour, services and other like charges subject to the dealer's maintaining proper records such as invoice, voucher, challan or any other document evidencing payment of charges towards labour, services and other like charges to the satisfaction of the commissioner.
- (2) For the purpose of sub – rule (1), the charges towards labour, services and other like charges shall include:
- (i), ii, iii, iv, v, vi, vii.

Provided where amount of charges towards labour, service and other like charges are not ascertainable from the books of accounts of the dealer, the amount of such charges shall be calculated at the percentages specified in the following table.

SECTION 9 (4) – Purchases for sale and other purpose

- (4) Where a dealer has purchased goods and the goods are to be used partly for the purpose of making the sales referred to in sub – section (1) of this section and partly for other purposes , **the amount of the tax credit shall be reduced proportionately.**
- (5) The method used by a dealer to determine the extent to which the goods are used in the manner specified in sub-section (4) of this section, **shall be fair and reasonable in the circumstances:**

Provided that the commissioner may -

- (a) after giving reasons in writing, **reject the method** adopted by the dealer and calculate the amount of tax credit: and
- (b) **prescribe methods** for calculating the amount of tax credit or the amount of any adjustment or reduction of a tax credit in certain instances.

SECTION 9 (2)

✂ No tax credit shall be allowed

(a), (b), (c), (d), (e), (f) – **NO CHANGE**

“ (g) to the dealers or class of dealers unless the tax paid by the purchasing dealer has actually been deposited by the selling dealer with the Government or has been lawfully adjusted against output tax liability and correctly reflected in the return filed for the respective tax period.”

✂ RULE 6A

(2) Before allowing the claim of input tax credit to a dealer, the assessing authority **may** satisfy himself that the conditions laid down in clause (g) of sub- section (2) of Section 9 of the Act are also satisfied.

Section 10 – Adjustment to Tax Credit

✂ (1), (2), (3), (4) – **NO CHANGE**

“(5) Where the goods which have been purchased by a dealer are sold at a price lower than the price at which it was purchased by the dealer, the tax credit on such purchases shall be reduced proportionately in the tax period during which the goods are sold.

Explanation – The tax credit claimed on a particular purchase shall not exceed the amount of tax payable on its sale.”

Section 10 – Adjustment to Tax Credit

RULE 6A –

- (3) The provisions of Sub- section (5) of section 10 of the Act relating to proportionate reduction of tax credit on purchases of goods at a price lower than the purchase price shall apply to the cases where, during the tax period, the dealer receives credit note or notes from the selling dealer on account of discount, commission, rebate, remission in price or incentive, or by whatever name called.

Explanation – For the removal of doubt, it is hereby clarified that the provisions of sub-section 5 of section 10 of the Act shall not apply to a case where in the ordinary course of business the goods are sold by dealer at a loss.

Section 10 – Adjustment to Tax Credit

RULE 6A –

(4) In the cases where the sale has been made at a price lower than the purchase price in pursuance of the administered prices of the oil companies, that is to say, Indian Oil Corporation, Hindustan Petroleum Corporation Ltd. And Bharat Petroleum Corporation Ltd. The provisions of Section 10 (5) shall not apply.”

AMENDMENT IN RULE 34 – Notified **on 01.04.2010 with immediate effect**

✂ In the principal Rules, in rule 34, after sub rule (8), the following sub rule shall be inserted, namely:-

“(9) Before allowing the claim for refund to a dealer under section 38 of the Act, the Authority concerned shall satisfy himself that the conditions laid down in clause (g) of sub-section (2) of Section 9 of the Act are fulfilled.”

CONCLUSION - TO SUM UP

- 1. Schedule 3 is amended to raise the rate of tax from 4% to 5% except for Declared Goods w.e.f. 13.01.2010**
- 2. Limit for disposing off dispute under Delhi Sales Tax Act raised from 5 years to 6 years i.e. up to 31.03.2011.**
- 3. Revision – Commissioner can revise the orders passed from 01.04.2005 instead of earlier date 16.11.2005.**

CONCLUSION - TO SUMUP – Contd.

- 4. To amend Sixth schedule, power has now been given to the Commissioner on recommendation of the Ministry of External Affairs. Earlier the power was with Govt / L.G.**
- 5. Tax credit to be reduced by 40% in place of 50% for 3rd schedule items to make reduction to 2% or 1% as the case may be.**
- 6. For the period from 13.01.2010 to 17.03.2010, reduction in tax credit on transfer etc. will be 2.5%.**

CONCLUSION - TO SUM UP – Contd.

- 7. In case of Works Contracts, Gross Turnover is to be shown and then to claim deduction for labour and services in R.5.7 in return form DVAT-16.**
- 8. Details of Purchases & Sales to be given Month wise and Party wise in Form 2A & 2B along with return for all dealers. Form 2A and 2B are not yet notified.**
- 9. If goods are sold at a lower price than cost then tax credit is to be reduced proportionately. No reduction if goods are sold at loss in ordinary course of business.**

CONCLUSION - TO SUM UP – Contd.

- 10. 2nd or 3rd installment of Tax Credit on purchase of Capital Goods is to be shown separately in the annexure to return.**
- 11. Tax Credit to be increased on Opening Stock and reduced for Closing Stock in annexure to return.**
- 12. Tax Credit to be claimed proportionately on sale of goods in a Tax Period on purchases effected on or after 01.04.2010.**
- 13. In return for the period ending 31.03.2010, refund can be claimed or excess tax may be carried forward.**
- 14. It is advisable to work out rate wise closing stock as on 31.03.2010.**



**THANKS
TO
THE ORGANISERS
AND
ALL THE PARTICIPANTS**